TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS BOARD MEETING

Room E1.016
State Capitol Extension
1400 Congress Avenue
Austin, Texas

9:00 a.m. Wednesday, September 19, 2001

PRESENT:

MICHAEL JONES, Chair C. KENT CONINE SHADRICK BOGANY VIDAL GONZALEZ NORBERTO SALINAS BETH ANDERSON

STAFF:

DAISY STINER, Executive Director DELORES GRONECK

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PROCEEDINGS

MR. JONES: I'll call to order the board meeting of the Texas Department of Housing and Community Affairs for September 19, 2001, at 9:00 a.m.

As we predicted at our last board meeting, we do have a new board, and I would like to welcome the new board, in accordance with Senate Bill 322, to their first meeting together. In particular, Beth, I'd like to welcome you. It's really going to be a privilege to serve with you, and I can certainly recommend our other board members to you wholeheartedly.

I would like to just say this, as the past chairman and now the new chairman. This is really a new day for the Texas Department of Housing and Community Affairs. We are excited about the possibilities that lay ahead all over our country. People are wondering what they can do to make their communities and make this country better, and certainly this department has a great opportunity in that regard.

And I know I speak for the board, I know I speak for the staff, and I know I speak for every employee when I say that we are very dedicated to that task.

I also want to say this. I'd really like to thank the board members. The governor's office has really worked hard to make sure that in time for this meeting,

which we had some deadlines on and it had to be today, to make sure that a new board was in place for this meeting. The governor thought that was very important, and I certainly agree with him, and I certainly appreciate the dedication of the governor and his office in seeing that the new board was in place so promptly.

But I would like to say this. It was only very late last week when we knew who we were. And I just want to thank each and every board member, because I know how busy your schedules are, to come together on such short notice. It's amazing that everyone is here, each and every one of us, and I thank you for that.

Another thing, and this is something that Daisy and I talked about, and this is just something that I think that she and I both want to communicate to staff, and that is that, you know, sometimes our board meetings get to be pretty much -- it's not touch football; it's tackle. And we have a lot of comments.

And certainly we want to talk about things in a very calm atmosphere, but at the same point, you know, those of us that have served on this board before know that we exchange ideas, and we exchange ideas with regard to things that people feel very strongly about. And that's as it should be when you have open meetings and when you're doing the work of government.

But having said that, just because when we exchange ideas and we feel very strongly about them, nobody, and particularly our staff members when they take positions, should feel like just because a board member has asked them a hard question or just because maybe, you know, somebody else on staff doesn't agree with them, should ever feel any fear of any type of reprisal in any shape, form, or fashion. And certainly Ms. Stiner and I feel strongly about that, and she and I just wanted to make that comment in light of some of the questions that have been asked me after board meetings.

And the other thing I'd like to say before we get started is that we do have a new board, so we're going to need new committees. I will be asking Delores -- and she does such a good job -- she will be sending every board member a list of the committees and who -- what vacancies -- who served on what in the past, and try to get interest on the committees from every board member.

We also, in addition to having a new board -- and Senate Bill 322 instructed that there should be a new board -- in addition to that, that legislation also contemplates that the new board, then, would hire an executive director. That position has been posted as a result of the action of the old board. I've asked Delores to make sure the posting information is supplied to every

board member.

And I really seek the advice from various members of the board. To me, you know, my thought at first glance is to appoint a subcommittee, and if anyone is interested in being on that subcommittee with regard to the review of those applications as they are submitted, I would appreciate your letting me know of that interest. And if everybody's interested, then we probably won't have a subcommittee, but if there are some of you that have more interest than others, then we will have a subcommittee.

So those were kind of my housekeeping matters.

But I did want to turn it over to Mr. Bogany. He was giving me some information this morning that I thought was rather intriguing, and I had asked him if he'd be willing to share before our meeting.

MR. BOGANY: All right. The HOPE Awards is a national award that was created by Fannie Mae, Freddie Mac, REAL [phonetic] Real Estate for Hispanics, National Association of Real Estate Brokers, NAR-National Association of Realtors. And this award is the first year it's been put out, and we had -- not we, but they had over 160 nominees for this award. And I wanted to take the time out and congratulate Daisy and the staff. We didn't win, but we were in the top three finalists. And I think

out of 160 agencies, nominees of agencies that's doing housing across the country on a national award -- they're going to make the award on October 10 -- but I think that's a positive, very positive thing to see.

And what the HOPE award is about is helping minorities in home ownership. And it's just a joint award by all of the major housing authorities across the country. And I just want to take my hat off to Daisy and the staff, because I think that's a great accomplishment to be in the top three out of 160 nominees. I think that's pretty good.

MR. JONES: Thank you.

(Applause.)

MR. JONES: And Mr. Bogany is rather modest. What he forgot to tell you was that his firm was nominated for award also by -- for a HOPE Award also, and they also, like us, were close, and they were in the top three, although they did not win the award. But that is a very prestigious event for his firm, and he and his firm is to be congratulated for that.

MR. BOGANY: Thank you. Thank you very much.

MR. JONES: As well as we are to be congratulated, because we're on the board with you. So we appreciate it.

(Applause.)

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MR. JONES: And with that, I would like to note for the record that every board member has signed and submitted their oath of office. And I have also been informed that each are qualified to serve as board members. So with regard to that, I think with that being said, and that as part of the record, I think we are ready to proceed with our agenda.

The first order of business on our agenda is the certification of quorum.

Beth Anderson?

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MS. B. ANDERSON: Present.

MR. JONES: Thank you. Shadrick Bogany?

MR. BOGANY: Present.

MR. JONES: Kent Conine?

MR. CONINE: Here.

MR. JONES: Vidal Gonzalez?

MR. GONZALEZ: Here.

MR. JONES: Mayor Salinas?

MR. SALINAS: Here.

MR. JONES: Mike Jones, here. We have six members present and zero members absent, and I certify that we do, in fact, have a quorum.

The next order of business after the certification of quorum is public comment, and I have a number of witness affirmation statements that have been

submitted. And again, to make sure there's no misunderstanding about the way the board proceeds on this matter, we will proceed the way that the prior board did until there's some recommendations that we do otherwise.

Anyone who wishes to speak to the board is encouraged to do so, and we will give them an opportunity to do so. We will allow time right now for public comment, when members of the public can come up and speak on any matter they wish to with us. At that time, we will also -- some people prefer to defer their comments until a particular agenda item comes up. We will also allow that to be done.

However, once debate is started between board members on a topic and public comment has been closed, we will not then allow further public comment. And the reason behind that -- and I want to make sure everybody understands it -- is we are to take public comments.

Certainly we do, we want to do that, and we spend a lot of time doing that. But we also need -- if we're ever going to get the debate finished, we need to debate among the board members, as opposed to debate with all the members of the public. And I think that's what's contemplated by the open meeting act, and that's what we're trying to do.

So those are the rules we operate under. So if you would like to address the board and participate in

public comment, now is certainly your time to submit to Delores a witness affirmation form.

And the first witness affirmation form I have is from Mr. Walter Moreau. Hi.

MR. MOREAU: I wanted to speak on the draft QAP. Would you prefer to hold those comments?

MR. JONES: It's up to you.

MR. MOREAU: I'll wait.

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MR. JONES: Okay. Thank you.

The next witness affirmation form I have is Mrs. Jerry Howard.

MS. HOWARD: Good morning.

MR. JONES: Good morning.

MS. HOWARD: I represent a small city of rural America, the City of China. We have about 1,500 people in our town. And I was here last month. I traveled last month 250 miles to address this board, and I plan to travel to address this board until maybe our voice can be heard, because it seems like our little town is being left out this time.

We applied for a grant and was turned down.

The basis that we were turned down was because that we did not submit a past-due audit. I submit to this board that we had no past-due audits due. Those past-due audits were required if we had had funding of over \$300,000. We

didn't have funding of over \$300,000.

There are several things that will be handed out to you. One of them is the Texas Department of Housing and Community Affairs Partnership Program, and it defines audit requirements: "An applicant is ineligible to apply for funds or any other assistance from the department unless any past-due audit has been submitted to the department in a satisfactory format or before the application deadlines for the funds or other assistance."

And it goes on to, you know, say that past-due audits will disqualify you. I understand that. Again, we had no past-due audits.

The next paper that will be passed out to you is page 14, and it is -- and the top heading says,

Qualifying [indiscernible] Requirements. I'm going to wait and let her finish passing those out so you can look with me.

MR. JONES: Thank you.

MS. HOWARD: Now, page 14 was referred to in a July letter of disqualification that was sent to our city. And it said that we were turned down. And it says, "Applicant is not eligible to apply for funds unless any past-due audit has been submitted to the department in a satisfactory format on or before the application deadline for the funds. Audit certification forms outstanding are

considered to be in the past-due audit."

This was not stated in the original audit -- or in the original application for our funds. All they asked for were any past-due audits. Stands to reason if you don't have past-due audits, you have nothing to turn in. They did not bring up the term "audit certification form" until they had given us two turn-down letters. In the July turn-down letter, then they mentioned, Oh, well, an audit certification form is also a past-due audit.

Sounds to me like we're changing rules in midstream. Either, you know, in the original application it needs to be stated: I want an audit certification form and a past-due audit. That should be stated. It never was. The only thing asked for was a past-due audit.

The -- let's see. The third thing that I want to give you is -- it says the Texas Administrative Code. That's how it's titled. It also defines past-due audits. It says, "An audit report is required by the department that has not been received by the department on or before its due date." Again, we had no past-due audit form.

I don't know why, you know, the -- this office decided to turn us down, because we turned in everything that was required. It is true, they did state last month that they had asked us repeatedly for the audit certification forms. This could very well be true. We

are in a small town. As you know, small towns have personnel that come and go real regular. The only people that are paid are the people that are directly in the office, and small towns can't afford to hire legal consultants to sit in their office day after day and answer these letters.

It could be very well that there were audit certification forms requested. The fact is, the audit certification forms were not requested on your original application rules. That's what we keep going back to, and somehow somebody doesn't seem to be listening to us on this fact.

We have many people in our town that are

very -- living in substandard conditions. We have people

that -- I've visited these houses. These houses are

atrocious. I don't think any one of you as a board member

would like to see your family, friends, or anybody live in

some of these conditions.

And all we're asking for -- we're not asking for the moon. We're asking for funding to help these people. I would also like to point out that both cities were funded under CDBG. Ours was funded in May. Why didn't you ask for this information then?

The state also allowed some cities to go back after these applications were turned in -- they allowed

these cities to go back and pass resolutions. It seemed that this was an oversight that some of the cities didn't pass resolutions. After a disqualification, they said, Well, go ahead and pass your resolution; then we'll fund you. Well, why couldn't they do that with us?

We did, in fact, turn in all of our past-due -I'm sorry -- all of our audit certification forms. There
are none due to this date. If they're going to bend the
rules and let people go back and make resolutions after
the fact, why they can't bend the rules and go back and
let us have our funding, when they're asking for something
that they never asked for originally.

So, you know, the resolution matter was a requirement. It was stated it was a requirement. The audit certification form was not stated as a requirement.

And I would challenge any board member to dig into this application and see if they can find anywhere where it said we needed an audit certification form. Only a past-due audit. China was not due a past-due audit; therefore, we had no reason to turn one in.

Our grant writer has been writing grants for 25 years. This man makes his living writing grants. Surely if he would have had an inkling that we needed additional forms, he would've turned them in. He doesn't want to lose his grant-writing privileges to the City of China

either.

So I would request that the board take a look at this again. Now, I understood last month that y'all were going to put this on as an agenda item, because some of the board members did want to vote on it. And y'all were told that because it was not an agenda item, you couldn't vote on it. I was disappointed this month to find out that it is, in fact, not an agenda item this month.

It seems very important to me, and I was hoping it would be that important to y'all, you know. So in my eyes, I don't see -- and, I mean, I'm the mayor pro tem in my city. I don't see where it has to be a voted item. I don't understand that part, because from what I understand, you are the overseers of this department. You are these people's boss, and you should be able to direct them to take a look at this and reconsider, you know, that we haven't done anything illegal. We haven't done anything wrong, and maybe they need to look at why they turned us down; what is the reason for turning us down.

And I do thank you for you time this morning.

MR. JONES: Thank you, Ms. Howard.

I would note that the way it is reflected in our minutes is that the staff was asked to evaluate the situation with the City of China and report back at the

next meeting.

MS. HOWARD: I'm sorry. I didn't hear what you --

MR. JONES: The way it was left in our minutes of our past meeting, which was given to all the board members prior to the meeting; it's been posted on the Internet -- was that the staff was asked to evaluate the city with China and report back at the next meeting.

And --

MS. HOWARD: Well, that's what -- I'm sorry.

MR. JONES: Excuse me. But, you know, and I'm sure that our executive director wants to report to us on this subject matter, so, you know, I'll certainly give her time to do that.

MS. HOWARD: That's what y'all did ultimately decide? Because one of the board members -- and I remember they were sitting right there -- they said, Well, can we make a motion on this and vote on it? And they were told, No, because it's not on an agenda; we can't do this. So that's when the board was instructed to take a look at it and report back at the next meeting.

But I was under the impression that the next time that it would be put on as an agenda item to make a decision, and I'm a little disappointed that it wasn't, because this is something that's very important to a lot

of poor people.

MR. JONES: I understand.

Excuse me. Yes, sir.

MR. SALINAS: I would think that the rules are there very clear for anybody that applies for these HOME programs.

MS. HOWARD: I did -- they were.

MR. SALINAS: And the rules have to be followed, and if the rule says you have to have an audit report before you apply -- and apparently the grant writer's had 25 years of experience --

MS. HOWARD: Uh-huh.

MR. SALINAS: -- he should know the rules. He should know that you cannot get funded if you don't have the necessary paperwork of an audit on -- or independent audit on your past grants. I don't think we can blame our staff simply because your grant writer did not do his homework.

MS. HOWARD: You're right. If we would have had a past-due audit due, he would have been at fault. We have no past-due audit.

MR. SALINAS: No, but you have to do it by law, whether you have to -- before you apply, I would think -- and anybody correct me if I'm wrong -- that you have to have your necessary papers in place and that you have to

have an audit whether you applied for another grant or not. It's got to happen. MS. HOWARD: It doesn't state that. the audit's not due. MR. SALINAS: Well --MS. HOWARD: It specifically says, and I can 7 cite it to you --MR. SALINAS: But I think that the rule says 9 that before you can ask for any more that you've got to 10 have your paperwork in place, and you have to have an 11 independent audit to prove to the agency that everything 12 is in place and that you're ready for another grant. MS. HOWARD: It did not say that in the 13 14 original. It asked for a past-due audit, but it also 15 states --16 MR. SALINAS: He should know by now, after 25 17 years, what he needs to do. MS. HOWARD: He did. He did. He's a very 18 19 knowledgeable man. 20 If not, I think you need to be MR. SALINAS: 21 looking for another auditor -- I mean, another grant 22 writer. 23 MS. HOWARD: It says -- I have a form here that 24 was given to your board last month: The Texas Department

of Housing and Community Affairs Audit Requirements for

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Fiscal Years. And it said, "If the subrecipient is subject to OMB Circular A133, the following items should be submitted to the TDHCA's Compliance Division within nine months."

That OMB circular is -- it has to do with if you have an audit due. We did not ever receive \$300,000. That means we don't have an audit due. We did not turn in an audit, because we had none due. It specifically tells you that. It does not ask us for an audit certification form. They're asking for two different forms here.

They originally asked for an audit form. On the audit form, the instructions tell you there is not one due, and it says merely that you have to keep it on file for nine months afterwards. You do not have to file it; you only keep it on file for nine months if you have an audit due. Or whether or not you have an audit due, you keep this on file. Okay.

Our city had this on file. It did not say that you have to file an audit certification form. Those are two different forms. They only told us on our second turn-down letter that the audit certification form was considered to be an audit form. It never mentioned it previously. Never. So my grant writer did his job.

MR. JONES: If we could, I think that the staff

may well want to respond. And I'm sorry, but I think that's probably a good time for now to listen to our --

MS. STINER: Thank you, Mr. Chair.

Yes. The staff went back and met together with the program people, compliance people, and the legal department. Ms. Morris, who is a director of that program -- Ms. Morris, can you come and give the report that we were going to give back to the board on this, please?

MR. JONES: Thank you, Ms. Stiner.
Thank you, Ms. Morris.

MS. MORRIS: I'm Pam Morris, the director of Housing Finance Programs. Yes. We did on, actually, three different occasions discuss the disqualifications of the HOME applications. In the last meeting we had, we did meet with legal, the deputy director, and Jeannie and I, and our director of audit, to determine -- and the Compliance Division -- to determine if any more consideration should be given on the disqualifications.

We did review the rules. We looked at the NOFA. We looked at the application requirements. What has been brought clear to us are two things. First of all, the state rules state that you cannot apply if you have a past-due audit with the department. The problem is there's not an actual definition of what a past-due audit

means. So it puts the department in a position to have to make an interpretation based on what we feel is a requirement.

City of China, in addition to the other six applicants that were disqualified out of the approximately 277 we received for the same reason, had received multiple letters throughout the year. Compliance Division sends anywhere from three to four letters to each applicant that has ever received funding from the department, that states that you're required to submit an audit, a single audit, if you've received over 300,000 in federal funds, of which may not have been from the department -- any federal funds you receive, since it's a HUD requirement.

The letters furthermore stated that attached is an audit certification form. Should you have not received 300,000 or more in funds, you need to disclose that to us so that we can take you off of the delinquent list. We have to make the assumption that people may be subject to that, and we have to keep that posted until we get this form in disclosing otherwise.

The Compliance Department went back and made copies for us of all the letters sent to all recipients that had past-due -- on the past-due list for the audit certs or an audit, either one. The letters that they had sent out throughout the year that were addressed to the

mayor had indicated that funding for current grants and consideration for future grants may be affected by failure to comply with these requirements. So we repeatedly tried to warn them that you must send the form in.

I think what's happened is we may not have been as prudent in checking these things in the past, and we're taking them very seriously. We feel that it's important that anyone that's received state funds comply with any of the requirements that we have. Whether it's stated clearly in an application, they obviously had been -- received notice repeatedly that we needed to get the form in. That puts Compliance in a bad spot, because if HUD comes in and audits us and finds that someone was subject to the single audit and had not disclosed it to us, then we get put on the hook for that requirement.

So we do take it very seriously. We feel very good that most of our applicants had submitted their audit cert forms and were cleared. And six out of 200-and-something applications is not a bad ratio. And we're hoping that this is obviously an education to our applicants that it is important that they comply with all of our requirements.

And we will be looking to modify the state rules so that it is defined that a past-due audit includes any audit certification or any other audit requirement

that we've imposed on an applicant, that since a HUD rule changed, you know, anything that may come up in the course of a year that we are imposed to pass on to our applicants.

MR. JONES: Thank you.

MS. HOWARD: Can I make --

MR. JONES: Certainly.

MR. CONINE: Ms. Howard, I guess -- are you familiar -- well, let me ask Ms. Morris a question first.

You said that there were two or three letters that went out through the application process prior to the drop-dead date of the expiration date. Is that correct?

MS. MORRIS: Correct. For particularly the City of China, and I had Compliance go back and make copies of these. Letters had been sent. The latest letter was sent in January of 2001, well in advance of the application NOFA even going out. A letter was sent in September 2000 requesting the same thing. A letter was sent in December 1999 requesting the audit, because this was for a 1998 fiscal year end.

MR. CONINE: Right.

MS. MORRIS: And then a letter went out in September of '99 and in June of '99. So I saw a consistent track record of them trying --

MR. CONINE: They had the form attached to it

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and --

MS. MORRIS: Uh-huh.

MR. CONINE: -- all that kind of good stuff.

MS. MORRIS: Yes, sir.

MR. CONINE: Do you remember whether the City of China got those letters?

MS. HOWARD: No, I don't. And I was not -- I was on the council then, but not a mayor then.

Let me make a comment to two things that I understand Ms. Morris has said. She just stated that they, even as a department, did not have a clear understanding between an audit form and an audit certification form, and they had to make the rule. That sounds to me like they made the rule after they sent out applications.

Now, I -- you know, whether or not we had letters sent to us, we have a big changeover in personnel in our office.

MR. CONINE: Right.

MS. HOWARD: That is not making an excuse to that; that is making a statement, that we have had a big changeover of personnel in our office in the last three or four years even.

It's irrelevant in this case that those audit certification forms were not sent in, because clearly she

just stated out of her own mouth that they had to make a ruling of what they actually wanted. They made this ruling after they sent out applications, not before. They made it afterwards when there was a question.

MR. CONINE: I think what she was saying is that we don't know the amount of federal funds that the City of China received, whether they're housing related or streets related or any other form of federal fund --

MS. HOWARD: But it seems obvious that if we would have had a past-due audit, we would have mailed that in. Because you did not receive -- in other words, that's like saying, if you go to Sears and you buy something --

MR. CONINE: Uh-huh.

MS. HOWARD: -- you're going to get a bill.

Right? And you're going to pay it. If you don't get a bill next month, are you going to call them and say, Do I owe you money? That's what I'm asking you to consider.

Are you going to call your creditors next month and say, By the way, do I owe you money? Or because you know that you did not spend \$300,000 -- and our CPA looked over this, and he agreed. The guidelines said we did not spend \$300,000.

MR. CONINE: But it seems like you may have gotten a letter in between that said, if you didn't then sign this authorization that said you didn't.

MS. HOWARD: We may have gotten that, very well. MR. CONINE: And there's the step that's missing. MS. HOWARD: But those certifications -- there are none due now. If you will look, there are none due Okay? And all I'm asking is that you give us the 8 same consideration of we did get our audit -- our past 9 certifications in to you, and yes, we may have gotten them 10 in after the fact, because they were an oversight by inept personnel in our small city -- all I'm asking you is that 11 12 you give us the consideration that your office gave these people that did not pass their resolutions before the 13 deadline. 14 15 Am I right or wrong? Did you --16 MR. JONES: Excuse me. Excuse me. Excuse me. 17 Please don't ask questions. Address yourself to the board. 18 MS. HOWARD: I'm just so close to this, and I 19 20 apologize. 21 MR. JONES: We're here to take your -- I know. 22 I know. We're here to take your comments, and we're here 23 to listen to you, and we really want to. But if you 24 would, we'll proceed much better --

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MS. HOWARD: I apologize.

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MR. JONES: -- if you'll address your comments to us. And we think we know something from Ms. Morris.

And I want to thank Ms. Morris and staff,
Daisy, for y'all's investigation into this matter and
looking into it for us.

And I appreciate how strongly you feel.

MS. HOWARD: Yes. That's what I'm asking, that you give us the same consideration of the people -- they didn't have the resolution passed, and they -- you know, they were funded anyway. Why will we give an exception to them and not to us that didn't have a form due in the first place. Why?

MR. JONES: Appreciate it.

MS. HOWARD: That's what I want to know.

MR. JONES: Any further questions for Ms.

Howard? Yes.

MR. BOGANY: I just have a question for Ms.

Morris. Why was some people given exceptions on the resolutions. Is the resolution not as important as the audit, or are they all equal?

MS. MORRIS: I can address that. There were two parts of the threshold in the application. First part said, You may be disqualified for the following reasons, and a resolution has to be signed and executed before the date of the application.

I'm trying -- off the top of my head -- there were a number of things that were a "may," because it wasn't in state rule that it was a requirement. When you get down to the second part of the threshold, it was actually in state rule: past-due audits, expenditure rates, or performance in the past, and loan delinquencies, that you are not eligible to apply if you fall in any of those categories.

In light of the audits that the department has gone through and the fact that they have felt that we weren't adhering to those state rules clearly and making sure that we were being prudent to make sure everyone was current and in compliance with the department before we allow them to apply for funds, we felt that those three categories were very serious, and we took them that way.

MR. JONES: Okay. Thank you.

Any further questions?

(No response.)

MR. JONES: Thank y'all so much. We appreciate it.

The next witness affirmation form I have is from Mayor Andy Keller.

Mayor Keller, it's nice to have you here today.

VOICE: Mayor of what?

MR. KELLER: Good morning.

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MR. JONES: La Coste. Did I say it right?

MR. KELLER: Yes, sir.

MR. JONES: The mayor of La Coste, Texas.

MR. KELLER: Just like the certs [phonetic], except we don't make them. I wish we did.

(General laughter.)

MR. KELLER: Good morning. Thank you all for listening to me. I'm here for the same reason as Mayor Pro Tem Howard. We are one of the six out of 200-and-whatever-that-is that were disqualified. We also find that to be unjustified.

Made, I won't reiterate our view of the definition of what an audit is versus an audit certification form versus whether it was a rule or an interpretation. Y'all have heard enough about that. It does seem that when rules aren't very specific, you have to make arbitrary judgments. Unfortunately, that's not benefitting us in this case.

I would like to cover a couple of things that Mayor Pro Tem Howard didn't cover. This board and this program exist to help people who live in substandard housing and lack the means to fix up their housing themselves.

The City of La Coste was a recipient of one of

these grants before I became mayor, oh, seven or eight years ago, and it was the best thing that ever happened in La Coste. Many of the poor folks in our town that couldn't afford to fix up their houses got some help to fix up their houses. And it's a great thing. That's why I'm here today, because this is an important program for my community and the communities of South Texas.

We, too, received letters apparently that told us we needed to fill out this form. I'd also like to reiterate what Mayor Howard said -- or Mayor Pro Tem. You can sit up here in Austin where you have a staff of, I don't know, dozens maybe, maybe hundreds, who knows? And you can say, Gee, things shouldn't fall through the crack. And they probably still do, because I work at a large insurance company, USAA, and things fall through the crack there, and we've got 20,000 people.

In cities like China and cities like La Coste,
I have one administrator, and he's responsible not only
for making sure all the paperwork is filled out, making
sure all the mail is answered, but he's also responsible
for making sure the sewer works, the water works, and
making sure that the police protection is there, dealing
with citizens every day, because every day somebody's
upset about something.

And because of our limited budget, I can't go

out and hire somebody who just graduated from UT with a master's in political science who has this down pat. I mean, we get retirees; we get folks who are looking for something to do because they don't want to be completely retired anymore.

We are blessed. Our current city administrator is one of the best and brightest. He recently got certified as a city manager. But he was not our city administrator in 1998, 1999, and 2000, when these letters were, quote, received.

The person we had then, we -- I mean, there's excuses and excuses, but that gentleman was dying of cancer, and we chose to keep him in his position to help him fight his disease and fight his battle with cancer. He died two weeks ago. So he was our city administrator, and he wasn't there very much, because he was sick with chemotherapy and stuff.

But back on what kind of staff we have, our budget for the City of La Coste -- and I'm sure this is very true of the City of China too -- is about \$500,000 for the whole city. We run a police department; we run a sewer plant; we provide water; we try to pave the streets -- we're failing miserably at that. So we don't have the benefit of a staff that can make sure that letters are understood that they're required.

So I would like to ask the board to grant the people who were withheld from, or were disqualified, some sort of leniency. I don't about the other four cities, but my guess is they were in similar circumstances: limited staff. We don't have the monies to be able to deal with these kinds of things.

We haven't -- we don't expect to be funded because of any action of this board. We're simply asking to be scored. We would like to not be disqualified. We would like our application to be considered along with the other 200, and then where we fall in the scoring, we fall in the scoring.

I believe we have a very strong application. We have a lot of senior citizens and low-income people in our city. We're a city of about 1,300 as of the last census. And we have a lot of housing that is substandard. So I'm just here to ask y'all to please consider asking staff to undisqualify us and allow our application to be scored, because that's what y'all are here for. And that's what we're here for is to help people who can't help themselves.

MR. JONES: Thank you, sir.

MR. KELLER: Thank you.

MR. JONES: Questions?

MR. SALINAS: Are you all CDBG -- where do

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y'all get your federal funds from? CDBG or --

MR. KELLER: In fact, I wrote that down.

Federal funds are -- I sit on the ACOG board, and I'm on the committee that helps score at the local level. And there's not enough of those to go around. But we do -- we currently have gotten a grant to do water, and we got -- we have -- in next year we will be funded for a CB --

MR. SALINAS: CDBG.

MR. KELLER: -- DB or whatever grant to help our 70-year-old asbestos-lined pipes be replaced. Those kind of grants, generally, even though they help the general community, don't help individuals specifically. And they're really only available for things that are health related, you know, sewer and water. That's why we don't have any streets.

MR. SALINAS: But you have to compete every year for them.

MR. KELLER: Do you have anything for streets?

MR. SALINAS: But you have to compete every year for them.

MR. KELLER: Yes. And as part of that, we do an annual audit every year. There's an audit done. It's required by law. We just were not aware after reading the rules, similar to China, that we had to turn that in, and if we there were -- and I believe that there were three --

my notes say three letters were sent to us, according to I don't discount that at your staff. And I believe that. all. I just -- it didn't get worked because we don't have the staff to work it. MR. SALINAS: This application was for year what? -- '98 or --6 MR. KELLER: '98 is what, I think, she said. 8 MR. SALINAS: '98? 9 MS. MORRIS: For La Coste? 10 MR. KELLER: Yes. 11 MR. SALINAS: Yes. 12 MS. MORRIS: Actually we had four down here that we were waiting for audit certifications. 13 14 MR. SALINAS: But what year were you looking 15 for funding? What --MS. MORRIS: Oh, for 2001. 16 17 MR. SALINAS: 2001. So --MR. KELLER: Yes. Okay. So in our case, it's 18 19 we would like to --20 MR. SALINAS: So you've never had assistance 21 from this department. 22 MR. KELLER: One time, I think in 1993 or '94,

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we got a \$200,000 grant from this board, and like I say,

Coste in terms of funds, in terms of what the citizens

it was the best thing that ever happened in the City of La

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see.

MR. SALINAS: So what you're looking for is some rehab for your -- rehab and --

MR. KELLER: Yes.

MR. SALINAS: -- on some of the homes.

MR. KELLER: Yes.

MR. SALINAS: And you don't have any other way of getting any monies to rehab.

MR. KELLER: No, sir.

MR. SALINAS: The only way is through this agency. Right?

MR. KELLER: That's the primary way. Yes. I mean, we apply for every grant that our grant writers think we have a chance to get. And I have to applaud our grant writers. They have a very high rate of success.

And we've recently switched to a new company that has a very high rate of success, because our previous company didn't have quite as high.

Again, and the reason there are grant writers is because little towns -- 1,500, 2,000, 3,000 -- don't have the funds. You know, La Coste is situated between Highway 90 and IH-35 on a farm-to-market road. Our annual take from sales tax is \$30,000. Our annual take from property tax, actual bring in -- we have a book value of about 80,000, but we actually only collect about 60,000.

1	If we didn't sell water and sewer, we wouldn't
2	have any money. We have one city administrator, one
3	person who takes the payments on water bills, and we have
4	two guys that work outside, and they're responsible for
5	making sure the water well works and that the water flows
6	and that any sewer main breaks are fixed and that the
7	streets are as clean as possible and unsightly lots are
8	cleaned up. I mean, we have a staff of six people. Oh, I
9	forgot our one-person police force, which eats up about 60
10	percent of our general fund budget to have a police force.
11	MR. SALINAS: But I'm sure you have an
12	independent auditor that comes in and audits your
13	MR. KELLER: Yes. And we have audits every
14	year. I mean, I can stack them up.
15	MR. SALINAS: Why couldn't they have mailed
16	them with the application?
17	MR. KELLER: We were unaware, and our grant
18	writer at the time was unaware, similar to China, that
19	that was a requirement, based on reading
20	MR. SALINAS: But the grant writer should know
21	that by now.
22	MR. KELLER: I would recommend
23	MR. SALINAS: If he's going to do this
24	MR. KELLER: and I'm not here to recommend
25	procedure changes for staff. But it would be useful for

small towns like us that when you send the mayor a letter saying, We need this -- I don't know what that means. If I read it, I wouldn't have known what it meant. If -- and I probably did read it.

It would be nice if you carbon copied the contractors that we have hired to help deal with this for us, because we don't have a staff. I'm sure that if our grant writer had been carbon copied on any of those letters, this would have been dealt with right away.

MR. SALINAS: But if he's been in business for that long, he should know. And he's the one to be blamed for everything.

MR. KELLER: But the rules --

MR. SALINAS: You know, now, that's the bottom line, you know.

MR. KELLER: I agree with you --

MR. SALINAS: You need to change the guy that --

MR. KELLER: -- Mr. Salinas.

MR. SALINAS: -- you hired. You've got to get somebody else that knows the rules.

MR. KELLER: Mr. Salinas, it's almost -- and to coin a phrase, we're almost arguing about what the word "is" means. I mean, we really are. Is a grant certification form -- I mean, an audit certification form

the same thing as an audit? It wouldn't appear to me to be the same thing as an audit. And the rules say -- the rules written down in the application say, You will turn in any past-due audits. We had no past-due audits.

Now, should we have answered the letters? Yes.

And we should have done that, and I'm -- all I can tell
you is the extenuating circumstances as to why we don't.

Now, I'm quite frankly amazed that there were only six out
of 200. I mean, other folks are doing a good job. I
mean, that puts my faith in them much higher.

In our case, I mean, for having missed a letter, we're going -- I need to go tell the citizens of my city that they're not going to compete for possible housing funds in the next fiscal cycle.

MR. JONES: Mr. Bogany.

MR. BOGANY: I'm kind of in a quagmire. I kind of agree with Mr. Salinas, and I think -- and I'd like to thank Ms. Morris for following the rules, but I also realize what our mission here in this -- on this board, and that is to provide housing assistance in the rural communities.

And even though I think Ms. Morris -- and if I was in her position, would have followed probably the same rules, but I also believe, listening to this gentleman, listening to the lady from China, that we can't say the

same rules all the time follow if you live in Bay City, which may have a bigger staff. Maybe a phone call might have been helpful, knowing that this is a small city.

And I just find it -- I guess I'm kind of a touchy-feely person, and I just -- you know, and I feel the passion of what you guys are trying to do. And I think the mission of this board is to provide rural housing, and I'd like to see us do something, Ms. Stiner, to at least get them in the hopper to be scored.

And maybe their grant writer now knows the rules, but undoubtedly some grant writer in that group of 180 or whatever knew the rules and followed them. But I also feel just to sit here and etch in stone, This is the rule, and this is what it is, and I'm sorry, this is just the way it is -- where's the passion? And where is the thought? And I think we ought to at least put them in, let them get an opportunity to be scored, and let the chips lay where they may.

MR. JONES: Anyone else? Any questions for the mayor?

(No response.)

MR. JONES: Thank you, Mayor. I'd like to thank both you and the mayor pro tem for being here with us. However this ultimately comes out, we desperately need to hear from y'all, not only on these specific

matters, very important matters -- don't ever think that I'm not thinking they're important, and I think the board thinks they're very important -- but also on the bigger picture. We've got to hear from y'all and know how we can help you.

And this board, I think, struggles to let staff do their job and for us to get on the bigger picture. And a lot of the things y'all are bringing up are big-picture items that we ought to look at. And we need to hear from y'all on those bigger pictures. And I think I speak for every board member when I say we want to, and we thank you for the time and effort you've expended to be here. Thank you.

MR. KELLER: And I thank you for listening to me. And anytime that you need our attention for any issues, just let me know.

MR. JONES: Thank you.

MR. KELLER: Thank you very much.

MR. JONES: And on this same matter, I believe we have another person who would like to speak, Mr. Ken Roberts.

MR. ROBERTS: First of all, Mr. Jones, members of the board, you, sir, are absolutely right. I stand behind you 100 percent in passion. And in answer to you --

MR. JONES: If you could, would you come up here and speak in the microphone. We make a record of this. And it's -- I know we can hear you right now, but our court reporter needs the help. MR. ROBERTS: As hired help, I don't get to sit 6 up front much. Mr. Chairman, thank you, sir. MR. JONES: If you would, just introduce --8 9 this is the city administrator for the City of La Coste. 10 MR. ROBERTS: Yes, sir. 11 MR. JONES: Ken Roberts. Thank you for being 12 here. MR. ROBERTS: I'm on my second career, as he 13 14 was saying earlier, you know, those of us who are retired 15 but don't want to be fully retired, so that's why I'm 16 here. 17 MR. JONES: Yes, sir. MR. ROBERTS: 18 Thank you for your comments, sir. 19 In deference to your questions as to "grant writers 20 should have known," I submit to you that's why the City of 21 La Coste has a new grant writer. 22 MR. SALINAS: Good. We'd like to think so. Yes, sir. 23 MR. ROBERTS: 24 MR. SALINAS: And this is why we have new board

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members here, because --

MR. ROBERTS: Did you fire them too?

MR. SALINAS: The legislature did. And one of the things that I'm trying to bring across is that we're here in our first meeting with the new board members, and we need to do things right, follow the rules, so we can bring some dignity to this agency.

And, you know, first thing I hear is that somebody did not follow the rules who was applying for the HOME Program, and 200 of them did. So where are we going to say, Well, when are we going to educate the people that write the grants, especially the people that have been in the business 25 years.

What I'm saying here, we've got to follow the rules and bring a better atmosphere into the housing agency. And I know if you fired the grant writer, then that is where the problem was. And I think our agency here and our staff should have people that would tell them how to do their job and how to follow the procedures that we have here, so we will not be in the hot seat here anymore.

MR. ROBERTS: Understand hot seat. I only ask that you entertain the thought that there may be mitigating circumstances beyond the rules. In a former life, I worked 22 years for the federal government. Thank God there are exceptions to the rules.

We had a special set of circumstances in the gentleman, God rest his soul, that occupied this seat before I did -- I'm in no position to sit in judgment as to why he didn't answer letters. That'd be pretentious at best of me. If we were based on need and allowed to compete, not asking to be funded, only asking to be considered for funding, if we are worthy of that funding 8 and worthy of your trust in our stewardship of those 9 funds, that's all we ask for and nothing more. 10 Thank you so much for your time. Thank you for being here. 11 MR. JONES: 12 appreciate it. 13 MR. SALINAS: When is the next cycle for the 14 funding for HOME Programs? 15 MS. STINER: Next month, October. 16 MR. JONES: You might want to speak that into 17 the record. 18 MR. SALINAS: Are they going to be able to 19 apply again with the new --20 MR. JONES: Do you want to answer his question?

MS. STINER: Yes, sir. Thank you. Mayor
Salinas, the staff expects to bring -- will bring to the
board the recommendations for the HOME Program awards in

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October.

Based on the work the staff has done -- I think

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you asked me a second question -- these applicants have been disqualified to participate. However, the board is going to consider an appeals process today. I would encourage those applicants who are disqualified to seek an appeal based on the various arguments you've heard today. That is why this board has moved, like the federal government, to an appeals process.

In the past, that process has been informal. However, we are required under SB 322 to develop a formal appeals process. So the board will be considering that appeals process today. I encourage you to take advantage of that.

They will be able to consider all of those mitigating circumstances that you described today. So I would encourage you to do that. But we'll be back in October, next month.

MR. SALINAS: Who would they have to contact to get under appeals process?

MS. STINER: It's -- let's see.

MR. SALINAS: Who is the person in charge?

MR. BURRELL: They would contact Ms. Stiner.

MR. SALINAS: Ms. Stiner? Okay.

MS. STINER: The executive director, according to the appeals process that you are to consider later, is the contact person.

MR. JONES: And as we move on -- I don't want to appear defensive at all on this issue, but I do want to say that our staff is charged with a hard job, and we have been criticized mightily in the past for not enforcing the rules and not meeting our own audits. We are very audited, and we are struggling right now to make sure we meet our own.

So in a lot of circumstances, we sit in the same circumstances you all do, and we're under tremendous criticism, quite frankly, in that area. And I know that staff is very driven by that. And I appreciate that. It's as it should be. We also need to fulfill our mission, and we're trying to do that.

So there are other concerns there. You don't want to go all one way or the other. But I understand staff's position on that. And I don't say that to be defensive, but I do just want to note that for the record.

The next witness affirmation form I have is from Ms. Edwina Carrington, I believe.

MS. CARRINGTON: It's for information only on a later item.

MR. JONES: Okay. And what item might that be, Ms. Carrington?

MS. CARRINGTON: The Eagle Pass -- the extension for the closing of the construction loan on the

Las Quintas transaction in Eagle Pass.

MR. JONES: Thank you, ma'am. If I forget, be sure to raise your hand and remind me when we get there. Thank you, ma'am.

And the next witness affirmation I have is from Ms. Jean Langendorf. Ms. Langendorf, good morning.

MS. LANGENDORF: Good morning.

MR. JONES: Nice to see you again.

MS. LANGENDORF: Nice to see you, too.

Good morning. My name is Jean Langendorf, and I serve as the project director for the Texas Home of Your Own Coalition, which is a project at United Cerebral Palsy of Texas.

I'm here today to discuss items related to the QAP. We request an improvement to the tax credit allocation process by improving housing design to address the needs of people with disabilities. We are requesting the following revisions, and I think you will hear some from staff on the first item.

As in last year's QAP, require that the ground level of townhouse units include one bathroom and bedroom and meet fair housing standards. This was a great step forward last year, and we worked together with staff and -- to address some of these issues, and had been very excited and expected it to be in the QAP this year.

I believe it's been an oversight. And from what I understand, staff is going to talk to you about some language on that. It was a great step forward, and we don't want to move backwards in providing access for people with mobility impairments particularly.

Number two is to remove the provision for special housing developments. That is, as described in the QAP, as any development developed specifically for special housing needs groups including mental health/mental retardation development, group homes, et cetera, as this type of housing conflicts with the department's adopted policy to discourage the segregation of persons with special needs from the general population.

The department has adopted a strategic plan policies that are to promote integration in housing developments. I've noted at the bottom the page that I had -- at least the document I had -- under Other Special Needs Groups strategic plan and the goal four is, "Discourage the segregation of persons with special needs from the general public. Particularly, support the development of housing options and programs which enable persons with special needs to reside in noninstitutional settings." We request that the rules be revised to appropriately address the needs of people with disabilities.

And then last, for those of you that have been on the board for some time and have heard us over the years, we -- there had been a request by the board well over a year ago to establish an advisory committee to assist you all in addressing the needs of people with disabilities. There is not someone on staff that has that as their responsibility.

We were -- we are excited that Senate Bill 322 does have an appointment that there be some representation on the board of the needs of people with disabilities.

I'm assuming that's the last position to be appointed, that we'll see that. But there has been and there continues to be many issues related to serving people with disabilities that are not getting addressed.

We'd much rather have it working with the staff to have things and not spend the time continuously at the board meetings, having to point these issues out. We feel like if there was such a committee, that things like the QAP could be -- there could be some participation. We were not aware of or involved in the roundtables on the development of the QAP. There was nobody from the disability community invited to participate.

And we're very concerned and want to stress again, as we did a year ago, that there needs to be such a system that there can be some advice provided on what

these issues are.

 $\label{eq:theorem} \mbox{Thank you, and I'm happy to answer any} \\ \mbox{questions.}$

MR. JONES: Thank you, ma'am. Appreciate you being here.

The next form I have is for Mr. Emanuel -- and I apologize, I really can't read this last name -- Glockzin?

AUDIENCE: He stepped out in the hallway, but we want to address the Commonwealth issue --

MR. JONES: Okay.

AUDIENCE: -- further down on the agenda.

MR. JONES: Thank you.

MR. SALINAS: I was going to ask you, Mr. Chairman, that, on these comments if we could check with our legal counsel that anybody that makes comments before this board, if it's legal for them to make comments about items that we already have on the agenda or they can make comments on other items that are not on the agenda.

I think we just need to ask the attorney general later on if anybody can make comments on things that we have on the agenda today. I don't think they can, but I'm just going to ask for an attorney general's opinion, because it would make it very difficult to go down the agenda and have a discussion with the audience on

things that need to be taken care of by this board.

I know that there is a time where public comments are accepted. But I've known it all my life that it has got to be that -- for something that is not on the agenda here today. I don't know if it's the same rules here that apply to our cities. So the attorney general would have to ask us if we are following those rules.

MR. JONES: Mr. Walker, certainly you're here, and I know you're an expert on this subject, if you wouldn't mind answering the question.

MR. WALKER: I believe it's all right for citizens to present information to the board whether it's on the agenda or not. If there's a public comment portion, which is, I understand, this is, I believe that's all right. It's not permissible, of course, for the board to deliberate or consider or discuss matters that are not given proper notice under the agenda itself.

But if -- does that answer your question?

MR. SALINAS: Well, she wants to address the board, and she wants to wait for this item to come up on the agenda. I really don't think that is right. She could go ahead and address the board before we get to the item. And I -- you know, I'm wary about that.

But if we are going to go down the agenda and be able to debate it with everybody in the audience, then

we really have -- I do have a problem with it, and I think you need to check it. I think that anybody who comes before the --

MR. WALKER: I think she may -- it's up to the board --

MR. SALINAS: -- there is a time under our agenda for public comments, and I need -- I think this is -- after that, it's got to stop and let this board work its way out through the agenda and make decisions accordingly with six members.

MR. JONES: And, Mayor, if I could address that question, I think it's a very good and valid point. And I would like to say that due to some criticism the board received and trying to be better and more receptive, we changed our policy. Our policy at one time was just as you described it. We later changed our policy, and I think the board has the authority to have the policy either way it wants it.

And I think it has led to some problems, to be quite frank with you. We're going to have a board training session, I think, in the very, very near future. And I think at that training session, we certainly will discuss Open Meeting Act's requirements, which I know you, as a mayor, are much more familiar with probably than I am.

And then secondly, I think this policy which we currently, you know, are operating under is certainly something that the new board will want to decide. And I'll say, quite frankly as chairman, I am happy to allow the board to make that policy. You know, we changed it because of criticisms we received, but I certainly see that there are problems both ways.

And for today, since we're under the new policy, I will, as chairman, allow people to defer in their comments. So that comment would be deferred till we take up that matter.

The next witness affirmation form I have -- and thank you, Mr. Walker. I know I put you on the spot, but I've been doing that, so I guess you need to get used to it.

Mr. Bill Fisher.

MR. FISHER: I'm here on Agenda Item 2(a). I'd like to wait till then.

MR. JONES: Okay. Thank you.

Mr. Eric Hartzell.

MR. HARTZELL: I'm here for Item 3(a).

MR. JONES: Okay.

MR. SALINAS: We're going to have a good meeting.

MR. JONES: Mr. Joe Chamy.

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MR. CHAMY: I'm here to discuss the QAP that's Agenda Item 2(d). However, with the grace of the board, I shall proceed --

MR. JONES: Thank you.

MR. CHAMY: -- to make my comments here accordingly.

MR. JONES: You've made the chairman happy.

MR. CHAMY: Well, anything to please the chairman. That's very important.

Specifically, I want to refer to a number of the exhibits in the QAP, if I may. I want to jump to Exhibits 101(a)(iii). Specifically this particular exhibit, in the threshold section of the application, refers to the construction of a community laundry room to service the resident population.

My suggestion right here is we should have an either/or clause, in a sense that if there are washerdryer connections that are constructed and provided for the complex that this particular exhibit is to be amended to reflect that. It's a mutually exclusive clause in the sense that there is cost, obviously, attached to building additional amenities, and a duplication of an amenity certainly does not serve, in my opinion, good economic sense.

MR. CONINE: Would you repeat where that was

located one more time?

MR. CHAMY: Yes, sir. Exhibit 101(a)(iii).

MS. ANDERSON: Page 18.

MR. CONINE: Thank you. Okay. Go ahead.

MR. CHAMY: Okay. My next comment refers to Exhibit 101(d). In that particular threshold exhibit, there's a requirement that's not an imposed requirement, yet by the same token it might as well be construed as an imposed requirement, for the granting of 30 percent of the construction contracts to historically under-utilized businesses.

Very candidly, the issue with that particular topic is not that I don't believe there's any builder or developer who has got any aversion to doing that. The issue is a practical issue, particularly if you're developing in smaller communities in the state of Texas. It's awfully hard, as it is, to generate subcontractors who are willing to do the quality work that we do require. And in my opinion, a lot of the subcontractors that we do use are, candidly, two-family-type enterprises where the husband-wife might own the enterprise, be it a sheetrocking operation or a paint operation.

In other words, the spirit of trying to give these contracts to smaller entities, minority business enterprises, so to speak, is in essence effective de

facto; it's just the question of trying to get the certification or to get these subcontractors to go through the process of getting a certification from the state of Texas.

That's a rather cumbersome and expensive process that most of the subcontractors that, at least, I deal with would have an extremely difficult time complying with. So I'm begging the opinion of the board to look at this particular issue within the lights and the constraints that I've present.

MR. JONES: Thank you.

Any questions?

MR. CHAMY: Okay. I want to move on to another exhibit --

MR. JONES: Okay.

MR. CHAMY: -- Mr. Jones. And there's an Exhibit 201(f). This particular exhibit relates to awarding the ratio of tax credits awards relative to the size of a community as a ratio of the entire state.

I think this particular exhibit --

MR. JONES: What exhibit --

MR. CONINE: It's 25 down at the bottom.

MR. JONES: Thank you. Excuse me.

MR. CHAMY: I think this exhibit is very well intentioned, in the sense that we are looking for,

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obviously, distribution of the tax credits equitably across the state of Texas. I would like to take that particular exhibit one step further, in the sense that we need to have a breakdown between tax credits awarded for family complexes versus tax credits that are awarded for senior citizens.

In my perspective, these are two different markets, and it's very conceivable -- and again, I'm referring to smaller communities -- where you might build one apartment complex, and that takes up -- that gets the ratio as calculated by the staff completely out of the ability to fund any other complex. Yet there is completely another segment of the population, the senior citizens, that have been completely left out.

By my way of thinking, these are two separate, like I say, service groups. And we would appreciate for the board and the staff to take a look at that and take that into consideration.

All right. One more item, gentlemen. If there are any questions, I'll be delighted to respond. These are rather technical issues, I realize.

MR. SALINAS: When you said that the tax credits should be equally dispersed throughout the state --

MR. CHAMY: Correct. And I think the staff has

1 done a wonderful job with this formula. MR. SALINAS: -- you mean on the amount per unit on a tax credit or how would you define that? MR. CHAMY: Well, I think, in this particular exhibit it's self-defining in the sense that you are -- if a particular city has had so many complexes built in it and it has been awarded so many credits, then certainly it's fair and equitable to say, Hey, let's see if we can 9 go to another town and award these credits. 10 My issue, though, however, is kind of trying to define that process in the sense that you have two 11 separate constituencies, and we certainly are not taking 12 care of one, possibly to the detriment of the other. 13 14 MR. SALINAS: Would you agree with page 13 on 15 number 3 at the very bottom of the page? 16 MR. CHAMY: I don't have the QAP with me, 17 however. 18 MR. SALINAS: Could you read that Ms. Stiner? 19 Page 13. Would you agree with what --20 MS. B. ANDERSON: That last paragraph is --21 MR. SALINAS: The last paragraph. 22 MR. CHAMY: I'm not sure whether that's --Would you read that? 23 MR. SALINAS: 24 MR. CHAMY: Maybe I'm looking at the wrong --25 MR. SALINAS: Would you read it out, Ms.

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Stiner?

MS. STINER: On the 49.5, Ineligible or Disqualified Applications, the Section 3 --

MR. SALINAS: Okay. The --

MS. STINER: -- "The applicant, a person, general partner, general contractor and their respective principals or affiliates active in the ownership or control of other low-income housing tax credit properties in the state of Texas who received an allocation of tax credits in the 2001 application round but did not close their construction loan as required in the carryover included in the extension period granted by the board except for reasons beyond the control of the applicant as determined by the department" --

MR. CHAMY: Yes. I -- oh, I'm sorry.

MS. STINER: -- or it goes on to 4. And he's asking, I guess, for the applicability of that to your issue.

MR. CHAMY: Now, Mayor --

MR. SALINAS: Can you respond to that?

MR. CHAMY: No. That is not applicable to the issue that I raised; however, I do agree with that policy. I certainly do.

One more exhibit, Mike, and I shall be on my way here. Relative to development characteristics, that's

letter L, deferred development fee -- I don't know what page this is in the QAP -- however, the -- be that as it may, the intent of that particular paragraph is to, in essence, award a developer for minimizing the developer fee.

Okay. In other words, the sources and uses as they pertain to a particular project have got to even out; otherwise the developer would have to take his fee downstream.

My only suggestion is, if we're going to go to a point system that grants awards for a deferred developer fee on a graduated basis, I think that the developer fee -- a developer who comes up with a zero deferred developer fee should be likewise given points, and they should be awarded the maximum points.

I'm not -- I don't fully understand, very candidly, the intent or the reasoning behind this issue of developer fee and deferring of developer fee. I do know that developer fees have got to be, obviously, repaid according to the partnership agreements out of the cash flow of the property, which in a sense tends to negate the viability of a project. So I concur with what has been done, it's just that I'd like to see it taken down to a point where, hey, if there is a zero developer fee, then give the developer ten points as a reward.

I conclude my comments. MR. JONES: Thank you, sir. MR. CHAMY: Thanks very much. MR. JONES: Any questions? (No response.) MR. JONES: Before we move on, Mayor, our attorney general has definitively answered our question. 8 Section 1.05(f) of Senate Bill 322, our Sunset 9 legislation, that recommendation, which we -- those of us, 10 as you said, who were fired became very aware of this particular criticism. That was made part of the law. 11 12 they do have the opportunity under the law to speak when the agenda item comes up. 13 14 MR. SALINAS: Okay. 15 MR. JONES: So that is part of our legislation. 16 And our attorney general, who just had to leave the room, 17 quickly found that for us and answered that question for us. 18 So moving on, the next witness affirmation form 19 I have is from Mr. Bob Sherman. 20 21 MR. SHERMAN: It's an agenda item, and I'd like 22 to address it then. 23 MR. JONES: And which one is it, sir? 24 MR. SHERMAN: 2(c), I believe, the Spindletop 25

Estates.

MR. JONES: Okay. And if everybody would help me, since we have so many of these, if when we get there and you want to speak and I haven't recognized you, be sure to remind me, because I've got so many -- I've got such a large stack here, I don't think we'll ever keep track of them exactly without your help. But thank you. 8 The next witness affirmation form I have is 9 from Mr. Al Price. MR. PRICE: And I'm here for Item 2(c) also. 10 11 MR. JONES: Okay. Thank you, sir. The next witness affirmation form is from Ms. 12 Susan Maxwell. 13 14 MS. MAXWELL: I would like to wait until we get 15 to the QAP, Item 2(b). 16 MR. JONES: Thank you. 17 The next person we had that would like to speak 18 is Mr. Jonas Schwartz. He's coming? 19 MR. SCHWARTZ: Watch your toes. I can be 20 dangerous. 21 MR. JONES: Good morning. 22 MR. SCHWARTZ: Good morning. 23 MR. JONES: Thank you for being here. 24 Thank you. It's nice to see you MR. SCHWARTZ:

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again. My name is Jonas Schwartz, and I work for

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Advocacy, Incorporated. We are a nonprofit organization charged with protecting the legal human and service rights of individuals with disabilities.

I appreciate the opportunity to address the board. My comments this morning will focus primarily on the proposed qualified allocation plan. I want to first say that I would like to see it reinstated that one bedroom and one bathroom be made accessible for the bottom floor of townhomes, according to the Fair Housing Act, just like was in last year's qualified allocation plan. And I would like to see that reinstated.

I understand that staff will -- in their presentation to you of this plan, will be recommending that that portion be reinstated. That was very helpful in last year's plan to have those requirements.

The second portion of the plan that I would like to address goes to the portion of the plan that allows for special housing developments specifically for individuals with mental health and mental retardation disabilities. This portion of the plan appears to be in conflict with the department's own strategic plan that says it will work to discourage segregated housing of individuals with disabilities.

It is the desire of people with disabilities to live in places that are integrated, meaning that they live

in places in their community of their own choosing with everyone else and not in places that are specifically set aside for a specific group of people.

In this year 2001, as we start in the 21st century, I would hope that the department would set the standard to only fund developments that follow the policy of integrated housing and not segregated housing.

And finally, I see on your agenda under Item 3 that you're going to be considering the appointment of an advisory committee for the colonia. And I understand that all of you are a new board, and the prior board had made the recommendation that an advisory committee of persons with disabilities be appointed to advise you as a body on the needs of individuals with disabilities in terms of their housing.

I understand that you all have many decisions to make as a new board, but I would ask that you consider the possibility of having an advisory committee to provide you with pertinent information on the housing needs of individuals with disabilities. Thank you very much.

MR. JONES: Questions?

(No response.)

MR. JONES: Thank you so much for being here. We appreciate it.

The next witness affirmation form I have is

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from a Mr. John Meinkowsky.

MR. MEINKOWSKY: Good morning.

MR. JONES: Good morning.

MR. MEINKOWSKY: My name is John Meinkowsky.

I'm representing the Texas Association for Centers for

Independent Living, speaking on the qualified application
plan, the QAP, draft QAP also.

Centers for Independent Living are community-based nonprofit organizations that provide assistance to people with disabilities, and those services we provide are geared toward the idea of an individual improving their own personal level of independence in terms of how they live, where they live, who they associate, how they exert control over their own lives.

One of the major barriers to independence for people with all types of disabilities continues to be housing and specifically a shortage of housing that is affordable, accessible, and integrated. My comments will basically echo what you heard from Mr. Schwartz and Ms. Langendorf earlier regarding the first-floor accessibility of townhome units, regarding the need to promote integrated housing and not increase congregated living situations, as the special housing development section would be, and also to echo the thought that we would be very interested in having an ongoing input on the housing

needs of people with disabilities through something like an advisory group.

You probably don't need to hear these things over and over again, but I think it's important to recognize that this is the will of the people with disabilities all over the state -- a number of organizations will tell you the same thing -- is that it's housing that is all three: affordable, accessible, and integrated. The days of congregated and segregated housing are going by the wayside, and that's a good thing.

We have an array of community-based long-term care programs that provide assistance to people that's in the home where people live, where they want to be, as opposed to having to settle for some congregated living situations.

Unless you have questions, I'll just end it at that. Thank you for your time.

MR. JONES: Any questions?

Thank you so much. We appreciate you being here.

The next witness affirmation form I have is for Mr. Ocanas. How are you doing today?

MR. OCANAS: Sorry?

MR. JONES: How you doing today?

MR. OCANAS: Oh, good.

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MR. JONES: Good to see you.

MR. OCANAS: Good morning, Mr. Chairman and returning members and Ms. Anderson. Welcome on behalf of the advocates in Texas. We're glad you're back, and we're glad that you're here.

My name is Reymundo Ocanas. I'm executive director of the Texas Association of Community Development Corporations, and I've got a letter that I'll ask Delores to help me get to you all. There's enough there for everybody.

This is a letter that I'm submitting to you on behalf of my association, along with the Texas Low Income Housing Information Service. And I believe Mr.

Henneberger will make comments at some other point this morning or today.

I will read parts of the letter into the record, but I just wanted to -- is there one missing, Delores?

MS. GRONECK: Yes. Do you have an extra?
MR. OCANAS: Yes. Sorry.

I wanted to briefly say that we are very pleased that the agency is entering this era, I guess, of operating under its Sunset legislation and will go through strategic changes and expansions of the work that it's doing to make sure that it's continuing to provide

affordable housing to the needy citizens in Texas and will be more inclusive of the public and will have additional responsibilities to serve more people.

The reason that we're presenting today has to do particularly with the qualified allocation plan draft that has been presented to you to consider today and the staff will be presenting on. But the particular concerns that we have to do with making sure that the draft QAP that this board puts out as a draft for public comment actually reflects the letter and spirit of the law in Sunset Bill 322.

It appeared to us as we were reviewing the draft that you are considering today that it would be prudent for you to consider making some changes before it even goes out for public comment, to make sure that it adequately reflects the law and isn't missing any pieces before you're taking public comment on it.

So I'll go ahead and go to the letter. And we do want to note we understand staff is going to continue to be on a short time frame to get all this new process implemented. It's going to be a speedier process, but we hope that that does not mean that things will be overlooked or that the same quality that we've seen in the past doesn't go through both the staff processes and the board processes.

The letter covers three issues: first, how should applications be selected; second, what information about applications should be made public; and third, how should conflict of interest provisions be implemented.

And I'll go over the first one about application selection. And I will refer you back to the draft QAP page numbers so you can help me follow the recommendation.

The statute itself, Senate Bill 322, sets out a clear, objective, score-based process for the selections of applications, and the draft QAP does not. To create confidence in the application process, the board must make it clear that the allocation process will be based on an objective scoring system, that the scoring system matters, and that project underwriting to the -- I'm sorry -- and that the allocation process will be based on the system, and project underwriting will be part of that to the maximum extent possible.

The draft QAP specifically assigns broad powers to the staff to make subjective decisions to select certain applications. This should be corrected, because I think the spirit of the law and the letter of the law in 322 indicates that the discretion is left up to the board on how the final selections will be made.

So what we'd like to recommend for you to consider is to address issue number one. And there may be

other changes necessary, but that you replace Section 49.79(c), which is page 14 of the draft QAP, select the evaluation factors, which have been the most controversial and subjective part of the QAP that you probably have heard a number of complaints about from people that have been approved and people that have not been approved in the past.

And this part of the process has, in the past, made scores irrelevant. So we ask that you replace the evaluation factor section with 49.7(c) substitute that we've submitted to you here, which would be -- and I'll read it -- "Final selection. The board may choose to allocate credits to a project with a lower score than other projects only for one or more of the following reasons: 1) to serve a greater number of low-income families for a longer period of time for fewer credits; 2) to satisfy regional and other set-aside requirements; 3) to prevent an overconcentration of units serving the same target population in the same market; and 4) to prevent a project from being on a site that is unsuitable."

So really, to make the objective scoring process valuable, we're basically saying that we would like you to consider making an exception to the scoring only when you are looking at these issues, and that would be a board decision.

Second, that you remove the sentence in Section 49.1(c), which is on page 1 of the draft QAP, and the sentence reads, as it is in the letter: "Such criteria shall be implemented to ensure that tax credits are allocated to applicants who are best able to meet recognized needs for affordable housing as determined by the department." And that's, again, more of a discretionary situation.

Issue number two is the public disclosure issue that we'd like to bring up to you. Under state law, everything except for personal financial statements and trade secrets should be public. The draft QAP allows virtually the entire application to be kept secret at the discretion of the applicant. The department and individual applicants should make a uniform determination as to what materials should be kept secret.

All personal financial statements and any other confidential information allowed to be kept from disclosure by the Texas Public Information Act should be required to be placed in a single exhibit. This way you can say that everything is going to made public except for that particular confidential section.

Only this exhibit should be kept secret, the one that will have the financial statements and anything else that may be deemed particularly confidential, and may

still be disclosed to the public upon request if the Public Information Act does not protect the information from disclosure.

And you went through that this last round with the requests that I made, and the attorney general found that the material that we were requesting actually was not exempt from disclosure, and it has been determined that we were able to access it.

So the recommendation that we have to fix this issue is to remove the current statement in Section 49.4(d), which is page 9 of the draft QAP, which has the fact that the exhibits will not be available for disclosure, which was something we had submitted to you in the last year and you had adopted.

Since then, Senate Bill 322 goes a little further than that. So to reflect the new law, we would suggest the following statement be put in its place, and that is that "All preapplications and applications, including all exhibits and other supporting materials, except for exhibit blank" -- whichever one you're going to number or name to talk about the financial statements and those particular trade secrets or confidential information that an applicant will want to say, This is confidential -- that "all exhibits and other supporting materials, except for exhibit blank will be made available

for public disclosure immediately after the preapplication and application periods close, respectively.

"The content of exhibit blank may still be made available for complete disclosure upon request if the attorney general's office deems it is not protected from disclosure by the Texas Public Information Act."

And that, again, is just following the scenario that we just went through to protect the department and not having to disclose but to give public access to the information that the attorney general makes a determination that it is public.

And Senate Bill 322 also goes very far in making it easy for the public to access the information and also, really, to save costs for the department having to duplicate materials. Senate Bill 322 asks the department to place almost all of the material online so that the public would be able to not only get the applications itself, when they are trying -- people are trying to apply for credits, but once the applications are submitted that all of that material be made available online so the public can view it, download it, print it, and the staff doesn't have to go through the process of duplicating it or making it available for the public.

It's a more cost-effective way, with the new technology that's available today that's very inexpensive,

be able to put the material online.

So what we'd like to suggest is that instead of giving the possibility that the department would not do that this year, according to what the state law says, that you remove the words "if feasible" from the section that talks about putting the material online. And that's on page 10 of the draft QAP.

Finally, issue number three, this is the conflict of interest provisions. The draft QAP opens a huge loophole in the conflict of interest and revolving door provisions of the statute by allowing former employees to fully participate in the Tax Credit Program immediately upon leaving the department, so long as they do not formally become, quote/unquote, the applicant.

This loophole must be closed. To fix this issue, we recommend a number of things. On page 10 in Section 49.4(f)(3)(a), The application log shall contain the development's name, et cetera, for all members of the development team.

And the application log, by the way, in Senate Bill 322, is completely expanded, so there's going to be a lot more information made available to the public just even before the applications are disclosed.

To better define the applicant, we would suggest the next one which is on page 3 of the QAP,

Section 49.2(7) that defines the applicant as, Any person or affiliate of a person or member of the development team acting on their behalf who files, et cetera, what the definition now includes. So we would add the -- a member of the development team and the affiliate language to who the applicant is considered to be.

Next, on page 4 of the QAP, 49.2(30), insert a definition that talks about the development consultants that are now doing work in the tax credit field today, and that is a development consultant is considered a member of the development team, and this way you have full disclosure of who any of the affiliated parties are that are submitting an application to you.

Finally, on page -- almost finally -- on page 13, which is Section 49.5(b)(2), this language would read, At the time of application or at any time during the two-year period preceding the date the application round begins, the applicant, any member of the development team, or related party of either is or has been -- and then the rest of the language that's in there. So this would be an insertion.

Then the last page of the letter has a couple more things, and one of them is language that I won't read, but it's language that was included in Senate Bill 322 that I'm not sure -- we weren't sure exactly where the

board or the staff would feel the best place to insert it would be, but it has to do with the -- again, the conflict of interest policies or issues that were addressed in Senate Bill 322 about former board members or other persons.

And in conclusion, there are two other really important things that we'd like you to see, if you would consider addressing them today, and that is the amount of points given to various policy goals that perhaps you'd want to consider in your next meeting, once the actual draft goes out. And we will testify to you about that once you adopt the draft and put it out for public comment. And that's the section of the Bill 322 -- it's 2306.67(11) on the allocation of housing tax credits.

The bill says, "In adopting criteria for scoring and underwriting applications for purpose of housing tax credit applications the department shall attach, consistent with Section 42 of the IRS Code, the most weight to criteria that will 1) result in an allocation of housing tax credits for developments serving the lowest income tenants, and 2) produce the greatest number of high-quality units committed to remaining affordable to qualified tenants for extended periods."

And this is, one, to maximize the productivity of the program so that you're getting the most bang for

your buck in the most units getting produced; and, two, that you're getting units that will last you the longest as affordable to the citizens of Texas.

There are other points issues. For example, the QAP says that projects with garages get three points in the scoring system, while projects that serve extremely low-income families only get two points. And that just doesn't seem to be giving the appropriate weight to this policy goal that you have of maximizing the number of units serving low-income tenants -- lowest income tenants.

And secondly, to concur with the comments of Mr. Schwartz, Mr. Meinkowsky, and Ms. Langendorf, the draft QAP provides an exemption for townhomes from compliance with Section 504, accessibility requirements. And we hope this is corrected, and it sounds like it's going to get corrected by staff.

And if you have any questions, this was a lot to try to present to you in a short period of time, but I'm trying to be brief. If you have any, I'll be willing to either answer them now or come back up when you get back to the section on the QAP in your agenda.

MR. JONES: Questions, board members?

Mr. Conine.

MR. CONINE: The section you referenced right before issue number three in the second page of your

letter -- would you mind providing me the page number for that, because you did everything -- I got everything else but that one.

MR. OCANAS: Feasible? The one -- feasible?

MR. CONINE: Yes. That one.

MR. OCANAS: It's page 10.

MR. CONINE: Page 10?

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MR. OCANAS: And I think I corrected it. I put down 49.4(e). It should be 49.4(f)(8)(b). Let me make sure that it is page 10.

MR. CONINE: Okay. That's the only --

MR. OCANAS: Yes. It's --

 $$\operatorname{MR.}$ CONINE: -- I think the only question I have right now.

MR. OCANAS: Okay.

MR. JONES: Further questions?

(No response.)

MR. JONES: The only question I have I direct to Ms. Marks. With regard to that issue which considers the huge loophole in the conflict of interest provisions, where we appear to, if we would make this change, make something an offense under this section as a class-act misdemeanor, which doesn't seem to be appropriate for the QAP rules, and probably would like your opinion on that subject at our next board meeting or some from legal

counsel.

I know I'm -- I'll put the attorney general on the spot, but I'll try not to put you on the spot. But I don't think we can do things like that under QAP rules. It can only be done legislatively. But I'll address that question to you at a later time.

MR. CONINE: Let me ask one more question. I think at the beginning of your comments you stated that you felt like there were certain provisions of the draft QAP that were in conflict with the new statute? -- is that what you said? -- or that may be interpreted as not meeting the statute? Which --

MR. OCANAS: What I was getting at is that there may have not been sufficient changes to the QAP to address what is now in 322 to address the Tax Credit Program. So there may have been things left out -- I'm assuming that it was just they were overlooked -- that are required in 322 for the Tax Credit Program that are not reflected in the QAP.

MR. CONINE: All right. And probably there could be a difference of opinion between one group and another as to the interpretation of the statute?

MR. OCANAS: Possibly.

MR. CONINE: But as far as you know, there's no absolute, direct -- this absolutely is in conflict with

the statute. MR. OCANAS: There are things that I -- I guess I don't know if I would phrase it "in conflict," but there are things that are not covered in the QAP as were in the law passed, 322. MR. CONINE: Okay. We'll get probably some more answers on that as we go through it. MR. OCANAS: Absolutely. 9 MR. CONINE: I just wanted to clarify what your 10 position was. 11 MR. OCANAS: Sure. 12 MR. CONINE: Glad to see you and John signed 13 the same letter. That's always --14 MR. OCANAS: That's one of the first for us, I 15 think. MR. CONINE: Yes. I would think that is a 16 17 momentous occasion. 18 (General laughter.) 19 MR. OCANAS: Thank you. 20 Thank you. We appreciate you being MR. JONES: 21 here. 22 MR. SALINAS: Who is in charge of our QAP, 23 staff member? Mr. Burrell, are you in charge of the QAP? 24 MR. BURRELL: Yes, sir. 25 MR. SALINAS: I mean, he would have to get

together with them and --1 MR. BURRELL: We would welcome getting together with them and trying to work out any --MR. SALINAS: But we would be looking at what 5 you send us or advise us to do -- right? -- as a staff member. MR. BURRELL: I couldn't hear you very well. 8 MR. SALINAS: We would be looking up to your 9 advice on how we accept this QAP. 10 MS. STINER: He and legal, yes, sir. MR. SALINAS: Him and legal. 11 12 MS. STINER: Okay. MR. SALINAS: Okay. 13 14 MR. BURRELL: Correct. 15 MR. SALINAS: So we just don't get out of 16 bounds here, and we just follow the rules and be able to 17 do what 322 says. 18 MR. BURRELL: That's what we are working to do. 19 MR. SALINAS: Okay. MR. BURRELL: We have taken this before our 20 21 legal counsel, and we have legal counsel from Washington 22 here also, also that will help us continue with the 23 interpretation of this. 24 MR. JONES: Thank you.

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Our next witness affirmation form is from Mr.

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Tres Davis.

MR. DAVIS: Good morning.

MR. JONES: Good morning.

MR. DAVIS: I'm Tres Davis. I'm the vice president of Housing Services for Grant Works. We're the new and improved grant writers for the cities of La Coste and China.

And I just wanted to, I guess, start out -I'll be real quick; I promise; I don't want to beat the
dead horse -- but start out by commending Pam Morris and
the HOME staff. I know they're in a very difficult
position. They're constantly inundated by new audits, new
audit reports, new requests, new legislation, and it's
very difficult to find that happy medium that makes
everybody happy. So I think they're doing a good job with
the positions that they've been put in.

In regard to Mayor Salinas' questions about how could a consultant or grant writer not know about what document is due, what we do as a company -- and I'm sure all the other grant writers do the same thing -- is we contact the CPA before any grant is due and ask if there are any audits due.

Since this is a new definition calling an audit certification form an audit, both the City of La Coste and the City of China's CPAs stated there was nothing due.

They were unaware of the letters that were sent to the city, as were the old consultants. We've spoken to them.

They were also unaware at the city.

So I would like to make a recommendation that the department consider copying administrators for these rural communities. So if they have a consultant, copy the consultant. If they've got a nonprofit that's administrating the program, copy the nonprofit. I think that will help alleviate a lot of these problems that we're having where documents go into these very small, rural communities, but the people actually handling the program are never made aware of it. And that's my recommendation for the board.

MR. SALINAS: Have you done any grant writing before?

MR. DAVIS: Have I?

MR. SALINAS: Yes.

MR. DAVIS: Yes, sir. And I worked for the HOME Program for seven years.

MR. SALINAS: You would know that the housing, anybody else -- it's like going to the bank; you've got to take your financial statement to be able to --

MR. DAVIS: This is the first --

MR. SALINAS: That's what I mean. I mean, I think we need to help these cities, but I think you all

need to know that there are some rules that we have to 1 follow, and you as a grant writer --MR. DAVIS: Yes, sir, absolutely. MR. SALINAS: -- need to advise them to do that 5 and --MR. DAVIS: And trust me, every grant writer in the state is aware of it now. 8 MR. SALINAS: This board cannot be responsible, 9 you know. My city has to do the same thing. 10 MR. DAVIS: But this is the first year that the 11 department --12 MR. SALINAS: I know. MR. DAVIS: -- has called an audit 13 14 certification form an audit, and so that is where the confusion was. This was not something that was required 15 16 in the past in order for a grant to be considered. 17 is new, and we were not made aware of it until after the 18 fact. So that's where we're -- there is a, you know --19 MR. SALINAS: I'm sure we have staff people 20 here that -- I would think we have staff people here who 21 would kind of give you guys a hand on how to do this. 22 MR. DAVIS: And they do. They do. The HOME

They really are very hard working. They do the best they

can with what they've got. We have, you know, no problem

Program staff is wonderful. They answer our questions.

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with the HOME staff at all. We're just having a -- we're respectfully disagreeing with the way that they were looking at this. Okay. But if you all would consider copying us on stuff like that, we'd really appreciate it. MR. SALINAS: There's an appeal process. Right? 8 MS. STINER: To be considered later today, yes, 9 sir. 10 MR. SALINAS: Okay. MR. JONES: 11 Thank you. 12 No questions? 13 (No response.) 14 MR. JONES: Good. And last but certainly not 15 least, Mr. John Henneberger. 16 MR. HENNEBERGER: Mr. Chairman, may I defer my comments until Item 2(b)? 17 MR. JONES: You certainly may. And I've done a 18 19 lot of dumb things in my life, but getting to yours last 20 was pretty stupid. (General laughter.) 21 22 MR. JONES: Those are all the witness 23 affirmation forms now that I have. I would like to say 24 this. If anybody else would like to provide public 25 comment to the board, this is your last opportunity. If I

don't have your comments, then I won't be calling upon you. I see no hands, so I will close the time for public comment. Now, those people who have deferred their comments to our agenda items, we will recognize you. But with regard to any other individuals who have not turned in a witness affirmation form and not provided me with notice that you'd like to provide time for public 9 comment, public comment is now closed. 10 And with that, why don't we take a five-minute recess, and we'll be back in five minutes to continue. 11 12 (Whereupon, a short recess was taken.) MR. JONES: And I think we are now -- public 13 comment has been closed, and we will now turn to Item 14 15 Number 1 on our agenda, which is the presentation, 16 discussion and possible approval of the minutes of the 17 board meeting of August 21, 2001. 18 MR. CONINE: Move for approved. 19 MR. JONES: Motion's been made by Mr. Conine 20 that they be approved. 21 MR. BOGANY: Second. 22 MR. JONES: Been seconded by Mr. Bogany. 23 Further discussion, comments, debate? 24 (No response.) 25 MR. JONES: I assume we're ready to vote. All

in favor of the motion, please say aye.

(Chorus of ayes.)

MR. JONES: All opposed nay. The ayes have it; the motion --

MR. GONZALEZ: One abstention. I was not present at the meeting.

MR. JONES: -- okay. One abstention. The ayes have it; the motion carries.

We will then move to Item 2, which is the tax credit items, and the first item, Item 2(a) is the approval of request to extend the placement and service date for the Hillsboro Gardens Phase 1, Hillsboro, Texas.

Ms. Stiner?

MS. STINER: Thank you, Mr. Chair. Mr. Charles

Nwaneri will come forward and make that presentation on

behalf of the staff.

MR. NWANERI: Thank you, Mr. Chair, board members, Ms. Stiner.

MR. JONES: Thank you.

MR. NWANERI: My name is Charles Nwaneri, and we have a Hillsboro project, number 99118, that is requesting an extension for placement in service. This project received an allocation in 1999, and it was placed on the waiting list so when the money became available, it wasn't enough money to fund it in its entirety. So there

was some restructuring involved, and the owner was asked to reduce the amount of the request on number of units to 24.

And so in 2001, they received another allocation for Phase 2 of the same project. Now, under the IRS Code, they were supposed to place this property in service no later than December 31 this year. And they are seeking an extension from our deadline of October 31 to the full extent of time allowed by the code, which is December 31 this year.

Staff has reviewed the request, and is making a recommendation for the board to approve the extension up to December 31, 2001. They needed this extension to be able to place all the units in service.

Being it's 76 units that is broken down in two phases, they have decided to approach it in a cost-efficient manner by doing all of it at one time as one project, rather than do Phase 1 and Phase 2. This way they will maximize the credits, rather than doing it separately. And that is why staff is recommending an approval for the extension.

If, in the end, they are not able to place this property in service, the credit is not lost. It comes back to the department and could be used for the cycle that comes in as another allocation fund.

Thank you. If there's any questions, I'd be glad to answer them. MR. JONES: Ouestions? MR. CONINE: Move for approval. MR. BOGANY: Second. MR. JONES: Okay. I think there's a Mr. Bill 7 Fisher that would like to speak on this. 8 MR. FISHER: Only if you have any questions. 9 MR. SALINAS: How much credits are they getting 10 per unit on this project? Tax credits per unit? MR. NWANERI: I did not bring that information 11 12 with me, since it was already an approved allocation. MR. SALINAS: Well, was one of the reasons for 13 14 the delay on the project simply because it was not accommodated to have enough -- it did not have enough tax 15 credits to be able to build the 52 units with what they 16 17 had gotten. Right? So they needed to do more -- come back and get more tax credits to be able to do --18 19 MR. NWANERI: The first phase was for 24 units, 20 and the second phase coming out of 2001 cycle was for 52 21 So altogether they have 76 units in this project. units. 22 MR. JONES: Ms. Stiner. 23 MS. STINER: Mr. Chair. Mr. Salinas, what the 24 applicant is asking us is for us to allow them to combine 25

those two phases. And once you do that, they need time in

order to do all of the structure that that would take.

There's an additional three months that they have

available under the code.

The department had instituted some time lines based on what we wanted to accomplish. So this is simply -- this is asking the board to consider extending those additional three months, so that they may structure this new composed deal. But they've already received the credits for both phases, and this would allow them the extra time they need in order to structure the deal and place it in service by the end of the year.

MR. FISHER: Yes. We were --

MR. JONES: Mr. Fisher, if you're going to speak, if you would, please come to the microphone. It helps our court reporter.

MR. FISHER: We've received credits for both allocations. We closed our construction loan. The project is almost complete. And all 76 units will be finished by the end of the year. So both the Phase 1 24 units --

MR. SALINAS: How much tax credits did you get for the 76 units?

MR. FISHER: I believe right at 500,000 in annual credits, about 5 million in credits for the 76 units.

MR. SALINAS: But how much per unit? MS. STINER: 76 divided by --MR. FISHER: Whatever that calculation would be. MR. SALINAS: 76 divided by --MR. FISHER: About -- somewhere between 5- and 6,000 a unit. Fifty and sixty a unit. Yes. MR. JONES: We have a motion on the floor then 9 that's been made by Mr. Conine, I think seconded by Mr. 10 Bogany. Further discussion, questions, comments? 11 (No response.) 12 MR. JONES: I hear none, so I assume we're ready to vote. All in favor of the motion, please say 13 14 aye. 15 (Chorus of ayes.) 16 MR. JONES: All opposed to the motion, please 17 say nay. 18 (No response.) The motion carries. 19 MR. JONES: 20 We will then move to Item 2(b) of the agenda, 21 which is the approval of the request for the second 22 extension of closing construction loan 00163, Las Quintas 23 Apartments, Eagle Pass, Texas. 24 Okay. Excuse me. Yes. Ms. Carrington would 25 like to speak on that, I believe?

MS. CARRINGTON: Only if you have questions, Mr. Jones.

MR. JONES: Okay. Thank you, ma'am. I appreciate it.

All right.

MS. STINER: Mr. Nwaneri will present that, as well.

MR. NWANERI: The second extension request is for closing of construction loan for Las Quintas

Apartments. This project was allocated credit last year, and is developing 60 units low-income housing. The board has already approved an extension of 90 days to this property, and that extension ended September 13 this year.

We are seeking additional extension over and above the one that ended September 13, and this time we're seeking it -- I mean, the applicant is seeking it up through October 15.

There have been reasons for this second request for extension. One of the reasons is that the executive director resigned, and that put some impediment in the development process and decision making. The owner of the property had to do what they had to do to move on.

After they obtained the board approval the first time, something has happened. The architect that was involved also resigned. That also imposed an

additional level of hardship in the development process.

Staff has had a extensive dialogue with them as to the validity of an extension based on the fact that an architect resigned; how quickly could you have gotten another architect. They were able to satisfy our many requests and our many dialogues posing through the reason for this second request.

After considering the situation, the staff is recommending an additional 30-day extension up to October 15 this year. We have here today both the syndicator, which is Ms. Carrington, as you mentioned, the executive director for the project, the current executive director, and the attorney. These three group of people have visited the department and spoken with a number of staff on different occasions, and staff is recommending an extension for this project up through October 15 this year.

MR. GONZALEZ: So move. And I can state that there is a tremendous need for housing in that area. I feel like we need to continue to work, just like Shadrick said, with a passion to try to find ways to help these people.

MR. SALINAS: But are you sure you have enough time, October 15? I mean, we're just around the corner.

I hate to have you back here in November and asking for

another 30 days.

MR. NWANERI: Mayor Salinas, I asked that question before even this started, and I made it clear that it's a likely question to come from our board. But the safe harbor here is that if in the end they are not able to move on with this project, that the project will come back, and the department is not at any risk of losing the credits.

MR. JONES: Ms. Carrington, would you like to address that question of the mayor's?

MS. CARRINGTON: Thank you, Chairman Jones and board members. I'm Edwina Carrington. I'm a chief executive officer of the Texas Housing Finance

Corporation. One of our equity funds, Southwest Housing

Opportunity Fund 6, is going to be the equity provider for this transaction.

We feel like that the 30-day extension that's being requested and granted today will be adequate for us to reach the milestone that we need to make -- we need to reach at this point. I hate to turn down more time --

MR. SALINAS: No, no. I'm just --

MS. CARRINGTON: -- but our goal, certainly --

MR. SALINAS: -- we get this request -- I would just hate to have it back on the agenda for another 30 days.

MS. CARRINGTON: And our goal, certainly, is to start this moving along just as quickly as possible. MR. JONES: Mr. Conine? MR. CONINE: Yes. I have a hard time on a 5 second extension of time, as you might well imagine, because of the demand side -- and we're talking 2000 credits here; we're not talking 2001 credits -- been ample time to get plans drawn and all that kind of stuff. 9 Can you tell me, is this -- the award of the 10 credits, was it in the general set-aside, or was it a nonprofit set-aside, or where -- what source of credits 11 12 did these come from? Do you remember? MS. CARRINGTON: I believe it was in the 13 14 nonprofit set-aside. 15 MR. NWANERI: It is a nonprofit --16 MR. CONINE: It is a nonprofit set-aside 17 transaction. 18 MR. NWANERI: Yes. 19 MS. CARRINGTON: Yes. MR. CONINE: And I read the letter from the 20 21 architect, although it really wasn't clear to me as to 22 what the real reason of them pulling out of the project. 23 Can you articulate that in layman's terms for 24 me? MR. NWANERI: 25 To me?

MR. CONINE: Either one of you. I don't care.

MR. NWANERI: We thought that level of questions might be coming, and that was one reason we made sure that the housing authority itself is here with their staff, equipped to answer such questions. And we have Les Dura [phonetic] here and their attorney also to maybe share that information with the board.

MR. JONES: Have you filled -- would you like to answer that question? Then I'd like for you to fill out a witness affirmation form, if you would. And please identify yourself for the record.

MR. CALDERON: Good morning. My name is
Ricardo Calderon, and I'm general counsel for the Eagle
Pass Housing Authority, as well as for the Eagle Pass
Housing Assistance Corporation and Sunset Garden Limited
Partnership.

The architect basically refused to sign some documents that were required by the long-term mortgage with Davis-Penn Mortgage Company, and that is what we were notified, that he was not willing to place any additional liability on his insurance and liability.

However, we were promised -- he was required to make some modifications on the plan, and he had represented to us that he would make those modifications.

And just before the deadline, he sent us that letter

where he claimed that he would not be able to sign those documents. That brought some concerns, and we insisted. We spoke many times with him to mitigate the circumstances, trying to get him to complete the plans, the modifications. And he refused.

And our board of commissioners had no other choice but to proceed to -- we spoke to the department staff -- and to obtain new architects that were able to come in on the project, and we have successfully completed that. We have hired new architects to the project. The plans have been completed.

And, in fact, as of last week, we were trying to close the construction loan by the deadline of September 13. But for a few legal documents that needed to be negotiated with Texas Housing Finance, we weren't able to meet the September 13 deadline. But we are very confident that we will be able to meet it by October 15.

MR. JONES: Thank you, sir.

MR. CALDERON: We anticipate to make, hopefully, closing by next week.

MR. CONINE: And this is now 60 units?

MR. CALDERON: Yes. That is correct. Yes.

sir.

MR. JONES: Just to remind everybody where we are, I think we have a motion on the floor made by Mr.

Gonzalez. And was it seconded Mr. Bogany? Yes, it was. And further questions, comments, discussion?

MR. SALINAS: In the event that that doesn't get closed, what happens?

MR. NWANERI: Sorry?

MR. SALINAS: In the event that it doesn't get closed, that they don't meet the deadline of October 15, what happens? Can they come back for a third extension?

MR. NWANERI: It is my feeling that they will come back for another extension, and that we would also ask the department to come back to the board for permission, given the extenuating circumstances, that the board would be wanting to consider one way or the other if -- that extension request.

But as they mentioned to me earlier, that they're willing -- looking forward to closing sometime next month -- I mean, next week.

MR. SALINAS: Okay.

MR. CONINE: Does the 2000 wait list apply to this tax credit reservation, or does the 2001 wait list apply, if this -- if we don't extend this today, would you go to the 2000 wait list or the 2001 wait list for the next project to be considered for these credits?

MR. NWANERI: It would be the 2001.

MR. CONINE: It'd be -- that's what I thought.

I just wanted to make sure I understood. MR. NWANERI: 2001 waiting list. MR. CONINE: And does the nonprofit currently own the land that the project's going to be built on? They have ownership of that? MS. CARRINGTON: Yes, they do. MR. CONINE: Okay. That's all my questions. MR. JONES: Further discussion, questions, 9 comments? 10 (No response.) MR. JONES: Hearing none, I assume we're ready 11 12 to vote. We will then. All in favor of the motion, 13 please say aye. 14 (Chorus of ayes.) 15 MR. JONES: All opposed to the motion, please 16 say nay. 17 (No response.) The motion carries. 18 MR. JONES: 19 MS. CARRINGTON: Thank you. MR. JONES: 20 Thank you. 21 The next item on the agenda is Item 2(c), and I'm informed by Ms. Stiner that that item -- the staff is 22 23 recommending that we pull that item from our agenda. And, 24 Ms. Stiner, would you just explain that to the board? 25 MS. STINER: We have some witnesses too for

that.

MR. JONES: Okay. Well, why don't we explain it, and then if people --

MS. STINER: I'm sure they'll have questions.

MR. JONES: -- right. If people would like to make public comment, I think they should make the public comment after your explanation of staff's position.

MS. STINER: Thank you, Mr. Chair.

Staff had tax credits returned to the department, and pursuant to the QAP, those credits are to be allocated to the developments on the waiting list.

This is the first year that the staff handled the waiting list, having to take into consideration a regional allocation plan. So staff developed the presentation you have in your board packages that indicated that, taking variables into consideration, there would be two regions that were under -- did not receive its full regional allocations. So a recommendation was made.

Staff subsequently looked at those same variables and determined that there was another presentation that would give you a different result.

Because that was not distributed to you and was not on the web seven days prior to this meeting to be in conformance with our new legislation, we've pulled it and will bring it back to this body next month with both presentations,

so that you may fully consider staff request to have you assist in directing where those credits will go on the wait list.

MR. JONES: And it's my understanding that people would like to make public comment on this.

Mr. Sherman?

MR. SHERMAN: Good morning, Chairman Jones, members of the committee. My name is Bob Sherman. I represent the Southeast Texas Community Development Corporation as a consultant. And as I have identified to the staff, we have also, through our own development group -- we are tax credit developers as well -- offered the SETCDC, as they're known -- Mr. Price is their president -- our financial support if they need it, in order to get this thing done.

We've been working on it for two years. We've decided the last time through Mr. Price that they should enter into the application as a nonprofit themselves without any partnership with us. We would just be there if they needed us.

So we've put a great deal of work into this.

We were elated when we got the memorandum through the email and also phone calls from the state, from the agency, identifying that this development was in fact to receive credits. And frankly, I went forward right away,

given the very stringent requirements, time constraints, and dealing with nonprofit organizations; took the liberty to instigate the lenders and the syndication and the predevelopment loan for this, immediately I was notified, approximately two weeks ago. And I confirm that to the agency.

I understand that you've had some problem with understanding itself what you needed to do to present to the board today. But I would like you to keep in mind that we were informed; we did confirm the acceptance. We did put an awful lot of things into motion, spent a lot of time and a considerable amount of money so far to satisfy the criteria quickly, so it'd be -- hit the bricks running, so to speak.

And I understand as well that in this

memorandum Spindletop was on the -- it says it right in

the memorandum -- on the top of the priority list. And it

says that in the memorandum. It seems to be contrary to

what Ms. Stiner just said about a possible other property

being considered as well. I mean, it is either at the top

of the priority list, like this memorandum says, or it

isn't.

It also mentions in the memorandum an ad hoc tax credit committee. And I realize that's probably no longer in use. That tax credit committee, as I understand

it, doesn't exist anymore.

MR. JONES: You're looking at them.

MR. SHERMAN: Right. The whole board.

MR. JONES: The board is acting as a committee as a whole.

MR. SHERMAN: I see. I just wanted --

MR. JONES: We're a new board, and --

MR. SHERMAN: No. I understand that, sir.

MR. JONES: -- I would say that I said that a little bit too quickly, because I don't know what this new board is going to choose to do. But under the policies in effect now, the entire board acts as a tax credit subcommittee.

MR. SHERMAN: That's what I thought. I just wanted to clarify it, because it came up here as something I thought was no longer in effect.

And as I said -- and one of the things I wanted to point out here, too: I actually started work with the agency, speaking to one of the underwriters, looking forward to working with the agency on this particular development, as opposed to just reformatting the application and tossing it back in and saying, Okay, we got a few less credits; here's a few less units; here's what we want to do. I said, Let's do this hand in glove. Let's work together and see what the agency wants and

make sure we can fit it into our financial model.

And it would be an excellent opportunity to proceed. So I have already started all that. And as I said, the thing that puzzles me the most is it says in the memorandum that SETCDC is at the top of the priority list. And I don't understand how another development could now be injected.

MR. CONINE: Let me see I can clarify that. My understanding of the wait list is there is no top. It's just a group of projects that are there under regional allocation set-asides or distinctions, if you will. There is no top. And that's my understanding, at least as a board member, that the wait list has no priority to it. I don't know how that verbiage got put into a particular memorandum --

MR. SHERMAN: It did.

MR. CONINE: -- and into the board book. But just so you're clear, Mr. Sherman, I don't believe there is a top.

MR. SHERMAN: Okay. Well, it seems then there's a number of things in here that I didn't understand, and then, as you say, perhaps the verbiage could have been different.

That's really all I wanted to say. You know, you've obviously said that we would have to come back next

month and presumably, for want of better words, argue our proposition at that time. I'd just like to keep it in mind that -- like to ask you to keep it in mind that we are going to proceed still. I'm not going to stop what we're doing with Mr. Price, not going to stop helping him, not going to stop tying up the land, extending the contracts, putting more earnest money in.

And I would urge you to make the decision very quickly and do it next month. Don't wait two months.

We've got to do carryover by the end of the year, and presumably you're looking at us and another nonprofit.

Nonprofits don't exactly have big, fat bank accounts.

So we're here to help and -- but, please, let us get going as quickly as possible. Next month we'll be here again.

MR. JONES: The chair would like to recognize Ms. Stiner.

MS. STINER: Thank you, Mr. Chair. Only to respond to Mr. Sherman's comment of some information being in conflict with the statement I just made. I know the whole development community tries to get ready in advance of it, in anticipation, but the official notification is a commitment letter that's sent out, and that did not go out.

MR. SHERMAN: No. And I realize that.

MS. STINER: I would encourage -- and I don't need to encourage you; you're in the business.

MR. SHERMAN: No.

MS. STINER: But, you know, an official notification would have been a commitment. So any expenses incurred would be expenses that as a businessman you would have made a decision to move forward based on some preliminary discussions.

We apologize for any inconvenience, but the commitment letter from the department is the official notification that a development has been selected. So just keep that in mind.

And it's a difficult time for staff, as well, as we just tried to explain. We're having to deal with various criteria this time around. The regional allocation formula gave us a bit of a challenge the last round.

MR. SHERMAN: I can imagine.

MS. STINER: We're trying to make sure that we're equitable in our allocation of credits using that formula. So the staff will make a presentation to the board next month. But I would encourage you -- I've heard you say lastly that you would keep on working and keep on tying up land.

MR. SHERMAN: Sure.

MS. STINER: But that would be a decision that you made absent any form of commitment or contract with the department indicating that those credits are -- have been set aside for you.

MR. SHERMAN: No. And, Ms. Stiner, no apology necessary. I knew that from the get-go, and I understood it perfectly, and it was simply a businessman's decision and a commitment to both affordable housing and to Mr. Price and his community development corporation.

MS. STINER: Certainly. Thank you.

MR. SHERMAN: Thank you very much.

MR. JONES: Thank you.

In fact, if you want to come --

Certainly.

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Price.

MR. NWANERI: Yes.

scenario, this is the recommendation.

MR. JONES: And then we'll get to you, Mr.

MR. NWANERI: I'm not trying to go into the discussion, but I just, for point of clarification, the mention to ad hoc tax credit committees is made in that memo because the memo was referencing the 2001 QAP. And I thought it might be necessary to clarify that so, you know -- that was -- and also, the memo says, Given the

That memo did not mention that this is top on the priority list for winning this project, because as Mr.

Conine mentioned, there's no priority on the waiting list.

But the memo says, Considering this scenario, this is the recommendation.

MR. JONES: Thank you, sir.

Mr. Price.

MR. PRICE: Thank you very much, Mr. Jones and members, Ms. Stiner.

MR. JONES: Thank you for being here.

MR. PRICE: I'm Al Price, and I'm the president of the Southeast Texas Community Development Corporation.

We're into the housing business in Southeast Texas. And I sympathize with your being here on that side of the desk. I know that brevity is important.

But we have put in our application, and we were put on the waiting list. We were elated when we were told that we were being considered for the 427,000. And I just -- as I worked with my people, we were enthusiastic enough to continue working -- worked with Mr. Sherman, and we're still waiting to effectuate this, and we look forward to working with you.

MR. JONES: Thank you, sir.

Mr. Sherman?

MR. SHERMAN: Perhaps I misunderstood. And,
Charles, I'm sorry if I misunderstood. It said here, "In
order of priority." And that's why I had the discussion

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with Mr. Conine about a priority list. And perhaps it's not meant to say that, but it did say it in here, and that was why I thought it was priority.

MR. JONES: Thank you, sir.

MR. CONINE: If I might --

MR. JONES: Sure, Mr. Conine.

MR. CONINE: -- ask Charles. When you -- I appreciate the description in the regional allocation in the board synopsis of this particular subject. It would be helpful for me if you would also include our set-aside categories that we have statutorily and kind of compare what, I guess, the target was and where we are now, subject to all those decisions we made in the last go-around with the rural and so forth. That would be helpful in my decision process.

Secondly, you know, philosophically I have a little bit of a problem taking a project that was designed for -- to be almost twice the size and chopping it in half just to try to make a round peg fit in a round hole, and would like, I guess, a little more clarification of -- on this particular project, if it's resubmitted next month, on the practicality of that, because it goes against my grain to, if you will, of highest and best use of the property, if it was designed to be used for several more units. I would imagine the answer's probably going to be

phasing, but I'd like to at least know that prior to having to make a decision on it.

Thank you.

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MR. JONES: It's staff recommendation, again, that Item 2(c) be pulled. Unless I hear a motion from a board member, I assume that that recommendation is going to be taken by the board.

(No response.)

MR. JONES: Hearing no motion, then we will move forward with our agenda.

And that was, I think, the only individuals that wanted to comment on that particular item. Am I right about that? Did I miss anybody?

AUDIENCE: That's right.

MR. JONES: Okay. Thank you.

We will then move to Item 2(d). But before we do move to that, Mr. Conine was making some comments to me, and he's been through this process many times before, and they were very good comments, and I requested that he make them to the board just since we're all kind of going through this anew again.

And, Mr. Conine, you might make those comments to the board members as we start out.

MR. CONINE: All right. I wanted to at least clarify to the rest of the board members and make sure

that we're all under the same understanding, and the general counsel might help me with a little of this. But it's my understanding what we're doing here with this draft QAP is, in essence, making a decision to circulate this for comment and publish it in the Texas Register and so forth.

I think the chopping it up and making those critical decisions at this point may not need to be made. It's when it comes back to us that we really grind into it and make the changes that the board deems necessary to make in the ultimate QAP.

Staff -- Daisy, you may want to help me. I think this is actually going out for public comment at various locations around the state to make sure that we receive as much input as possible when it comes back to us? Is that correct?

MS. STINER: Yes, sir. After the board votes today to approve the proposed qualified allocation plan, it will be published to solicit public comment. Part of that public comment will be the staff's holding public hearings -- eight of them?

MS. BOSTON: Eleven.

MS. STINER: Eleven of them.

MR. JONES: Eleven?

MS. STINER: Eleven of them.

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MS. BOSTON: All service regions.

MS. STINER: In each service region. Very good. I knew that.

And once those comments are received by the public, then the staff would look at those comments and come back to this board -- and, Betty, you help me -- after an opportunity for reasoned justification, will make a recommendation to the board of which of those public comments to include in the QAP or not.

I think Mr. Conine's point goes to the same issue that was raised the last time around, as to what is the most appropriate juncture for the board to make --

MS. MARKS: And I --

MS. STINER: -- final decision.

MS. MARKS: And I believe it's a good time, probably, because there are some new board members and we haven't actually discussed other provisions of other state law, one of which is how a state agency goes about making rules for that state agency. And that is part of the Government Code that is not what you're used to looking at, which is our enabling statute, which is 2306 of the Government Code.

The particular part of the Government Code that has to do with rulemaking -- and I'm going to send you around or reinstitute a memo that I'd sent back in '99,

and I'll update that a little bit -- but basically, it will explain to you pretty much what you've been hearing, which is that this is a QAP, a qualified allocation plan, which is required for every state, but it is also the state rules for the Tax Credit Program.

So you'll see on the front of it that it is the qualified allocation plan and rules. So what we have done is that plan incorporates the rules for the state of Texas with regard to the administration of the Tax Credit Program.

In order to go through the formal rulemaking procedures, which are under 2001 of the Government Code through -- it's 3 through 51, and basically that's called the Administrative Procedures Act. It tells you that you put out for publication whatever the agency intends to adopt as a rule pursuant to the statute. It's the state agency's interpretation of the statute, plus any other thing that they consider important enough to be a rule to give the notice to the public.

Those are published in the <u>Texas Register</u> once this board approves the drafted or proposed rule and QAP which -- for 2002 -- it will then go into the <u>Texas</u>

<u>Register</u> and be published formally. It will also go on our website. And that will begin a 60-day comment period in which all written and public comment at the public

hearings that we hold will be incorporated, will be amassed and matrixed by the staff of the Tax Credit Program.

And they will have to come back then and they will have to summarize for you those public comments, where changes were requested and why the department did or did not accept the suggested changes that were made in -- through the public comment process.

Today is important because staff has presented to you what they intend and what has been a mammoth undertaking on behalf -- I might say that on behalf of the tax credit staff, because Mr. Freedman, who is our special tax credit counsel, has come in from Washington. He and I have both reviewed it, but it's after an awful lot of work on the part of the program staff to make sure that all provisions of our Sunset Bill, which had considerable changes to the Tax Credit Program, were incorporated and that we also improved the plan and rules for your benefit.

So there are probably going to be some errors.

You've heard some, and you'll hear them with staff

presentation. But this is our presentation, staff's

presentation to you. It has been reviewed by both me and

our outside tax credit -- special tax credit counsel.

And what we think this does is incorporates all the provisions and adds for proposal -- and if you, as the

board, now have comments, though, that you want to make, if you saw a particular provision that you think we ought to catch before it goes out for public comment, then we certainly would welcome, and staff is on ready -- in fact, that's why I've been trying to get Mr. Henneberger and Mr. Ocanas and several others who have made technical comments as well, that we try to include them should you decide to say, you know, We'd like to go ahead and do that before it goes out for public comment.

MR. CONINE: If I could stop you right there.

I want to make sure that the rest of the board understood that my comments are semi designed to keep us from doing this twice, doing it now and then doing it, I guess, next month when it -- is it going to be back in October of November?

MS. STINER: November.

MR. CONINE: Be November.

MS. STINER: Yes.

MR. CONINE: Okay. But the one thing that the board needs to be aware of, and I guess would need your clarification to make sure I'm correct on this statement, is that all the comments received at this meeting and all the comments received at the public hearing process will be the only changes that will be allowed to be made to the QAP in this draft form --

That's exactly right, otherwise --MS. MARKS: MR. CONINE: -- because you can't come in November and pick something out of the air and make a change at that particular meeting. That became clear to me in the process, I guess, last year. And I wanted to make sure that the rest of the board, if they see something that they may think is a good idea to be doing in this particular process, you either want to make sure that comment is made here at this meeting or get it injected into the eleven public hearings that'll be held around the state, so that we have it on record and the staff can react to that in their redraft that they bring back to us in November where, in my estimation, the real 13 work needs to be done. MR. JONES: Well, and let me piggyback that 16 comment, because I just want to make sure we're all on the 17 same page, because we ran into this last year. MS. MARKS: Sure. All right. MR. JONES: Obviously, issues have been raised 20 here today, for example, by Mr. Ocanas, which some of us may think, you know, That's a good idea; we really want staff to address that. But his language may not be

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MS. MARKS: Right.

perfection. Okay?

MR. JONES: We think it's a comment we want to

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consider, we want staff to address it, but we're not willing to accept right now that we're going to dictate a change to it. We would like further information on that.

I think it's clear, as I understand what you've told us, that we have every right to do that, that we have every right to say, Hey, staff, we've heard that comment; it came as public comment; we want that to be addressed. We want y'all's opinion on it. We might even want y'all to draft language both ways so we can look at how it would read, and deal with that in 60 days.

And certainly it's your opinion, as our legal counsel, that we can do that.

MS. MARKS: Absolutely.

MR. JONES: Thank you.

MS. MARKS: And I think Mr. Ocanas -- I would urge anyone who's made public comment that they don't need to -- we can just simply say, We accept the public comment that is made here. It doesn't physically sit into the -- whether or not it sits in the 60-day period of -- during which you're making public comment in the hearings and so forth.

I'm saying 60. It's 30. I'm sorry. I've been saying 60, and it suddenly occurred to me it's 30.

VOICE: Thirty plus publication, so it's ten days, and then 30 days thereafter.

MS. MARKS: Yes, once it's published in the Register. The point is is that we expect to hear this, but we're not requiring anybody who's made public comment to come in and make another public statement in any one of those hearings. We're taking these into consideration, and they will be considered on the matrix of what we give you, of what we've accepted.

And the public needs to know too they can fax.

Anything in writing can be a written comment to the department. They do not have to attend a public hearing.

You could simply write in and say, Dear Department, I do not like Section 49.3 because --

So all written comments is what's required under the state law for rulemaking. And we will take all those into consideration. And even these comments today, even though they were before the technical public comment period required in the statute, we will take them into consideration.

MR. JONES: Thank you. I appreciate that explanation.

Yes, sir.

MR. BOGANY: I'd like to make a comment in regards to something that I think we should be doing with the low-income tax credits. I'd like to see us do an advisory committee that is made up of the public sector,

development sector, the different players of the game, to meet with staff after the -- after you go around and do your show around the state, the eleven spots. And then take all the comments and meet at that advisory committee, and let that advisory committee help staff understand how this is going to play in the real world.

You've got the regs that are here and staff's job is to make sure that the regs are followed and we're in guideline. But I also believe that what happens in the real world and how these guidelines are going to affect the developers -- to give you an example, I noticed that we're trying to take off the developer fee or bring it down, but that has a lot to do with whether or not the project has any equity in it from somebody going out to be able to get the loan for the project.

So I would like to see that we, Ms. Stiner, appoint an advisory committee from the public, from the private sector, all the way through and let them meet and then discuss with staff everything that's been done. And let them meet. And let -- at that point, bring it out of that type of a committee back to us when they get it ready.

MR. JONES: Thank you.

Mayor?

MR. SALINAS: I don't know. It just gets

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bigger if you do that. I think it's very simple. I think the staff is adequate to do the recommendation to bring it to us. I think we know the problems. We have the regs.

And we just get input from those public hearings.

I don't think it's been fair in the years past, you know. 8(b) has not been adequately represented by this agency and given tax credits to developers in South Texas, compared to developers in San Antonio, Houston, and Dallas. I hope that is going to be able to be taken care of.

Some of our people in 8(b) would also like to have a nice condo instead of a regular apartment, which becomes a regular housing project. I don't -- I hope those things are going to be able to be taken care of.

I was talking to somebody, telling me about how this thing works, and I would like to advise that person about those numbers to the agency, that he needs to look at his mathematics, you know. We got cities in South Texas that are AAA rating, bond rate is high. We need for maybe developers from this area of Fort Worth and Houston to go to South Texas to build some nice condos and be able to get the \$11,000 per unit.

Some of our builders over there are getting 55 and 69. And what do they build us? They build us some regular apartments, which people really don't have an

incentive. I saw some that they built in Houston, some that they built in Dallas, and they're pretty nice.

And I'm only saying that those rules have to acquire and be able to get enough of those builders or developers to go to South Texas. We just didn't have enough this last time around, and that's my gripe.

If we get another committee, well, let me be on the committee. You know?

MR. JONES: Yes.

MR. BOGANY: You know, I'm the last person who would want to put up another layer of bureaucracy, but what I am hoping to do is that I too many times see
Washington or the state or Austin or even the city create rules that the public has to live with without understanding how those are going to affect and how those are going to work out in the real world. And what I would like to see, and I think -- and I would love for Mayor Salinas to be on -- chair that committee.

MR. SALINAS: Well, the thing is that you will go ahead and attract more developers to call that committee. I think there's a law now on that bill that they have to stay away from us.

MR. JONES: Well, now let's --

MR. SALINAS: How would we keep them away from that committee by soliciting them and giving them

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opportunities. I think right now the bill that had just passed -- I don't agree with the way they did this agenda items that we have to open it up to everybody. I think that we need to open it up at the beginning, people could come to the staff.

But for us to go through item by item and then having to have a committee and have more accessibility -- I think we all know what we have to do here --

MR. JONES: Let me jump in here. I think -you know, and again, I'm not commenting one way or the
other on the ideas here, but I do think we have to
remember what we can act upon and what we can't act upon.
To form an advisory committee at this board meeting
without it being an agenda item, we probably can't do
that.

I would say this, though. We have already in place a mechanism -- we're going to have eleven meetings around the state. And all board members can attend and participate in each one of those meetings. So, for example, if the executive director desired to tell developers that, By the way, we're going to have a number of board members at this particular meeting; you can give them your advice on the real world -- you know, because we can't all attend all eleven. I know that, and I don't think anybody expects that.

But I do think we can use the devices we have in place and, I think, accomplish some of the same results. And next year, you know, we can put it on the agenda and we can be talking about advisory committees too, because we do have advisory committees on many issues. But I do think we have in place things that we have to do that can accomplish many of the same purposes.

MR. BOGANY: Okay.

MR. JONES: And that -- you know, that makes sense. All right?

Well, with that as kind of an introduction to the item, I'd like to turn to Item 2(d) and ask for staff to make their presentation.

VOICE: Don't you want to take the public comment?

MR. JONES: I think I would prefer, if you don't mind, to allow the staff to go first, and then I'll take public comment. Thank you.

MR. BURRELL: Good afternoon, members of the board and Ms. Stiner. I'm David Burrell with the Housing Programs at TDHCA. And with me we have Charles Nwaneri and Brooke Boston, who are with the Tax Credit Program.

The allocation of tax credits by the Texas

Department of Housing and Community Affairs is governed

and controlled by the qualified allocation plan, which we

generally refer to as the QAP. The QAP is the official program and rules that we use to work with the program throughout the entire year.

Each year, according to statutes which have been passed, the Low Income Tax Credit Program is required to adopt a new QAP. The QAP can be adopted in its old form, or it can be adopted with modifications or changes that would be needed or required to bring us up to date.

Initially, TDHCA staff prepares a draft QAP and presents it to the board for approval, so that it can then be presented to the public for comment. This year, we're going to present this QAP to the public in October. We're going to be starting on October 8 and going through October 12 to hold eleven public hearings in all eleven of the service regions.

Before preparation of this draft QAP, we held four roundtable discussions here in Austin. We had discussions for syndicators, developers, appraisers, market analysts, lenders, and housing advocates. This QAP that we've drafted for you today has some of those recommendations that we received from the roundtable discussions.

Also, the QAP contains legislative mandates which have been prescribed by Senate Bill 322. Because of Senate Bill 322, we now have a much different time line

schedule that we will be using in the Tax Credit Program, and I'll go through some of the major dates here.

Take, for instance, as of today, we are submitting you the qualified allocation plan for the initial approval so that it can go to public for public comment. We will have those eleven public hearings, and they will be located in Laredo, Wichita Falls, Orange, El Paso, Odessa, Austin, Seguin, Mount Pleasant, Lubbock, Denton, and Brookshire.

These public hearings will allow us to obtain comments from the public, and we'll also take comments in writing from anyone that would like to mail it to us, fax it to us in whatever form. But we'll take those comments up through November 4. Between November 4 and November 15, we will be required to put all of those comments together in a form that we can come back to you all in mid-November so that you can approve the final QAP, which would then be submitted to the governor's office.

The governor's office will then have until

December 1 to approve, revise, or to reject the QAP.

Generally speaking, the governor's office wouldn't want to reject it, because then that would -- reject it

completely, because that would cause us not to be able to have any credit for that year. But they can actually make modifications and then approve those modifications as they

see fit.

Once that the governor approves the QAP on or before December 1, then this year we'll start our preapplication cycle, which will start on approximately December 4, and that will run through until January 4. Then on February 13, we will start taking applications for the normal application cycle.

Those applications will be taken until March 1.

And then from March 1 through April, we will do our evaluation scoring and underwriting. When staff gets all of those underwriting and scoring portions taken care of, then we'll make our recommendations to the new Executive Review and Award Committee. The Executive Review and Award Committee will then make recommendations to the board.

They have to have their recommendations to you all by June 30. So then you'll have a month to review our recommendations and make your final decision by July 31.

In the process of putting this together, I'll just give you an idea of some of the major items that we have made changes on. All of you all have received the QAP and have been able to read over it and see really all of the changes, but I'll just go over some of the major ones that we know we have in there.

The first one that we'll discuss is the

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ineligibility for consideration, which provides that an application is ineligible if at the time the application or during the previous two years the applicant or a related party of the applicant has been a member of the TDHCA board, the TDHCA executive director, a deputy director, the director of Housing Program, the director of Compliance, the director of Underwriting or TDHCA's Low Income Housing Program manager.

An application is also ineligible if the applicant proposed to replace in less than 15 years any private activity bond financing of development unless the applicant proposes certain rent restrictions for 30 years or less and at least one-third of the units or public housing units are Section 8 based units.

The next item that we have that would be major would be the preapplication process that we now have that requires that TDHCA establish a voluntary preapplication process and to award points for participation in that preapplication.

This process was designed to be able to help lower the cost of some of the developers in putting together the applications and getting a determination as to whether or not their projects are really feasible.

The next item that we have is the nonprofit set-aside allocation, where additional requirements for an

application that's been submitted under set-aside for each development owner and each general partner.

Then we have the disclosure of interested persons, where we will require the names and contact information of any person providing development or operational services to the development, such as builders and contractors.

Then under the application changes and supplements, we'll only allow clarifying information or corrections to be submitted on tax credit applications after the application deadline.

For the application log requirement, we are required to maintain a log on each tax credit application from the date of submission.

Then we have the evaluation and underwriting of applications. Under this, it requires TDHCA to reject any application that does not satisfy the threshold requirements and to score and rank all applications based on the criteria specified. TDHCA is required to impose penalties on applicants that have requested extensions and deadlines in the previous application rounds.

And this also requires -- has a new section that requires TDHCA to underwrite applications beginning with the highest scores in each of the regions in each of the set-aside categories, and continues until enough

applications have been underwritten to allocate all available tax credits. Additional applications are determined by the board as needed to come up with the waiting list.

As I mentioned earlier, we will have an Executive Award and Review Committee, and that was also put into the QAP. That committee will be made up of each of the division directors, and also it would have a representative of our Compliance Division and a representative of our Underwriting Division.

For the allocation of housing tax credit, staff is to provide allocation scores to the board at least 30 days before the board issues its commitments, and the board is prohibited from allocating credits in an amount greater than 1.6 million to an applicant in a single round.

At the same time of the initial commitment, the board is required to establish a waiting list of additional applications and to issue commitments as credits as they become available. Within 120 days of the initial issuance, the TDHCA is required to provide an unsuccessful applicant with an opportunity to meet and discuss the applicant's deficiencies and scoring for not receiving an award.

Those are the main items that we have in there.

We have several other items, but as you read through, you'll see what those are. And, of course, if you need additional information, we can give you what we call a black-line copy which would show all the exact changes that we made as we went through this year. MR. JONES: Yes, ma'am. MS. B. ANDERSON: Would this be a red-line or black-line copy from last year's rules to this year's rules? MR. BURRELL: Correct. MS. B. ANDERSON: That would be very helpful.

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MR. BURRELL: It will show you exactly what changes have been made.

MS. B. ANDERSON: And I might also request that we have the option to get a red-line copy of -- over the next -- assuming these provisional rules are approved for publication day, that we get a red-line copy of the changes between this state that's approved, if it is, today and what's proposed back to the board as a final rule.

MR. JONES: I think that's a very good idea. Would you please do that for us?

MR. BURRELL: Yes, sir.

MR. JONES: Thank you.

MR. BURRELL: Does anyone have any questions?

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MR. JONES: I'll tell you what. Why don't you --Is that the staff's presentation? MS. STINER: No. We have one -- I know one 5 item that talks about the -- putting that one provision back in about 504. Will y'all make that presentation? MR. JONES: What I'd like to do, as far as the 8 procedure we'll follow here, I'd like for staff to finish 9 their presentation. I'd like for then public comment to 10 be made to the board, and then I'd like the board to begin its debate. 11 12 MS. STINER: Okay. MR. JONES: So if that's all right with the 13 14 board members, that's how I plan to proceed. So if the 15 staff could, you know, kind of wrap up your presentation, 16 and we'll get to public comment. 17 MR. BURRELL: We have one other item which we'd 18 like to cover. We're requesting that the board allow us 19 to make one change today --MR. JONES: Please. 20 MR. BURRELL: -- be included in our draft. 21 22 have a sentence which was inadvertently taken out of the 23 original draft, and we'd like to put that back in and

MR. JONES: Please do that.

clarify one other item.

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MS. BOSTON: In Exhibit 101 on Item (e), it's relating to Section 504 as it applies to the design standard requirements for all developments. And in staff's efforts to try to be thorough, I actually went above and beyond, which actually made it not as appropriate as it should have been. And luckily an advocate pointed that out to us quickly, and we definitely had no intent of rewording it in a way that was -- worked against the disability community in any way.

As each of you has in front you, there is a sheet -- and the only two changes that really would need to take place is we'd need to take out the sentence "that are designed as townhome units," just that first clause before the comma, and replace it with "this includes for all developments."

And what follows with that is an actual reiteration from 24 C.F.R. Part 8, Subpart (c), that identifies what those requirements are, which is 5 percent for mobility impairments and 2 percent for hearing and visual.

And then the other statement that had come out, which people mentioned earlier in public comment, was we had removed the statement, "One bedroom/one bath downstairs on townhome units." And that was just an oversight in my going through and trying to revise the

exhibit. So we would ask that that actually be reinstated as part of our draft to you.

MR. JONES: Thank you. Now, does that conclude the staff's presentation?

MR. BURRELL: That concludes our presentation.

MR. JONES: And at this time, then, I would like to recognize for public comment, Mr. Walter Moreau.

How are you today?

MR. MOREAU: Great.

MR. JONES: Good.

MR. MOREAU: Thank you for the opportunity to comment now. My name is Walter Moreau. I'm the executive director of Foundation Communities. We're one of the leading providers and developers of affordable housing and social services here in Texas.

There is one issue in the draft QAP which I do not believe is consistent with Senate Bill 322, the Sunset law, and it may be something you want to address before you put a draft out to the public. And that is the productivity of the Tax Credit Program. Are we producing enough housing for the amount of money that is awarded?

I believe that the QAP should require that developers compete more on the basis of their cost efficiency. Just this past year certain projects were given about \$30,000 worth of credits. Other projects, on

average, got 50,000. There some projects that got \$90,000 in credits. There really were no measures that made people compete on the basis of what their efficiency for building would be.

Two years ago, just two years ago, we produced 10 percent housing for the same comparable amount of money. There's lots of theories about why the productivity of the program has declined. I believe that it should be a goal of the board to increase productivity at least 10 percent this upcoming year. And there are simple measures that you can put into the QAP to make that happen, to serve more families.

And I don't think that kind of a goal would compromise, or needs to compromise the quality, the affordability, the services. We can get more bang for the buck.

Every other major state QAP that I've looked at and reviewed has cost-efficiency measures. California now caps developer fees at a million-two. Many other states do regional or statewide cost caps, will fund up to a certain amount of credits per unit and per foot. If you have a project that's much more expensive than that, then you'll have to find other funding.

This is an idea that's been introduced in public comment -- that I have introduced in public

comment -- year after year for the last four or five years, and the staff has always just rejected it. And now it's really in the law.

The Sunset Bill requires, "That the program should maximize the number of suitable, affordable, residential rental units added to the state's housing supply." That is a stated goal that the legislature passed.

There's really nothing in this draft QAP that will accomplish that goal. There's one -- there's two points given if your construction costs are \$52 a foot up to \$58 a foot, although those are really typical hard-cost construction figures per foot.

I think you have an opportunity to, even at this draft stage, introduce developer caps or regional cost caps or some kind of cost caps for the state. Let there be public comment on those. There's -- I could work with the staff. There's a section in the draft QAP -- there are several places where those kinds of productivity measures could fit.

In closing, I just want to recognize the challenge that y'all have as a board. In 30 days you've got to come back and take this very long, very complicated, very technical, confusing document, which governs a \$300 million allocation of funds across the

state. I encourage you to really invest time in working on that.

Take a look at California and Florida and some of the other QAPs. If you read them, they're so straightforward and simple and easy to understand. There's a lot of work that could go into making our QAP here in Texas easy to understand and therefore really reflective of the policy priorities and goals that you have.

One last thing -- and I really want to echo the comments from Rey Ocanas -- I believe the law -- the intent is fairly clear that the legislature does not want business as usual, that scoring sort of -- everything got scored, but then score is all just kind of set aside, because we use these subjective -- highly subjective factors like geographic dispersion or site condition to pick who we want.

The recommendations, the language that he has in his letter is, I think, on target and really puts the emphasis on score as the principal means, allows some flexibility for the board to, at its discretion, make a subjective decision. But that's the board's authority. That's something that's done in public, and that's something that's constrained. I think that would eliminate quite a lot of controversy about how the

program's been run. I encourage you to make that change.

Thank you.

MR. JONES: Questions?

(No response.)

MR. JONES: Thank you. I appreciate you being here.

Ms. Susan Maxwell?

MS. MAXWELL: Good afternoon.

MR. JONES: Good afternoon.

MS. MAXWELL: I'm Susan Maxwell, and some of you know me, and some of you don't, so I'll introduce myself. I'm a public policy specialist, and I represent the Texas Council for Developmental Disabilities. We have a 30-member council that's appointed by the governor, half of which are people with disabilities or parents of children with disabilities, and the other half represents state agencies that serve people with disabilities.

Our mission in federal law is to create change so that people with disabilities can have choice and control in their lives. And I have the opportunity, and I appreciate the opportunity to be able to come before this board every once in a while and give you some of our takes on what's going on.

Right now I would like you to consider people with disabilities like to be included with the regular

community and not segregated. And in the QAP as it is now, there's points given for segregated housing. So we're asking that you consider removing number 4 in Section 49.7(d), the tie-breaker criteria, so that a higher standard of housing, which integrates people with disabilities in a regular community with their nondisabled peers, can be done.

And we recognize the importance of this program and how much it brings, as far as apartments to this community, and we thank you for listening to our comments. I've got a copy of the testimony with a little bit more detail on it for you. Questions?

MR. JONES: Questions?

(No response.)

MR. JONES: I see none. Thank you so much for being here.

Mr. John Henneberger.

MR. HENNEBERGER: My name is John Henneberger. I'm the codirector of a nonprofit organization here in Austin, the Texas Low Income Housing Information Service. And my job is to try to represent the interests of low-income Texans and affordable housing. My organization never applies nor receives government funding. We never apply for the Tax Credit Program. And I pledge here to you, I never will.

(General laughter.)

MR. JONES: Me. too.

MR. HENNEBERGER: Our concerns are simply the end beneficiaries of these programs. Mr. Ocanas has given you earlier a letter which we jointly prepared. We spent some time reviewing this document, and I'd like to explain to you why we feel that the board should take action on some of these matters now, as opposed to later.

The process under which the Sunset Bill was created was a long and arduous one for the legislature, and one of the central areas of focus in the --

MR. JONES: It was for us, too.

(General laughter.)

MR. HENNEBERGER: For all of us. One of the central areas of focus was reform of the Low Income Housing Tax Credit Program. I think those of us who are concerned about housing in Texas believe this is your most important program, and certainly your largest program, and it's probably your most controversial program. It's an area which is -- it's a program which has attracted a considerable amount of the controversy which has associated itself from time to time with the agency.

There was virtual unanimity of opinion on the part of the private developers, the housing advocates, and all of those who participated during the course of the

legislative session at the end of the process that 322, the Sunset Bill for the agency, as far as the Tax Credit Program and others, was the right formula for the solution.

Now the staff is given the very arduous task of taking that bill and translating that statute into regulations for the implementation of the program. I have to say, I think they've done a remarkable job. They have produced a document which is thoughtful, it is carefully considered, it is well crafted. That's not to say it's correct in all instances.

The board's job, it strikes me, in looking at a 50-page, 9-point, single-spaced document isn't -- it isn't possible to thoroughly examine all of the nuances of this at this stage. But it is important to set -- to deal with the critical core policy issues and to make sure that those are presented to the public to comment on.

Rey and I identified three areas that we thought were the three critical policy issues. If you send out the QAP in the current structure that it's been proposed in, then people will comment based on that structure. And we believe that the board needs to send a clear signal, especially in the area of the criteria which will be used to select which projects will be funded, so that you elicit public comment which is narrowly focused

on the actual policy that the board will be pursuing.

And that policy is -- this is issue number one in our letter. We believe that the proper policy is -- and I believe that 322 is very clear about this -- that applicants should come in and they should present proposals. They should be told what the scores are going to be for the various points that they will qualify for up front, before they make those proposals.

They should be scored on the basis of those proposals and then underwritten in order from the highest scoring to the lowest scoring proposal to determine through the underwriting process whether the proposal is a viable one. And then the presumption should be that the high-scored proposals will be funded within the context of the regional allocation of the tax credits, which must be fair -- must be fairer, I believe, than it was applied last year, too -- and also within the set-aside requirements, the elderly set-aside, the rural set-aside, the preservation set-aside, and the others.

I don't -- in reading the qualified allocation plan, Rey and I and others who we've consulted came to the conclusion that the qualified allocation plan was ambiguous about whether or not score was going to be the driving factor on this. And it was also ambiguous at which points discretion would be allowed to take -- be

applied in the elevation of one proposal over another proposal in the consideration and who would apply that discretion.

Our suggestions to you are simple: that you simply state very unequivocally that the presumption will be that the high scores -- highest scoring proposals within the regions and within the set-asides will be funded, barring five criteria which will be applied only by the board, which will adjust those -- that allocation decision, and that you pull this burden off of staff in trying to make this decision, that properly -- that this discretion, this application of this very sensitive, discretionary criteria, properly rests with the board.

And there are two other areas that we bring up, and I won't elaborate on those, because I do believe that this question about what is the basic process going to be here needs to be clear from the get-go when you release the QAP, or we're going to have people issuing -- making comments on the QAP on presumptions which -- you know, if you're going to go this way, you should go this way out of the chute, rather than to go in kind of an ambiguous direction now and have us all commenting on all sorts of permutations and possibilities and then have people feel like their comments were not well directed.

And again, it should be thoroughly vetted, we

agree with the rulemaking process, and if you choose to go in this direction at this point, you would still have the opportunity to have everyone else's input on this.

And those are my comments. Thank you very much.

MR. JONES: Any questions? Anybody else have questions? I've got one. Before you leave, John, I'd like to direct your attention to the -- one that you didn't bring up, and ask your opinion on it and make sure I'm not missing something, because something y'all have said in your letter -- which I thank you for your letter; well done -- but one of the deals didn't make sense to me.

And that is, you talk about the loophole that's been left with regard to the conflict of interest, and you quote some language from the statute -- I think, our statute -- and you suggest we put that in the QAP. I would not think we could do that. I mean, I would think that, you know, they make the law, the legislature does, and we can't put that in as part of our rulemaking.

Do you think I'm totally missing something?

MR. HENNEBERGER: No, sir.

MR. JONES: Or do you think that might be -
MR. HENNEBERGER: I think -- in reflection, I

think you're probably correct. I think, however, that the

point we were trying to -- well, I know, however, the

point we were trying to make is just this: that the -one of these three areas of central concerns that we think
that, you know, would help to set a clear direction for
the department is the revolving-door policy. And we saw
what we perceived as some ambiguity in the QAP concerning
revolving door.

The question is, is if you're in one of these critical decision-making positions in the department, you know, it's absolutely clear in the QAP that you can't go out and then be an applicant. You can't sign, I am applying for tax credits. But you can hang a shingle out, as I read the QAP, and say, you know, I'll do all the work. You know, I'll do consulting work for you; I'll do all the other work, you know, behind the scenes that, you know, is necessary to really do this, and then bring it to you and you could sign your name on it.

If that happens -- and I'm not saying it has -- but if it does, there will be additional controversy and questions regarding the revolving-door practices at the agency. And it perhaps is better to be clear up front that we can't do that.

And I think your point, Mr. Chair, about the penalties associated with it, clearly this board has no authority to assign any penalties. But you could establish a policy which says that these critical

positions -- it applies to this -- it applies not only to an applicant, but a member of what's defined in the QAP as the development team. And we'll just say, for two years you can't be an applicant and you can't be a member of the development team.

MR. JONES: Thank you, sir. That was my question.

Any other questions?

MR. SALINAS: Nothing wrong with that.

MR. HENNEBERGER: Thank you.

MR. SALINAS: There's nothing wrong with that.

MR. HENNEBERGER: Thank you, sir.

MR. JONES: All right. We've heard from the staff. I think that concludes public comment on this issue. Am I correct? Did I miss something?

(No response.)

MR. JONES: Okay. Then we'll close public comment on this issue, and we're ready for the board to discuss and consider the issue.

MR. CONINE: Mr. Chairman, I'll move that we approve Item -- back over here -- Item 2(d), which is the proposed draft qualified allocation plan, subject to the staff amendment that we were furnished, for circulation and public comment.

MR. SALINAS: Second.

MR. JONES: We have a motion made by Mr. Conine, and the mayor seconds it. Discussion? Conine. MR. CONINE: I've got a couple questions for Mr. Tony Fernandez [sic], who's here from -- I'd hate for you to come all the way from Washington Dulles Airport and not get a chance to speak. 8 Have you had a chance, Tony, to review Senate 9 Bill 322, our state Sunset bill? 10 MR. FREEDMAN: Yes, sir, I have, although I 11 didn't --12 MR. CONINE: Why don't you come up and --If you would, please state your 13 MR. JONES: 14 name for the record and also, please --15 MR. FREEDMAN: Mr. Chairman, my name is Tony 16 Freedman. I've been the outside counsel to the department 17 about eight-plus years, and I'm an attorney in Washington, 18 D.C., and I'm here to help you. 19 (General laughter.) 20 MR. JONES: I think the board should vote on 21 that. 22 (General laughter.) 23 MR. FREEDMAN: I think they do periodically, 24 sir. 25 I have reviewed Senate Bill 322. Yes.

MR. CONINE: And there were some comments made earlier in some of our public comment period that some of the draft QAP either may be in conflict with Senate Bill 322 directly -- let me just put it in the framework of directly. Have you -- what's your opinion of that, relative to what you've reviewed?

MR. FREEDMAN: Mr. Conine, I think you've got two excellent state attorneys here from the AG's office and from your own general counsel's office, and as outside counsel, it's probably not appropriate for me to advise you. I haven't seen anything that offended me, but it's outside my area of expertise, sir.

MR. JONES: Would there be any reason -- and I address this to Mr. Conine, since you brought the subject matter up -- would there be any reason we wouldn't want him, though, to? I mean, I'm very concerned on that issue, and I know this draft -- and, I guess, Ms. Marks, I'll let you confirm this -- this draft would not be in front of us if our own inside legal counsel was not telling us that you think it conforms in every respect with Senate Bill 322. Correct?

MS. MARKS: That's exactly right. And I -- when I said that -- I think Tony's reservation is talking about state law. But no, he has reviewed -- he didn't mean to say, I don't think, that he has not reviewed 322.

We -- you know, we can jointly present to you what we have discussed in our discussions as far as what we think his expertise in terms of the federal law and the Internal Revenue Code is, what particular items I am in discussions with and have had discussions with the AG's office about, and we believe that this has been reviewed and that it's a proposed QAP and rules that can be put out for public comment. And we believe it incorporates 322.

MR. JONES: I guess I want to be real simple here, though, because, I mean, there are all kinds of issues that we can address to general counsel's office, which I think I will be, as well as the AG's office --

MS. MARKS: Sure.

MR. JONES: -- about some of the suggestions

I've even heard here today and how they would be drafted

and how we'd make sure we conform to the statute --

MS. MARKS: Right.

MR. JONES: -- because it's a very legal area.

We all know that. But having said that, again, and I'm

just sure -- and if I'm wrong, you let me know -- that our

legal counsel's office has done the best job they know how

to do, and they would come before the board today and say

it's their opinion that it conforms in every respect with

Senate Bill 322. Correct?

MS. MARKS: Absolutely.

MR. JONES: Okay. Absolutely. And I'm -- and I guess my question, on behalf of the department, is, I would love to have your opinion also. And I'm not criticizing you in any way, but I believe what you're really telling us right now is, I really haven't looked at that yet, or haven't been asked to look at that.

I've been relying upon your insight, Counsel, and the AG's office to do that, and that's something that I probably think we might want outside counsel to look at, because it's a very serious thing to the department.

We've been through Sunset. It is our intention, I believe, as a board, it's our intention as a staff that we are complying with our legislation. And I think that we'd want to get as many opinions on that as possible, because it's a vital issue to this department as we move forward, as we talk with the legislature.

MR. FREEDMAN: And, Mr. Chairman, I don't mean disingenuous with you.

MR. JONES: Sure.

MR. FREEDMAN: I have looked at Senate Bill 322. I've looked at it particularly as to whether it raises compliance issues under federal law. I'm certainly concerned that the department be responsive to it.

I do believe that the department's plan satisfies it, but it's -- I mean, I had viewed it outside

of the formal scope of my work. But I have no problem -- MR. JONES: Okay.

MR. FREEDMAN: -- in saying I'm comfortable with it, with the plan.

MR. JONES: Okay. And I think we'd like to hear that your comfort level was met, and if you need to do anything further to do that, please do that, because that's my only --

MR. FREEDMAN: Certainly, sir.

MR. JONES: I just think it's kind of like wearing a belt and suspenders, but in this particular area, I think we want to have the belt and we want to have the suspenders.

Excuse me. I didn't mean to interrupt.

MR. CONINE: That's okay. One of the questions or one of the issues, I think, that I have a concern about is that sometimes we forget in the Tax Credit Program that these, for the most part, are loans that ultimately have to be paid back. So there is some underwriting criteria that needs to be considered and, in my opinion, considered fairly heavily.

Is there anything that in your examination of Senate Bill 322 and its effect on this particular draft QAP that puts the state -- is there any part of that that puts the state at any additional, quote, default risk? Is

there any -- and risk is a subjective thing, I grant you.

But I am proud, I guess, of our history so far with this

particular program, in that the default risk on any of

these loans is fairly low, and would ask your opinion,

relative to things you see in other states, because I know

you do a lot of work in other areas -- anything here that

scares you or concerns you relative to that issue?

MR. FREEDMAN: Mr. Conine, there's a constant tension in the Tax Credit Program between project feasibility and public benefit, it's often referred to. And public benefit is sort of quickly translated into longest and lowest.

I think that your plan and your staff has walked that delicate line for a number of years quite well. I know last year this board was concerned, for example, on the Section 8 nondiscrimination provisions. I would be curious to see the results of those, in terms of tenants in your properties.

I did not see, in Senate Bill 322, anything that I thought would severely change that balance. I did see an enormous burden, administrative burden, imposed by the staff. And I shudder for the staff in trying to carry out all of the responsibilities imposed upon them by the plan in the context of also making sure that those projects comply and are viable.

We have imposed additional requirements on staff at the federal level, in terms of inspection, so that I -- perhaps it's not responsive to your question, but the most serious issue I had personally in my experience with the tax credit program, looking at Senate Bill 322, was whether the department staff was prepared to administer all of these requirements and still do the job which you and I are talking about of keep making sure that these are good projects and running.

So that's where I'm scared, sir, not any specific provision.

MR. CONINE: We addressed that in our budget, if I recall, that we specifically made a request for the implementation of 322 of 24 employees or 23 employees, whatever it was additional that we had to have. So hopefully we've recognized that deficiency that we have and the burden it's creating upon staff, and hopefully we'll get the money to be able to provide that.

MR. FREEDMAN: Yes, sir.

MR. CONINE: That's all.

MR. JONES: Further questions, comments? We have a motion on the floor, and a second's been made.

And my question wouldn't go to y'all. I have some comments just to the staff, I guess I would direct it to, with regard to I take very seriously the suggestions

of Mr. Henneberger and Mr. Ocanas that we strongly consider, you know, making changes today. But I think that that's real hard to do without legal advice, and that's where I'm kind of slow to act.

But let me tell staff just some points that I would, you know, like to put on the table, and I would really love y'all's advice on. And number one is, I'm interested in the concept that was dealt with by Mr. Moreau of what we could do with regard to efficiency.

I disagree, you know, with him to the extent that he says there's no place in the QAP where that's considered. That's not the way I read the document, so don't go there. But I do think his suggestion there of doing more is interesting.

I am very much in favor of the openness issues that have been raised, and I don't know how to fix that and comply with the law. So I can't tell you how to draft it. But I think this process needs to be just as open as possible, from my experience with it. So I would be really impressed to hear y'all's recommendations on that subject matter, and -- go right ahead.

MS. BOSTON: My name's Brooke Boston. I'm the program analyst for tax credits. And David may want to address the first issue. But as it relates to the openness issue, I'm guessing that you're talking about the

posting to the web and some of that information.

MR. JONES: Well, the posting to the web I'm not so interested in, but it's just the open meetings issues that are dealt with by them, I think, in point number two of their letter.

And again, you don't have to address it today.

I'm really kind of just asking the questions for the future, but feel free to address it today if you'd like to.

MS. BOSTON: Okay. They do mention, and they mentioned earlier, the posting to the web. And I would like to address -- I know one of their comments had been that they would like us to remove the "if feasible."

MR. JONES: Sure.

MS. BOSTON: The "if feasible" is actually in the bill, and we've discussed internally that we're going to make every effort to get as much of the documents on the web this year. But we are doing a feasibility study with TAR [phonetic] to make sure that we'll be able to do so in the most efficient manner, because right now we've been, you know, having a lot of discussion about the feasibility of do you have people submit on disk so that we can post it to the web and indexing factors. And I don't know that this year it is feasible.

So that is why we kept it in there. We did

want to try and go above and beyond the "if feasible" in the bill, but I don't think that that's feasible.

MR. JONES: I understand. And really, my attention was directed to what can be made public and what not. And I know there's counterbalancing factors there. I know we have legal issues there that we have to be concerned about. I know secondly we have practical issues that we have to be concerned about and that we want these developers to be successful, and we don't want to do anything to make them not successful. But I'm also, you know, very inclined to wanting to make the process very, very open.

And the third thing I would just say that I would love to have staff's comments and general counsel's office comments and outside counsel, anybody's comments on, is the issue raised by the mayor, I think, in one of his comments about the revolving-door policy. At least the issue here has been raised that we have a hole, and I would love to hear, you know, staff's comments on that.

So those are just some things that, as we go through the process, I'll kind of put y'all on notice of where I'm looking for more information.

MS. BOSTON: Yes. And I do think your appropriate -- the best staff resource is Ms. Marks.

MR. JONES: I understand. Yes. I understand.

I know these are legal issues.

MR. CONINE: Do we -- if we have dates and times set for those eleven meetings, would you make sure the board gets those fairly quickly?

(Pause.)

MR. CONINE: Okay. All right. Thank you.

MR. SALINAS: Who selected the sites of the public hearings?

MR. BURRELL: We coordinated those with our Housing Resource Center. We worked with our Housing Resource Center to develop most of those sites, because we're actually going to be having some consolidated hearings in several cases, discussing all the programs of the agency.

MR. SALINAS: So everybody in the south of -South Texas area would have to go all the way to Laredo.
You're talking about a million-and-a-half people out there
that would probably need a public hearing that anybody
interested would have to go to Laredo. That's my question
here. How would you all just --

MR. BURRELL: What we were trying --

MR. SALINAS: -- throw away a million-and-a-half people and say, Well, we'll go to Laredo. I know that Laredo's close to San Antonio.

MR. BURRELL: We had a very short window of

time in order to get those comments in, and we were working to try to get at least one hearing in each of the regions.

MR. SALINAS: But, David, I would think that it would be just common sense to go to the Valley. You know, it's a million-and-a-half people there. I don't know. I mean, it's -- I think it's out of the question to have everybody out there go from Corpus Christi, Victoria, all those people have to go to Laredo, when they can just go to South Texas, maybe Brownsville, Weslaco. I mean, that's just another point that y'all could try to look at.

MS. S. ANDERSON: If it would be okay, I would like to address that?

MR. JONES: Sure.

MS. S. ANDERSON: My name is Sarah Anderson. I am the director of the Housing Resource Center. For these hearings, we were looking to do consolidated hearings in addition to the QAP hearings. And we have five consolidated hearings, and then QAP was going to finish out, because they wanted to make sure that they hit all eleven service regions.

We will be having additional hearings in November, four more hearings. And I believe that at least one of those is in the Valley.

MR. SALINAS: For the QAP?

MS. S. ANDERSON: It will cover all agency programs --MR. SALINAS: But I'm talking --MS. S. ANDERSON: -- but not specifically on 5 the QAP. MR. SALINAS: Would you all consider that? mean, it would just be common sense that if you're going 8 to do some public hearings you would look at a massive 9 amount of people in South Texas, which is the Valley, 10 Corpus Christi, Victoria, Beeville. I mean, I'm talking to you about a lot of 11 12 people, and for somebody to just go ahead and look at the map and say, Here, we're going to have the public hearing 13 14 at Laredo, make all those people come up to Laredo, I 15 would just think that we have a big problem -- I have a 16 big problem with people that oversees that importance of 17 human beings in that area. MS. S. ANDERSON: Right. Well, I don't think 18 19 it was -- it certainly wasn't intended as a slight. MR. SALINAS: Well, can we change it? 20 MS. S. ANDERSON: We could -- I suppose we 21 22 could add a hearing in that area. 23 VOICE: Not for the OAP. 24 MS. STINER: Mr. Chair, may I? 25 MR. JONES: Sure. Ms. Stiner.

MS. STINER: May I, please?

MR. JONES: Yes. You surely may.

MS. STINER: So many of these dates are set and have been published. Staff, on October 8, are in two places. I will work with our staff to add another public hearing in the Valley. We don't know what date yet, but we'll certainly work to add that.

MR. SALINAS: Use the mid-valley or Weslaco or use Brownsville --

MS. STINER: We'll work to do that. I know we have limited staff. We have to get these done within a certain time frame, but we will work that --

We have considerations on consolidated plan hearings that's already been set, but for purposes of the QAP, I want to understand, that's what your request is, that there be a hearing in the Valley. Certainly, sir. We'll work on that.

MS. S. ANDERSON: And I think --

MR. JONES: Thank you.

MS. S. ANDERSON: -- if I could go a little bit further with that, the intention was, this time around -- and I think one of the reasons why we didn't go into the Valley, for the last six years that I've been here, every public hearing we've gone in to Harlingen and Edinburg, and we were hoping to hit a portion of 8(b) that we hadn't

gone to before, which is why we went to Laredo this time. 1 And it's very important to understand that we don't only take public comment at the public hearings, that we do give equal weight to the hearings as well as the written comment that comes in. So that was kind of -- the thinking behind it was that we really felt that we kept going to the same 8 places, and we got requests to go somewhere different this 9 year. 10 MR. JONES: Thank you. Okay. We have a motion on the floor and a 11 12 second. Any further discussion, comments, questions? 13 (No response.) 14 MR. JONES: Hearing none, I assume we're ready 15 to vote. All in favor of the motion, please say aye. 16 (Chorus of ayes.) 17 MR. JONES: All opposed to the motion, please 18 say nay. 19 (No response.) The motion carries. 20 MR. JONES: 21 That would bring us to Item 3(a) on our agenda, 22 which is the approval of the appeals process policy.

MS. STINER: Thank you, Mr. Chair. The staff has worked with a representative of the board on this appeals process, and David Burrell is going to make the

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presentation on behalf of that working group on the appeals process.

As you may recall, this came before the board a couple of months -- well, it came before the board a couple of months ago. I know this is a new board, but staff was instructed to go back and take into account some additional considerations. They worked through that, along with the representatives of the board, and staff is now ready to make their recommendation.

Mr. Burrell will do that. I just want you to keep in mind, we've heard several presentations this morning that, in my opinion, lend themselves to an appeal process. So we are hopeful that we can get this done, and perhaps rather than, you know, you hearing these comments in public comment portion of the board, there's a formalized process to which you may be able to make a response.

MR. BURRELL: Thank you, Ms. Stiner.

Back during the fall of last year, the Sunset Advisory Commission recommended to TDHCA that we develop an appeals process on all of our programs. At the time, we had an appeals process in place for our CDBG Program, but nothing formal for the rest.

Back in January of this year, the board appointed a committee which consisted of one board member,

Ms. Williams, and several staff members, which were primarily directors of TDHCA. We developed a policy, and we presented it to the board back in March. And at that time, the board asked us to come back and give them some clarifications.

In the meantime, while we were getting those clarifications together, Senate Bill 322 required that we develop a process, one for the Tax Credit Program, which we include in our QAP today, and then one for the other programs.

The one that we're presenting to you now would be to cover all the other programs. And we have two phases. One phase would be for a staff appeals process, and the other would be for a board appeals process.

And basically, the way that we have it set up here now is that if an individual has an appeal, they would first go to the executive director. The executive director would do her -- make her review and make a determination. If the executive director makes a determination which is not satisfactory to the person or companies, then they can go to the board to appeal the executive director's decision.

The board would then, with information which has been provided by the executive director and staff, make your review and make a determination, and your

determination would be final.

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If the individual's appeal is determined to be rejected, then you would -- we would just send them a denial letter. If it's determined that they should be funded, then we would fund from funds that we have available at that time. Or if we don't have funds available, then we would fund them from future years' cycles as the funds come available.

That's basically what we have here. The decisions that can be appealed basically covers everything the way we have it written.

MR. JONES: Thank you.

MR. BOGANY: I move that we adopt.

MR. GONZALEZ: Second.

MR. JONES: We have a motion and a second. Further questions, comments, discussion?

MR. GONZALEZ: Yes.

MR. JONES: It was Mr. Gonzalez.

MR. BURRELL: There's one comment I'd like to make.

MR. JONES: Certainly.

MR. BURRELL: And that is, you will see this again. We're actually going to be putting it out for public comment also. And if we have any changes, then you'll be seeing those when we bring it back sometime the

latter part of this year, first part of next year.

MR. JONES: And excuse me. We do have a motion made and seconded. And you would like to comment on that.

Right, Mr. Hartzell? Please come up and comment.

MR. HARTZELL: Thank you, members of the board and Ms. Stiner, for having allowed me to be here to speak today. My name is Eric Hartzell, and I'm vice president of Grant Works, a consulting firm that works with about 150 cities across Texas, all small cities in rural counties, in housing and community development and planning those kinds of endeavors for those communities.

We have a few concerns that we've noted on a handout that I've provided to you today regarding this appeals process. As was -- as Ms. Stiner mentioned earlier, some of the things that happened earlier today during the public comment period would have probably been much better handled if we had a nice, smooth process to follow. And some of the towns are not quite sure how to approach when they have a disagreement with a staff decision regarding funding or disqualification.

I'm not going to -- I don't think I'm going to read through this whole thing. You guys can all do that for yourselves. But I want to hit on a few of the points that I made. The way that we've laid this out, there's a concern stated and then a proposal that someone could

consider, whether it be staff or whether the board can direct staff to consider these. And I understand also that there will be a public comment period prior to this being adopted as a rule. Is that correct? I believe that's correct.

MS. STINER: Yes.

MR. HARTZELL: All right. And we will provide information at that, but we've learned that commenting early and often is usually the best way to have any effect of making change.

One that I wanted to discuss in here today for the record is number four. One of the items that the appeals process deals with is an appeal file that's compiled by the agency staff and provided to the board regarding, I guess, information that's collected on that particular appeal.

It states in this draft recommendation that the board may not review any information not contained in the appeal file. Because the entities involved -- and the appellants are given seven days after the release of information for scoring or funding recommendations or disqualification, whatever, to file an appeal.

We want to make sure that -- typically, again, when dealing with smaller communities, it's sort of an ongoing process of getting people to sign things, getting

people to send things in. Seven days to file the appeal is fine, so long that information provided after the seven days to the state, to the agency, be allowed to be included in that appeal file to the board up until, hopefully, the day of the -- or the day before the board meeting.

We also would prefer that anything that appears in the appeal file be made available to the appellant at the time it's provided to the members of the board, so they have a chance to come and be heard and have all the information that you have and that the staff has provided on their case.

The other thing that I wanted to bring up, I guess, is oftentimes -- and this happened with the cases this morning -- a letter came out from the agency announcing disqualifications with some pretty vague descriptions as to what the disqualifications were for. Under the proposed rules, the cities would have seven days to specifically identify their grounds for appeal.

Based on the letters that we got this year -and I assume this can be changed easily, but based on what
we got this year, there would have been -- that would have
been impossible to do, because we didn't have specific
information as to why the disqualifications had happened
until much later. I believe it was almost a month later

that we got a better, more thorough description, of what exactly the reasoning behind the disqualifications were.

And so we'd ask that when disqualifications or when scoring recommendations are put forward, that simultaneously with that, the detailed explanation or a scoring breakdown be provided so that should a community have a question and think maybe they were treated inappropriately or unfairly or whatever, they'd have a chance to actually have the information that the state used to make that determination and possibly file that appeal.

I'll leave the other ones for you to read, and we'll make these, like I said, available at public comment -- the public comment periods. Thank you for your time.

MR. JONES: Thank you, sir.

MR. HARTZELL: Sure.

MR. CONINE: Mr. Chairman, I too have some uncomfortableness, I guess, with some of the time constraints within the current proposal. But I guess I want to make sure I understand that this, the way the item is presented on our agenda, looks like that we are actually approving this process or this policy; whereas, it was stated here a minute ago that we are actually -- if we're circulating it much like we're doing the QAP and

asking for public comment, it's not worded exactly that way. You'd think you have similar wording in our agenda.

And I guess I need a little clarification on whether we are actually approving the policy or whether we're just circulating it for comment and will ultimately approve the policy later on.

MR. JONES: Ms. Marks, would you like to comment on that too?

MS. STINER: Under the rulemaking process, I think Ms. Marks needs to.

MR. JONES: Thank you.

MS. MARKS: I'm going to address that, and I will actually -- Anne Paddock has been working on this more than I have, but what we -- I believe what is being asked of the board is for them to approve the policy, and then Anne and I were going to put that into a format in terms of legal that would be in the format of rulemaking and would go through the same procedure for rulemaking that we've had in the past, which is it be posted in the Texas Register and put out for public comment.

MS. PADDOCK: Yes.

MS. MARKS: We are not at that stage. You are adopting a policy that will be turned into a rule.

MR. JONES: But I don't understand.

MS. PADDOCK: The proposed rule will reflect

policy exactly, except it will be in rule form. There's a whole different format they have to do when you propose a rule for publication in the Texas Register.

MR. JONES: Does that answer your question?

MR. CONINE: Well, I guess I'm, again,

concerned relative to --

MS. STINER: Excuse me.

MR. CONINE: Help me.

MS. STINER: Yes. Is your question, Mr. Conine, if the agenda item would permit the board to approve this as it is subject to it being put out as a rule?

MR. CONINE: I want another shot at changing it later on after we've received more public comment than what we've had --

MS. STINER: It has to come back to the -- VOICE: We're changing the policy level.

MR. CONINE: Yes. If I don't, I'm going to go through here with a fine-toothed comb and make some amendments to the current motion on the floor.

MS. MARKS: Yes. Certainly, if you think -- if there are comments that you think board members want to make in the policy, then before it gets converted to a rule, I would suggest that you instruct us to come back with it in the -- you know, make those comments and

instruct staff to -- the committee and the appeals committee to come back with one that you want to be put in a rule format.

MR. JONES: Well, I mean, this is -- my question's still the same as his, and I still don't understand your answer. The -- this is a pretty detailed policy, and the motion is to approve it intact. Now, what I understand you saying is you're going to take this detailed policy --

MS. MARKS: Yes.

MR. JONES: -- and put it in rule form.

MS. MARKS: Right.

MR. JONES: But you're not going to deviate from it. So I think the answer to your question is: This is your shot.

MS. PADDOCK: Yes. I mean, it's not going to be deviated from except for the format. Like the rule, for instance, will be Section 1.6 and 1.7. You have to do little, you know a's and b's and c's and 1, 2, and 3 and all that sort of stuff. So it'll be put in that format, but the same language.

MR. SALINAS: Then the item should have been posted differently.

MS. PADDOCK: Why?

MR. SALINAS: If we approve it today, it's a

done deal. It's already been posted.

MS. PADDOCK: No. The rule is just the administrative action that we take based on your policy. You set the policy; we draft a rule in response to the policy.

MR. CONINE: Okay. Then if that's the case, then, Mr. Chairman, I want to, I guess, make a couple of amendments to the motion or suggest a couple amendments to the motion. And I haven't thought these through all that well, because -- but I'm going to take a stab at it.

The -- in the staff appeals process section, where it's requiring the written applicant to file a written appeal within seven days after we -- I just think that's too tight a time frame. People can go on vacation, you know, in a seven-day time frame and never have time to respond or anything else. I think 30 days would be more appropriate there.

MR. JONES: Mr. Burrell, I think, would like to comment on that.

MR. CONINE: Okay.

MR. JONES: Yes, sir.

MR. BURRELL: Can I say one thing?

MR. CONINE: Sure.

MR. BURRELL: Basically, what we've been trying to do in the department is to make most of the programs

consistent in how we operate. Under the Tax Credit

Program, we were given specific dates and specific things
that have to be done. And since we were trying to stay

consistent across the board as much as possible, we
adopted -- allowed the same times and dates for these
other programs.

MR. CONINE: I'm -- to keep me from looking back up in the QAP what the appeals process is, was that mandated -- was that a staff suggestion or was it mandated by 322?

MR. BURRELL: The tax credit was mandated.

MR. CONINE: The appeals process.

MR. BURRELL: The appeals process.

MR. CONINE: But the number of days that were selected on that appeals process -- wasn't that -- didn't that come from staff?

 $$\operatorname{MR.}$$ BURRELL: No. That came from the legislature.

MR. CONINE: It came from the legislature.

MR. BURRELL: We're trying to keep the other programs consistent. We're trying to develop techniques of the uniform application process; we're trying to be consistent in the appeals process as much as possible.

MR. CONINE: Well, I'd submit to you that the City of China and La Coste and others are a little

different animals than tax credit developers that need an appeal. And I hear your desire for uniformity, necessarily I just don't agree with it.

So I think 30 days is plenty of time for folks to understand that a staff decision has been made. And again, a website publication is -- you know, everybody doesn't have a computer quite yet in this country, although I think they're heading that direction. So I would suggest that someone else can convince me of another reason, 30 days would be a good number there.

I also would, on page 2, under the little paragraph that our previous public commenter commented on:

"The board may not review any information not contained in the appeal file" -- I'd like that sentence stricken from this, because again, I think there may be some time constraints or other circumstances that the board may want to hear relevant information. Whether or not they do anything about it is up to the board's discretion. But I think that should also be there.

You can take some other comments, Mr. Chairman.

Although I want to review his submission to us right quick.

MR. JONES: Sure. Feel free to do so.

Anybody else on the board have discussion?

MR. BOGANY: I have a comment.

MR. JONES: Yes.

MR. BOGANY: I would like to withdraw my motion and suggest that since you're doing public comment at these other spots, that you put this out for the process to make sure we get everything and make sure we get comments on it and anything that can be worked out to make it better.

If the -- I was under the impression when I moved that this get up on the floor -- was that we were moving to adopt this policy, and then we would come back with the rules intact on how this was going to be. And I thought that was the reason for it being brought up by asking for feedback. And like this document here, you guys taking a look at this and seeing how this fits in from public comment.

But I withdraw my motion unless it is to approve the policy of having an appeals process. And if that's not necessary, then I would rather see us do public comment by going out -- when you make those eleven visits, include this as one of the things on the eleven visits.

MR. BURRELL: Well, what we're doing is we're actually asking you to approve it so that we can take it out for public comment.

MS. ANDERSON: Mr. Chairman, may I ask a question?

MR. JONES: Sure. You certainly may. Feel free.

MS. ANDERSON: Does the board have discretion to ask the community for public comment about a proposed policy, or are we only subsequently in the rulemaking process can we only ask for public comment about a proposed rule? Does that make sense?

MR. JONES: We can ask for public comment about policy, and I think we've done that in this instance, and we've done that -- and the only --

And certainly you may withdraw your motion. So we don't have a motion on the table anymore.

I think the only thing I would say about us not making a motion today is that you look at the situations like some of the ones we've heard of today. And I'm real inclined to say, Let's get an appeals process in place for obvious reasons.

Now, I also am very receptive to the argument,

Let's have the right one. You know, this is a process

that we've been trying to get down the road on. And -
but, you know, certainly your motion is withdrawn and --

MR. CONINE: Mr. Chairman, though, the way I read this policy, I'm not sure either of the two cases we heard this morning would qualify for an appeals process under the time constraints and nuances, if you will, of

this particular policy. I don't --

MR. JONES: And I think that's unfortunate.

MR. CONINE: Yes. The seven day after department published on the HOME fund deal, for instance, that's already long gone. And so I -- you know, I don't know how to get us out of this box right here.

MR. JONES: Well, there's --

MR. CONINE: I know we do need something on the --

MR. JONES: I don't know how to get us out of the box either. The only other comment I'd make is that if we do an appeals process and it doesn't take care of situations like we've seen today, I'm going to be very disappointed. I mean, I just think we're all -- kind of feel like -- and some of the things we heard today, I think this board feels like our hands are tied, and we're looking for a solution.

And that solution would be the appeals process.

And to find out we're about to pass a policy that says

our appeals process wouldn't reach those situations, I

think, would be disappointing to all of us. And I think

we'd rather wait until we could do it.

Yes, sir.

MR. BOGANY: Comment that I had in regards to the appeals process, another comment is that, why couldn't

we -- because this is going to be a working order. I mean, it's not going to be -- you're going to have to tweak it, because it's new. But why can't we adopt Board Member Conine's suggestion that we make a 30-day period, which would have covered those earlier situations and at least get it up and going, and then we come back and tweak it as we -- because it's new. I mean, it's not going to be perfect coming out the box.

MR. CONINE: I'm not sure 30 days would cover that. We may need staff to comment on that right quick.

MR. ONION: If I could address the board.

Robert Onion --

MR. JONES: You certainly may.

MR. ONION: -- director of Multifamily Finance. with regard to the private activity program, you see there's a special provision in there. With the way our program is set up with the time restraints, for example, the applications for this year's volume activity cycle was due by September 13. We received over 80 applications. If gives our division approximately 30 days to run through that process and make recommendations to the board.

If at the time seven days before the board meeting we post on the website our recommendations and for some reason somebody wants to appeal, there's not enough time in which for the executive director to spend the 14

days to review that process. What the applicant would have to do is make a direct appeal to the board itself so it would bypass that process.

The only other solution would be to make our applications due sometime in August. That impairs our ability to receive a number of applications. It's extremely difficult for the developers to put these properties under contract, and that's one of our requirements as site control at the time of application.

You're asking them to put it under contract in August. And at the very earliest, if they receive a reservation in January, they would be able to close in May. So you're looking at a ten-month time frame to tie it up.

So in trying to incorporate a policy that would work across all program lines, we had limited it to seven days. And I believe that is also stated in Senate Bill 322, is that time frame.

MS. PADDOCK: Well, for the Tax Credit Program.

MR. ONION: Okay.

MS. PADDOCK: And, of course, this is a procedure that is not for the Tax Credit Program, but like David said, for uniformity.

MR. JONES: Yes. Excuse me. I'm sorry.

MR. BOGANY: Why couldn't we, Mr. Chairman,

have the appeals process like with China and La Coste, have them do it on the Internet and just -- that way we could respond a lot quicker, and have something set up that they could appeal -- you know, they'd just go on the Internet and automatically appeal once they see it. That way it at least gets into the hopper a lot quicker than going on regular mail in getting it going.

MR. JONES: I don't have an answer to that.

MR. BOGANY: Is that possible?

MS. PADDOCK: Yes. I mean, we can accept something that's an email.

MR. BOGANY: Yes. In other words, like the La Coste deal, if they got the notice that they did not and they wanted to appeal by going to the Internet, it's instantly to you, and then you can set the process up in motion, because it looks as though getting to you in that seven days is the question, if somebody's out or somebody's not available.

MS. PADDOCK: A written appeal would include appeals sent through email.

MR. BOGANY: Okay.

MS. PADDOCK: And I also wanted to say, the situation with China and La Coste would be covered under procedural error, because her -- as I can see, because they're alleging that we didn't file our procedures, and

that's what it says.

MR. BOGANY: Okay.

MR. CONINE: Yes, but they have to -- under the way it's written now, they have to file that appeal within seven days after they know they struck out --

MS. PADDOCK: And they didn't --

MR. JONES: -- and it's long past that.

MS. PADDOCK: Well, I think they started questioning it way back when.

MR. CONINE: This was a meeting ago. We -- I mean, the staff made the decision seven days before the last board meeting, I think, the last month. So this is now 60 days after that. And the way I read this, it would be kicked out on a technicality. And I think that's where we make more people mad than we do satisfying the problem.

MS. STINER: May I please make a comment?

MR. JONES: Sure. Certainly.

MS. STINER: Of course -- with the time frames that we're talking about now, for those two cities, of course, it wouldn't apply to them. But if this board is interested in hearing an appeal from them under a process -- under this appeal process, I think you can waive it for that particular -- those two particular cases.

But if we are attempting to come up with an

appeals process that would capture the time frame that would allow these two cities, we're talking something like more 90 days than 30 days. So I think we're going to have to treat these separately anyway.

But the basis on which they would appeal would be covered under procedural error.

MR. JONES: Let me ask our legal counsel something; see if we can get out of this quagmire.

Obviously, the policy that's been suggested to us by staff is very detailed. Okay? Could we try to do what I think Mr. Burrell was suggesting to us originally, and suddenly we found out we couldn't -- could we pass a general policy, the board here today, that says we want a general appeals policy, but not dictate the terms as specific as are dictated that let's staff do the rulemaking and then have the opportunity, after we have public comment, to change that policy? Is that a possibility for us to proceed?

MS. MARKS: You certainly could do that. I'm not sure on what particular general policy you'd be voting on it. My understanding was that this started -- yes.

The answer -- the clear answer is yes. You can --

MS. PADDOCK: I don't think so, because the rule that we've proposed is an agency rule. You're part of the agency; you're not public. So, I mean, you could

make changes based on public comment, but once the rule's been proposed and goes back for adoption, you can't look at it anew without us going back out for public comment.

MR. CONINE: Let me suggest --

MR. JONES: Once I said it, it sounded like a bad idea.

MR. CONINE: -- could we amend the policy at the same time we -- if we were to put it on the board agenda to amend the rulemaking -- or, excuse me -- the appeal process, at the same time having received the public comment and having the rule changes -- is that possible?

MR. JONES: It's our policy; can we amend it?

MR. CONINE: We can pass something today, and

next month we go out and have the public comments, and

next month we put on the board agenda to amend the policy

so that we can technically amend the policy before we pass

the final rule based on staff -- or public comment.

MS. MARKS: An easy answer is yes, but the problem with this is is that you cannot -- you're not giving notice to the public as to what they are going to detrimentally rely on as to what's going to be enforced by this agency in terms of what rights they have.

If you adopted a policy now that said, This is what we're going to do, and it's really not what you're

going to do, then there has been no benefit gained by adopting a policy that you don't -- that you intend to change, because all you've done is put the public on notice that you have a policy in force that is not yet a rule or even a proposed rule, and so what are they supposed to do with it? I mean, it has no meaning to anybody, because the purpose of having a policy is to have a statement to the public as to what you intend to do.

MR. CONINE: Mr. Chairman, I move we table this item till next month's agenda.

MS. ANDERSON: Second.

MR. JONES: The motion's been made and seconded. Further discussion of the motion?

(No response.)

MR. JONES: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. STINER: Could I ask a question?

MR. JONES: Oh, I'm sorry. Certainly, yes.

I'm sorry, Ms. Stiner. I didn't see you.

MS. STINER: Yes. Mr. Conine and -- okay. I want to make sure we all understand. Is then what we can do in the next month is bring this policy back to members of this board, for instance, those things that you started to represent. Then that way, when we come back, we will

have a policy that reflects what this board wishes to go out as a policy. MS. PADDOCK: But the board didn't vote on those issues. MS. STINER: They will vote when they bring it 6 back next month to adopt as a policy. MR. JONES: Yes. I --8 MS. STINER: All it means is we're going to 9 work on it again. 10 MR. JONES: Yes. I think -- to answer your 11 question, I think the board's expressed concern about what 12 was presented to us, and it's not ready to move forward with that. You've listened to our concerns. 13 14 MS. PADDOCK: Okay. So those were the board's 15 concerns. 16 MR. CONINE: You can make whatever -- I guess, 17 in addressing your question, you can make whatever staff 18 changes to this policy after hearing discussion today, but 19 I will come a little more prepared next time to have 20 specific language changes. And I'm sorry I didn't this 21 time, but I'll make sure and we can do it next time. 22 MS. STINER: Okay. So we'll just bring it 23 back, and they'll make whatever changes they want --

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MS. STINER: -- to make at that time.

MR. CONINE: Bring it back one more time.

24

MS. PADDOCK: And it also is a proposed rule, rather than a policy? 2 MS. STINER: No, just as a policy. MR. JONES: Yes. Yes, sir. I'd like to 5 recognize you. MR. NWANERI: Again, my name is Charles Nwaneri. I'm chief accountant for Low Income Housing Tax 8 Credit. I just wanted to mention, a board member made a 9 comment that the appeal process could be received 10 electronically on the Internet. I think the bill is really specific in here about saying the applicant must 11 12 file a written appeal, and the executive director must respond in a written format with those deadlines. 13 14 I just wanted to point that out before --15 MR. CONINE: I think -- did not our assistant counsel determine that email is written? 16 17 MS. MARKS: Yes. It is written. 18 MR. CONINE: Okay. 19 MR. JONES: Thank you. All right. Okay. 20 Just -- we kind of got interrupted in the middle of our 21 voting, so let's vote again. We have a motion to table to 22 matter, and it has been seconded. I assume we're ready to 23 vote, unless there's further discussion. And I'm sorry I 24 missed you, Ms. Stiner.

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All in favor of the motion, please say aye.

(Chorus of ayes.) MR. JONES: All opposed, nay. (No response.) MR. JONES: The motion carries. We move then to Item 3(b), which I believe is 6 being withdrawn by staff. Is that correct? No, no. That's not -- I'm looking at my notes wrong. No. 8 public comment on that. That's what my note said. 9 Mr. Emanuel Glockzin. MR. GLOCKZIN: I would like staff to comment 10 first. 11 12 MR. JONES: Okay. We can do that. 13 Staff, can you make a recommendation on Item 14 3(b)? 15 MS. STINER: Pam. 16 MR. JONES: She's back. 17 MS. MORRIS: Hello, again. Pam Morris, director of Housing Finance Programs. I'm bringing to you 18 19 today the recommendation for an amendment to a LURA. 20 We're giving you two options. This has been a difficult 21 issue for us to tackle, and we've put a lot of thought and 22 time into it. 23 I'll give you a little history briefly, because 24 I laid it out in the write-up. This was a HOME award for

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a multifamily development called the Commonwealth

Apartments. It was approved by the board back in 1996, and it was for 300,000 in gap financing, along with tax credits which were also awarded on this project.

The interim loan closed in April of '97 for the 300,000, of which all was fully drawn during the interim period. The LURA was executed at the time of the interim closing for 70 units to be restricted to HOME rents, in addition to the restrictions of the tax credit rents.

Construction was completed in 1998, and started lease-up, I believe, in -- sometime during 1999. The note -- interim note matured in April of '99 and had an unpaid principal balance of 300,000, because it was a zero interest interim loan.

The borrower has not yet closed on their permanent loan, because they had notified the department, I believe, in March of '99 that they felt there was a discrepancy in the unit set-aside. They had asked that we relook at that at that time, and the documentation that I could collect and find was that it was looked at, but it was not recommended or substantiated that we could lower the rent set-aside from 70 units down to 14, at that time.

This conversation has continued to go back and forth between the department and the owner or the borrower of the project. Upon the board's recommendation, I believe, on two occasions, we did go back and re-

underwriter the project. Mr. Gouris looked at the option of the request, which was of 14 units. It comes out with a debt-coverage ratio below the maximum 1.25. He also underwrote it based on 19 units, which is what he felt, in his estimation based on current expenses of the project, that 19 units would be feasible, as far as being within our minimum debt-coverage ratio. And it was an ability to maximize as many HOME units as we could.

We've given you those two options. We have, as I've said, battled with this decision. We want to proceed with the permanent loan. We want to start having, you know, payments occur on the second lien portion.

And if there's any questions, I'm not sure what all you may want to ask.

MR. JONES: I'll tell you what. If there are any questions, we'll hold for the board debate. It's public comment now. Anybody that would like to make a public comment on this issue?

MR. GLOCKZIN: Good evening, Chairman, board members, Ms. Stiner. My name is Emanuel Glockzin, with Commonwealth Apartments. I'd like to introduce Paula Blake, my manager, and Mr. Rick Freeman, legal counsel.

I'm here today to address the board and answer any questions that the board might have on this issue.

MR. JONES: If you'd care to address the board,

feel free to.

MR. GLOCKZIN: Does the board have any questions concerning this issue? I'm not real sure on the --

MR. JONES: Does any board member have any questions?

MR. SALINAS: Well, what's taken so long?

MR. GLOCKZIN: Okay. When we -- this is a tax credit property, along with HOME funds that was awarded in 1996. This was something that was brand new with gap financing with HOME funds. This development was brand new with tax credit/HOME funds, somewhat confusing both to us, the HOME folks, tax credit folks, and compliance, because we weren't real sure what rents to charge.

On this sheet right here that I think y'all have a copy of --

MR. CONINE: I don't have that. Well, maybe in this one.

MR. GLOCKZIN: No, it's not. It talks about high HOME rents and low HOME rents. The property was underwritten with the high HOME rents and low HOME rents. It was underwritten that way. We had selected 14 low HOME rents and 56 high HOME rents, which of what were the tax credit rents. And this was the way the property was approved. This was the way the property was built. This

was the way the property's been running up to this point.

Compliance had checked us before we started occupying the units, and says we're noncompliant -- we're in compliance as of April 1998. Further study was done early '99, which was brought to my attention that there was some confusion on the rents, that the rents are not right.

I had written Joe Mann, director of the HOME Program, in March of 1999, requesting that the 56 high HOME rents would be amended to 56 tax credit rents, which that was the intent at the beginning.

MR. FREEMAN: Mr. Chair, my name is Rick Freeman.

MR. JONES: I'm sorry. I don't know that we have a witness affirmation form from you. Do we?

VOICE: He's added him here.

MR. GLOCKZIN: I added him to it.

MR. JONES: All right. Go ahead.

MR. FREEMAN: Thank you, Mr. Chair.

MR. JONES: You'll need to fill out a separate form, please.

MR. FREEMAN: I will, and I apologize. And, board, this was one of the first times that a tax credit apartment complex was interlayered with some HOME rent, as I understand. And the application, the first application,

and what's in the documents that you have here, I think, or at least that were included, said that it was 100 percent tax credit, 60 percent tax credit with no HOME.

And the next application, or another application, rather than the HOME application, said it was 100 percent HOME. So there were different applications, but as I understand from looking at the documentation, it was underwritten with fourteen low HOME rents and fifty-six 60 percent tax credit rents, for a total of 70 apartments. This was back in 1996, when it was proposed.

Underwriting looked at it under that situation with a HOME loan for part of it and refused to approve it, saying that it did not fit the debt-coverage ratio correctly. So in the process of going back and getting it correctly, unfortunately it appears that there was a mistake made in the process of staff -- on both sides -- trying to get the correct applications and LURA provided.

The LURA, the Land Use Restriction Agreement, ultimately provided that it was 100 percent HOME.

Clearly, from my review of the documentation and underwriting's first initial underwriting, that was not what it was intended to have. It was intended to have fourteen low HOME rents and fifty-six 60 percent tax credit rents.

So that was the mistake that was done. From

the day that this apartment complex opened, it had 14 low HOME rents, and it had 56 tax credit at 60 percent rents. And so that what we're here today requesting -- and the staff has dealt with this -- we've dealt with them, obviously, for three or four years now with this issue. And the basic problem with the staff has been that the land use agreement says 100 percent, and how do you resolve that with the fact that from day one it's been run as 14 low HOME and 56 tax credit.

And the bottom line is is that we're asking that the Land Use Restriction Agreement be approved as per the status quo. We're not asking for any change in what's gone on at that apartment complex since 1998. There's been -- you can ask the staff -- it's kept in excellent condition; they've got great tenant relations. But the problem is now that if there is an increase from the 14 in low HOME rents or HOME rents, there will be, under the HOME Program, the requirement that this apartment complex reimburse those folks whose apartments are changed. And that will be in the range of \$6,000.

Unfortunately, that will have a tremendous financial impact on the apartment complex and in the running of it. And honestly, it'll be a windfall to five people who never intended to have low HOME rents, but will receive about \$6,000 apiece in order to follow up with or

be in compliance with the HOME loan agreement.

So the -- one other thing that's going on is is that underwriting now has looked at it and says it'll hold -- it'll support 19 HOME rents or HOME units. The unfortunate thing is is that we continue to get -- and I think that you in the industry know that insurance and taxes are going up tremendously, and after what happened last week, there's no doubt that they're going to go up more. Between the stock market going down and the attack in New York, property insurance policies are going to go up tremendously.

And so even under the circumstances, I'm not sure that if we look at this six months down the line it'll be able to afford and debt-cover 19 HOME rents. So what we are requesting, respectfully requesting the board to do is to -- since it's come as an either/or -- is to leave it at the status quo, amend the Land Use Restriction Agreement to 14, and allow us to continue to operate this property as we have.

And Ms. Blake is here. She's on the same way I did -- mine is. But she's here, if there's any specific questions about financing and that sort of thing.

MR. SALINAS: What is the staff recommendation on this?

MR. JONES: Staff.

MS. MORRIS: It's a difficult decision. MR. SALINAS: Well, it should have been done in 198. MS. MORRIS: I would say since the --MR. SALINAS: You know, I think we need to do 6 it today. MS. MORRIS: I'm sorry? 8 MR. SALINAS: I think we need to make a decision today. 9 10 MS. MORRIS: Yes. I would like to. 11 MR. SALINAS: And we need your information and, 12 of course, your recommendation. MS. MORRIS: I think our goal and our purpose 13 14 is to try to get as many low rents throughout the state as 15 we can. We do expose ourself when we make amendments like 16 this to any other applicant that may have felt that they 17 didn't intend to do 100 percent set-asides. They didn't intend to sign the LURA with 100 percent set-asides. 18 19 I feel we get in a point where we'll have to 20 re-underwrite more projects as a result of this decision. 21 They will come back and challenge us. 22 When applicants file a request and a number of 23 documents are executed acknowledging that decision, it 24 puts us in a tough position to come back a year later or

especially after the funds are expended and the project is

complete and we've done our part, to have to modify that and go back on what we thought the agreement was.

That's the fear we have. And we felt the happy medium was the project, in Tom's best understanding, with the current expenses that they have and the increased expense and insurance or taxes, that 19 units was feasible. And that was the most it could take, but it wasn't necessarily the least it could take. So that's where our middle ground was, and that's what we felt that we had done a prudent review of it.

I don't know what more to say on this one.

MR. JONES: Well, that's your recommendation.

I mean, you're answering the mayor's question.

MR. SALINAS: Yes.

MS. MORRIS: Yes.

MR. JONES: I think that's your recommendation. Thank you.

MS. BLAKE: Can I address her recommendation?

MR. JONES: Yes. Feel free to, but we need to end public comment, so y'all say what y'all want to say.

MS. BLAKE: I'm Paula Blake, and I work for Emanuel Glockzin. And we do do -- try to help the lowest income people. On that property right now, we have to lower rents to take Section 8 residents, because this is an impacted and nonimpacted area, so the rents, like for a

one-bedroom, are 460, and all we can collect from Section 8 is 400. And we only have 23 Section 8s, so that's 33 percent of our property. So we are trying to help everyone and not just, you know, say 14 and 19.

So we're already lowering rents. We're losing 30 to \$50 a month for our Section 8 residents. Otherwise, they couldn't afford to live there, because Section 8 does not allow them to pay over the amount that they set. And since this is in a nonimpacted/impacted area, their rents are low for Section 8, because the rents are high in Nacogdoches because it's a student town.

MR. JONES: Yes. Mr. Conine.

MR. CONINE: Pam, do you think there's a way we could reword the LURA and the implementation of the LURA to do away with the, quote, rebate that was discussed here to each of the, say, five additional HOME units?

MS. BLAKE: Yes. I believe that just would be a decision of compliance and Ms. Stiner, as far as not allowing it to be retro back, and just say, you know, As of this date, you know, we'll recognize the fact that, you know, it was overcharged, but to not have to go back and track down tenants to make it safe from this day forward.

MR. CONINE: I would think we could draft the revised LURA to push forward either on vacancies or however it works, but I would encourage the staff to do

that, if at all possible. I think the rebate situation -I mean, it's interesting we're sitting here discussing a
project that's in, quote -- been in technical default, if
you will, since day one. But I think -- when this issue
came up in earlier board meetings, my concern was twofold:
one for preservation and secondly for what's actually
going on at the property today. Let's forget what was
happening a long time ago.

And I think staff has provided me with adequate documentation that 19 is a doable number within the debt-service coverage ratios of the properties that are going on today. And so -- but today was the first I heard of the rebate program, and I didn't want that to interfere with what we were trying to do here.

So, Mr. Chairman, I move we approve this item subject to staff recommendation, which is the 19 units.

MR. SALINAS: I'll second that if it's subject to the recommendation of our staff. Second that motion.

MR. JONES: We have a motion made and seconded.

Is there any further public comment?

MR. GLOCKZIN: I would like the board to refer to page 17 on our budget that we had worked on this project. This is in the first column, year number one. It's going to be this year's operation expenses with increased insurance amount that's noted of about 15,451.

Underwriting, I don't think, was aware of that large an increase. They were aware of about a \$6,000 increase. But we were notified just a couple of days ago that we can expect a \$15,000 increase, and this is to go for three to five years.

So our debt-coverage ratio with 14 HOME units is 1.05, which is below the acceptable state's requirement.

MR. JONES: Thank you, sir.

Any further public comment?

(No response.)

MR. JONES: Thank you. We appreciate it.

MS. BLAKE: Yes.

MR. JONES: Yes.

MS. BLAKE: Can I make a comment?

MR. JONES: You may.

MS. BLAKE: In the state's recommendation, though, they're taking the full amount of rents as the gross rents, what we could charge. They did not take what we actually are collecting. So out of 23, we're losing 30 to \$50 already. And then they're going to impose five more that's going to drop rent 100 to 125 more dollars a month. And I don't think when they did their calculations that they took that into matters that we're not able to collect full amount of rent at this time.

MR. GLOCKZIN: Well, if we were, we wouldn't be able to take HUD. MS. BLAKE: And y'all's requirement is to take Section 8. MR. JONES: Thank you. Any further public comment? 6 (No response.) 8 MR. JONES: Thank you. Appreciate it. 9 Okay. That will close public comment, then, on the issue. We have a motion in front of the board which 10 has been made and seconded. Any further discussion of the 11 motion, comments, questions, discussions? 12 13 (No response.) 14 MR. JONES: I hear none, so I assume that we're 15 ready to vote on the issue. All in favor of the motion, please say aye. 16 17 (Chorus of ayes.) 18 MR. JONES: All opposed to the motion, please 19 say nay. 20 (No response.) MR. JONES: The motion carries. 21 22 That would then bring us, Ms. Stiner, I 23 believe, to Item 3(c) on the agenda. 24 MS. STINER: Yes, sir. Mr. Homer Cabello is here to talk about this item. It is a requirement in 25

Senate Bill 322 that we have this advisory committee, and he will share with you the recommendations for that committee. It represents concurrence by local government, people who are in the field. So he will go through those recommendations with you.

I'm sure he will add this, but subsequent to -- let me stop. Homer, why don't you make the presentation.

MR. CABELLO: Okay. Thank you, Daisy.

As Daisy mentioned, under Senate Bill 322, Subchapter (z), Section 2306.584, it mandates the department's board of directors to appoint no fewer than five persons for resident colonias to serve on a Colonia Resident Advisory Committee. These members must reside in a colonia in the county the member represents and may not be a board member, contractor, or an employee of or have any ownership interests in an entity that is awarded a contract under the Self-Help Centers.

The duties of the C-RAC -- we call them C-RAC members -- are to advise the department the needs of colonia residents and the activities that are to be undertaken by our colonia self-help centers.

We have solicited comments. I would like to note that the legislature appropriated funds from the Community Development Block Grant Program, and those funds can only be awarded to a unit of local government. And in

these cases, they are the counties that we work with. So we solicited comments from the counties that we work with, and we have attached a copy of the letters from each county and nonprofit organizations that work with us in the colonias in trying to deliver services under these centers.

We have more than five for various reasons. In the past, many times the representative for that one particular county was unable to attend the meetings that we had scheduled. So we have added a secondary person, in case the primary cannot attend.

We also added two additional counties, which are Maverick and Val Verde counties, of which we are not mandated under this piece of legislation to open self-help centers. But we felt that there are just as many colonias in those areas as other parts of the border, and we have worked with those county representatives in trying to open up a self-help center there also.

So we had asked them to provide us names of individuals that they would like for us -- that they would like for them to have represented on this committee. Our goal is to open the Maverick County Self-Help Center by the end of this year and the Val Verde Center by the spring of next year.

So we are seeking your approval to approve this

list of committees, because we are having the contracts for these self-help centers are starting to expire, and we need to start meeting with these committee members and getting new contracts in place.

MR. SALINAS: So what kind of centers are you going to be providing there?

MR. CABELLO: These are colonia self-help centers. In 1995, the legislature passed a bill, Senate Bill 1509, that requires concentrated attention to five colonias in each of the counties listed, which were El Paso, Webb, Starr, Hidalgo, and Cameron. And Cameron was also to service Willacy County.

And we work to provide housing-related activities in these centers to improve the living condition in these colonias by providing not only program funds but operation dollars to nonprofit organizations to help deliver services.

So there were two significant points that this bill addressed, was to make a significant impact in the communities that we were working in and to build a capacity of nonprofit organizations to deliver services in these rural parts of the county.

MR. JONES: Thank you.

MR. BOGANY: I move that we adopt staff's recommendation.

MR. JONES: Thank you. Second. MR. GONZALEZ: MR. JONES: Did you get that? Great. We have a motion made and seconded. Further discussion, questions, comments? (No response.) MR. JONES: I hear none, so I assume we're 8 ready to vote. Maybe we're not. Ruth, have I missed 9 something? 10 MS. CEDILLO: I'm Ruth Cedillo, deputy executive director. Homer referred to letters that were 11 12 attached? MR. JONES: 13 Right. 14 MS. CEDILLO: Do you have the letters attached 15 to yours? 16 MR. JONES: Yes, we do. We got them. 17 MS. CEDILLO: Were they posted on the website? 18 MS. GRONECK: Not the comments and letters, 19 because he just handed them to me this morning. 20 MS. CEDILLO: Okay. There is an issue that has 21 been raised by people in the audience that that was 22 something that was not posted on the website. And based 23 on the new requirements of Senate Bill 322, that that 24 would prevent you from making a final decision on this,

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because it was not posted on the website.

1	MR. GONZALEZ: Excuse me. These are the
2	letters? Is that what was not posted?
3	MR. JONES: Is that what
4	MS. CEDILLO: They are not posted on the
5	website.
6	MR. JONES: They were not in our board packets.
7	They were just handed out a second ago.
8	MS. CEDILLO: The names were.
9	MR. BOGANY: Why do we have to post these
10	letters from the counties on the only the names have to
11	be posted.
12	VOICE: I don't know. I'll be interested in
13	hearing the comments.
14	MR. JONES: Yes. I can't even understand why
15	we were even handed this.
16	MR. SALINAS: I asked for the question about
17	MS. CEDILLO: Consider the recommendations
18	without the letters.
19	MR. JONES: I think we can consider it based
20	upon our board packet.
21	MR. GONZALEZ: The names were posted, though.
22	Is that correct?
23	MR. JONES: The names were posted in our board
24	packet.
25	MS. CEDILLO: Yes. The names were posted.

1	MR. CABELLO: The primaries were posted were
2	listed, not the secondaries.
3	MR. JONES: Not the secondaries?
4	MS. GRONECK: This is all that was on the web.
5	MR. GONZALEZ: Excuse me. Do we need to
6	approve both the primary and the secondary?
7	MR. JONES: Well, let me can I ask a
8	question just so we make sure we know where we stand?
9	Delores, were the primaries and the secondaries
10	posted on the web?
11	MS. GRONECK: What you have here in your book
12	was what is on the website.
13	MR. JONES: And Mayor, I know you called the
14	question, but if you'll let me just find out.
15	MR. GONZALEZ: So we can vote on what's on the
16	book?
17	MR. JONES: It would be my and again, legal
18	counsel, y'all jump in where you want to I think we
19	could act based solely upon the information that was
20	included in the board book that has been posted. I would
21	be fearful about acting upon anything else.
22	MR. CONINE: Get the motion amended to say
23	that.
24	MR. JONES: Yes. Could the motion if the
25	motion would just say we're going to act upon what's in

our board packet.

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MR. BOGANY: I'd like to amend the motion that we act upon what is in the board package.

MR. GONZALEZ: Second.

MR. JONES: Can that be approved as the advisory committee. That's the motion that's been made by Mr. Bogany and seconded by Mr. Gonzalez. Further discussion?

(No response.)

MR. JONES: Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: The motion carries.

MR. CABELLO: Thank you.

 $$\operatorname{MR}.$$ JONES: That would bring us then to Item 3(d). Ms. Stiner?

MS. STINER: Ms. Marks, are you prepared to present Item 3(d), the proposed administrative services and cost reimbursement agreement between TDHCA and the Manufactured Housing Division?

MS. MARKS: Yes. What the provisions of 322 require is that there be a gubernatorial appointment of new board members to the Manufactured Housing -- to run

the Manufactured Housing Division. That has not been done as of this date. In talking to the governor's office, their general counsel has reviewed or is in the process of reviewing this administrative services agreement.

What this is is not the agreement that would ultimately be negotiated with the new -- between the new Manufactured Housing board and the department, which is mandated under 322, but instead what we would be doing in the interim.

Now, there's a question that was brought up.

As a matter of policy, the governor's office would like to have us enter into an interim agreement. The -- this -- the agreement you see in front of you then is just a continuation of what we had -- what you've already adopted and what has been presented as the operating budget for the division, for the Manufactured Housing Division.

It sets out that pursuant to the new Subchapter AA, which creates the new Manufactured Housing board, that the TDHCA's to administer it through a Manufactured Housing Division, but it contemplates that there will be a board created.

In anticipation of that board wanting to negotiate with the department in terms of not only the personnel that they would want to get to hire, if you will, from the department, this is an interim agreement

that would just say, basically, we are going to continue with the presently approved budget for our operating budget as projected and as approved in our LAR for the Manufactured Housing Division.

With respect to the indirect cost -- that is, that in addition to the particular division expenses and budget, there are indirect costs for overhead for legal, for financial services. Our CFO, for example, will have to draft two different budgets, and one will be for the new Manufactured Housing board.

In the interim, we are simply suggesting this agreement, and we've asked the governor's office and their general counsel to tell us basically whether this satisfies their need for an interim agreement for us to continue forward and charge back under those -- under that -- under our present budget.

MR. JONES: Have they done that? I mean, have they told us yes?

MS. MARKS: No. Unfortunately, I have talked to Paul Hudson [phonetic], but General Counsel Bill Jones at the governor's office has asked that Brooke Rawlins [phonetic], one of his staff attorneys, look over this, and she has not -- I have not been able to contact her and get back in touch with her as to whether or not it's acceptable.

MR. CONINE: Move for approval subject to approval from the governor's office that this will satisfy their concerns relative to Senate Bill 322.

MR. BOGANY: Second.

MR. JONES: Motion is made by Mr. Conine; seconded by Mr. Bogany. And let me -- as far as discussion, I want to make sure we're real clear on this. This is kind of an unusual agreement.

MS. MARKS: Yes, it is.

MR. JONES: Because I'm going to be signing off on it on behalf of the Texas Department of Housing and Community Affairs, and I'm really contracting with ourselves, because Ms. Stiner will be signing off on it on behalf of the new created entity, the Manufactured Housing Division.

MS. MARKS: Yes.

MR. JONES: I would just say this. It's my understanding that the advice of our general counsel's office is that we ought to do this and this is legal. And we're also going to get the governor's office to tell us that. But I want to make sure that that's on record. And it is. Correct?

MS. MARKS: Yes, it is. And --

MR. JONES: Okay. And secondly, I want to make sure that the restriction that we just talked about on

this, that we be sure that we hear from the governor's office and they tell us this is what they want us to do, because it is a very unusual situation.

MS. MARKS: It is, and we've dealt with it in terms of the fact that the statute makes it clear that the executive director of the department continues to act as the interim director for Manufactured Housing Division until there is a new executive director for the Manufactured Housing Division.

You're exactly right, Mr. Jones. That puts us in the position that the only way for us to get the type of interim agreement that's anticipated is for us to bring it to the board and to have the board then approve it subject to the conditions of acceptance that this is what they're looking for, and then for us to go ahead and have you, on behalf of the board, enter into it subject to the approval by the governor's office.

MR. JONES: I understand.

All right. We have a motion that's been made and seconded. Further discussion? Yes, Mr. Gonzalez.

MR. GONZALEZ: I had a question. As far as the administrative cost, is that what was budgeted for that department, or how was that figure arrived at?

MR. JONES: Here's Bill Dally.

MS. MARKS: I'm going to let the CFO answer

that.

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MR. DALLY: My name is Bill Dally, chief financial officer for the department. Yes. It is exactly. It's in conformance with the budget approved -
MR. GONZALEZ: And just divided as far as the

MR. DALLY: Yes.

12 months and fifty-four --

MR. GONZALEZ: -- thousand just annualized and divided by 12.

MR. DALLY: Right. And that's the way we planned it, and now when we go forward and they do have another board and executive director, there'll be some negotiation, and that number may change. But to carry forward with what we did last month, this is in conformance.

MR. JONES: All right. Further discussions, questions, or comments?

(No response.)

MR. JONES: Hearing none, I assume we're ready to vote. We are? Good. All in favor of the motion, please say aye.

(Chorus of ayes.)

MR. JONES: All opposed to the motion, please say nay.

(No response.)

MR. JONES: Motion carries.

Which brings us to Item 4 on our agenda, which has been pulled by staff. So without objection, we will then turn to the executive director's report. Ms. Stiner.

MS. STINER: Thank you, Mr. Jones.

We have a couple of items to report on. The department held a conference this past week where we -- Blueprint for Success, where we laid out for the public the work that the staff has done in implementing SB 322.

I'm going to ask Michael Lyttle to move forward to the front and come and give us a summary. He and his staff did a yeoman's work in terms of putting that conference on. It was very well attended. We were a little concerned that given what was going on that attendance, you know, may be not what -- we'd anticipated, I think, 360, 380-some-odd persons responded. We still had a good turnout.

But will you make a report, Mr. Lyttle, to the board, on that, as well as talking to them a bit about the tools that we're using on the Internet that would allow the public to monitor the progress that the staff -- the department is making in terms of implementation?

MR. LYTTLE: Yes, Ms. Stiner, gladly.

My name is Michael Lyttle. I'm director of Communications and Government Relations for the agency.

We did have our Sunset Blueprint conference on Monday. We had about 380 registrants for the conference, and I would say that we estimated about 275 of those individuals showed up on Monday. And given the nature and circumstances of what world events have happened last week, I think the turnout was pretty good.

We had a day-long opportunity for our program directors to talk to a wide range of constituents about their plans for implementing the Sunset Bill, and specific plans at that, detailed work plans, where our directors shared with the conference-goers what they were going to do and how they were going to go about doing it in helping us to implement this bill.

It was -- they did a great job. My colleagues did an excellent job. We had a lot of really good compliments from the people in attendance, and I think it was an important step for the agency to be transparent in what we're going about doing and sort of keeping that dialogue open with the public in how we go about doing this bill.

And this is just the beginning. Ms. Stiner and I have talked about plans for -- we're having regular meetings with the advocates and with legislative staff on our progress. We are definitely going to keep people informed and aware of what's going on.

One of the best tools that we have to do this is a Sunset implementation chart, which is now, as of today, online on our public website. This chart is modeled a lot after what the Public Utility Commission did in their efforts to achieve Senate Bill 7 from the last session, which was the electric dereg bill.

And what this chart is showing folks is specific measures of SB 322, the things that that bill is asking our agency to do. On the chart we're showing who is in charge of those tasks. We have time lines. We have milestones. It's a very detailed plan that the public can access to see where this agency is in implementing the bill.

It will be updated on a regular basis, so we do encourage people to be calling up that website as frequently as possible, because in some weeks, that chart could be updated on a daily basis.

So we're excited about it. It's a great tool to let folks know what's going on. And if you take that tool along with the conference this week, I really think the agency made some good strides in a very positive direction this week.

Is there any questions I can answer specifically?

MR. CONINE: Do you know whether John

1	Henneberger actually looks at that website or not?
2	(General laughter.)
3	MR. CONINE: Can you get a cookie on him and
4	see if he does?
5	MR. LYTTLE: We have several cookies with Mr.
6	Henneberger.
7	MS. GRONECK: He called me a lot this week.
8	MR. JONES: Thank you, Michael.
9	MR. LYTTLE: Thank you.
10	MR. JONES: Appreciate it.
11	MS. STINER: That concludes the executive
12	director's report.
13	MR. JONES: All right.
14	MS. STINER: Thank you.
15	MR. JONES: The next item on our agenda is the
16	executive session. Do we need an executive session?
17	MR. CONINE: No.
18	MR. JONES: We don't? Great. That is good
19	news. With that, we're down to adjourn.
20	MR. SALINAS: We don't.
21	MR. JONES: My understanding is we don't need
22	an executive session. Right? Somebody informed me no?
23	We do not need one.
24	MR. SALINAS: I'm going to give you my notes
25	here.

MR. JONES: I can explain that.

MR. CONINE: You're the chairman, not me.

MR. JONES: I understand. I mean, we can certainly have one, because we have our general counsel.

MR. SALINAS: If you want to get into it, let's get into it now.

MR. CONINE: This just came across the fax, so I --

MR. JONES: I understand. That's all I have too.

MR. CONINE: Can --

MR. JONES: I'll tell you what. I think there is a question of information we want to take up with regard to litigation, so we will have an executive session, unless someone objects. It won't take us long. And, Ms. Marks, you can address the issue.

This day, September 19, 2001, at a regular board meeting of Texas Department of Housing and Community Affairs held in Austin, Texas, the board of directors adjourned into a closed executive session, as evidenced by the following.

The board of directors will begin its executive session today, September 19, at 2:03 p.m. The subject matter of this executive session deliberation is as follows: litigation and anticipated litigation, potential

or threatened, under Section 551.071 and 551.103, Texas Government Code Exception; number 2) consultation with attorney pursuant to Section 551.071(2), Texas Government Code; and possible discussion of any item listed on the September 19 board meeting agenda as posted.

And with that, we will go into executive session.

(Whereupon, at 2:03 p.m., the board of directors meeting was recessed to executive session, to reconvene at 2:16 p.m., this same day, Wednesday, September 19, 2001.)

MR. JONES: We're back in session. Board of directors has completed an executive session of the Texas Department of Housing and Community Affairs on September 19, 2001, at 2:16 p.m. Subject matter of the executive session deliberation was as follows: Litigation and anticipated litigation, potential or threatened, under Section 551.071 and 551.103, Texas Government Code, litigation exception. Action taken, none.

- 2) Consultation with attorney pursuant to Section 551.071(2), Texas Government Code. Action taken, none.
- 3) Possible discussion of any item listed on the September 19, 2001, board meeting agenda as posted.

 Action taken, none.

I hereby certify that this agenda of the executive session of the Texas Department of Housing and Community Affairs was properly authorized pursuant to Section 551.103 of the Texas Government Code, posted at the Secretary of State's office seven days prior to the meeting pursuant to Section 551.044 of the Texas Government Code, and that all members of the board of directors were present with the exception of none, and that this is a true and correct record of proceedings pursuant to the Texas Open Meeting Act, Chapter 551, Texas Government Code. Michael E. Jones, Chair.

Which brings us to Mr. Conine is reminding me we need to set up our meeting schedule now, at least between now and the end of the year. My suggestion is that Delores do that for us.

MS. GRONECK: You want me to poll everybody?

MR. JONES: Yes. And you also need to make sure we meet all our deadlines, with Ms. Stiner's help, when we set those board meetings.

And then secondly, I would like to see us do our board training as soon as we could. If we could do it -- I mean, I think we're almost going to have to do that on a weekend. I hate to suggest that, guys, but I don't know that -- I think we're going to have to find a free weekend and give it a go. I don't know that -- we've

got so much to do. MS. GRONECK: The [inaudible] are ready at the AG's office, for the open meetings -- they're all on stat [phonetic] just whenever we say. MR. JONES: Right. MS. GRONECK: Whenever you say. MR. JONES: Great. So if you'd talk with 8 everybody and try to find a weekend we could do that? 9 Other housekeeping? 10 (No response.) MR. JONES: Hearing none, would we like to 11 12 adjourn? 13 MR. CONINE: Move to adjourn. 14 MR. GONZALEZ: Second. 15 MR. JONES: All in favor, say aye. 16 (A chorus of ayes.) 17 (Whereupon, at 2:20 p.m., the meeting was adjourned.) 18

CERTIFICATE

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MEETING OF: Texas Department of Housing and Community

Affairs Board

LOCATION: Austin, Texas

DATE: September 19, 2001

I do hereby certify that the foregoing pages, numbers 1 through 221, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the Texas Department of Housing and Community Affairs.

 $\frac{09/25/01}{(Transcriber)}$ (Date)

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