TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

10:00 a.m.
Tuesday,
December 12, 2002

Waller Creek Office Building
Room 437
507 Sabine
Austin, Texas

BOARD MEMBERS:

MICHAEL JONES, Chairman
KENT CONINE, Vice Chairman
BETH ANDERSON, Member
VIDAL GONZALEZ, Member
NORBERTO SALINAS, Member

STAFF PRESENT:

EDWINA CARRINGTON, Executive Director
TOM GOURIS
EDDIE FARISS
SARAH ANDERSON
CHRIS WITTMAYER
DELORES GRONECK, Board Secretary

A G E N D A

P R O C E E D I N G S

MR. JONES: At this time, I'm going to call this to order and really, Edwina, turn it over to Jonas and let them go ahead and make their presentation, and I'm sorry we're running late, but we've had a mix-up in communication -- which is the board's fault, Mr. Conine -- and I take full responsibility for that, and I'm sorry we're running late. I appreciate, Jonas, you being so kind and waiting so patiently. We'll be happy to hear your report at this point. Thank you, sir.

MS. SCHWARTZ: Good morning, everybody. My name is Jonas Schwartz, and I'm currently serving as chair of the Disability Advisory Committee for the Texas Department of Housing and Community Affairs, and this committee was formed just about a year ago, actually.

And as board members, you all have received a lot of training over the last as you were reconstituted, and you had a lot of training about a lot of the different issues that you as board members are responsible for oversight with and taking care of, and the Disability Advisory Committee wanted an opportunity to present just a very brief overview of some of the housing issues for people with disabilities, just to further your understanding as you continue to make decisions, both at the policy level as well as funding decisions, about the housing needs of Texans and you can include the needs of people with disabilities as you continue to make those decisions.

I have to say the board has done a lot of good things this year and we're going to highlight some of those as we go through this presentation, and I do promise it will be brief.

Before we get started, I would like to just recognize the other members of the committee that are here: Jean Langendorf with United Cerebral Palsy of Texas is sitting up here in front of me, providing a little technical assistance with our electronics here; and Dave Wood with Bank One is sitting in the audience and he came in from Houston this morning.

You know, people with disabilities, if you look historically at housing and people in general and then you begin to look at people with disabilities, they historically have been excluded from the traditional housing market due to many things, but mainly due to prejudice, due to stigma and due to poverty. And probably the biggest housing issue for people with disabilities is more of a poverty issue than anything else, and we'll talk a little more about that.

More people with disabilities are now seeking housing in their own communities as opposed to different types of institutional settings which for many years, that's where people with disabilities lived, and with the advent of the American with Disabilities Act in 1990 and the Fair Housing Act Amendments of 1988, and some other things that have happened, and most recently the U.S. Supreme Court decision on Olmstead, people with disabilities are now wanting to live in their own homes in their own communities and places of their own choosing. But when people with disabilities begin to look for housing, they encounter a severe lack of affordable, accessible housing.

The Olmstead Decision was passed by the U.S. Supreme Court in June of '99, and it basically said that states have a responsibility if they are providing community services to allow individuals who are currently residing in institutions to receive the services in the community so that they can move out. There needs to be a lot of programmatic change and supports put in place so that the tenets of the Olmstead Decision can become a reality. I will say that the State of Texas has taken many steps to begin to implement this decision and it started at the end of the last legislative session when the legislature passed Senate Bill 367 which was the Texas Promoting Independence Plan.

The Olmstead Decision said very clearly that every state has a responsibility to develop an effectively working plan on how they were going to begin to transition individuals who wanted to move from the institutions to the community. When I'm talking about institutions, I'm talking about state schools, nursing homes and intermediate care facilities for people with mental retardation. So the legislature during the last session passed Senate Bill 367 which is the Promoting Independence Plan, and that is kind of our roadmap, as it were, to help us meet the obligations of Olmstead.

Like I said, we have a lack of assistance to help people transition and meet those different housing needs, and they may already be living in the community in non-institutional settings, however, they still need a system of supports in places so that they can live in places in their community.

I will tell you that the department has played a key role in helping make Olmstead a reality, because one of the things that needs to happen is the state housing agency needs to have a relationship and begin to work with, in our state, the Health and Human Services

Commission who is charged with overseeing the implementation of the Promoting Independence Plan. TDHCA, Sarah Dale Anderson and some of her staff, have certainly come to the table, stepped up to the plate and TDHCA HHSC to help make this a reality and certainly address the housing needs of people with disabilities, and we're going to continue to need the support of the department and the support of this board to continue to make this a reality.

One of the other things that there's a real need for in our state is the lack of consumer-directed home modification programs in communities that meet the needs of people with disabilities. What I mean is there are a lot of people that know how to remodel homes and do different kind of home modifications but they don't necessarily know how to do the home modifications that people with disabilities require, including: the rolling shower in a bathroom, knowing if that's really feasible given the structure of an existing home; knowing how to appropriately widen a doorway, where a grab bar goes, those kinds of things.

We really need to begin to work to increase the capacity of barrier removal programs around the state and really provide technical assistance so there begins to become, around the state, a level of expertise in how to do this appropriately. And always, when you're doing a home modification, when you're assisting an individual in looking for a home of their own, be that a home that they're going to purchase or an apartment that they're going to rent, you always need to let the consumer, so to speak, be in charge of that process and direct how they want things done, the kinds of home modifications that they need or the kinds of places they want to live in communities of their choosing.

Some key issues. Like I said, poverty is one of the biggest barriers to people with disabilities being able to find decent, safe and affordable housing. People who have an income from Supplemental Security Income from the Social Security Administration, the current federal benefit rate for Texas is $545 a month. Well, you can't even find a place to live in a major metropolitan area for $545 a month; even an efficiency in many places doesn't even go for $545 a month. So poverty is a very key issue.

There is a lack of incentives for the development of integrated housing and the department, hopefully, this morning as part of your Consolidated Plan will adopt a definition for integrated housing that will begin to help further the development of more integrated housing in our communities. And then a lot of housing service providers have just a lack of a knowledge base about how to meet the housing needs of people with disabilities and we, along with the department, hope to over time begin to decrease that lack of knowledge and build a knowledge base among housing providers so that that's not such an unknown area, and when a person with a disability goes to a housing provider to access services and housing they have available, that service provider will know exactly what to do and not be uncomfortable because they do have a lack of a knowledge base.

And for a long time, like I said, there's been a lack of allowing people with disabilities to have control and direction over their housing needs and over their lives in general, and slowly but surely we're going to change that. Again, lack of contractors who understand how to do home modifications and a lack of uniform guidelines and procedures for bonding and administering a home modification program.

Interacting with people with disabilities. Many professionals, like I said, have a lack of experience in working with people with disabilities, so they're simply unaware and unsure about the most appropriate way to communicate. And they may hold paternalistic attitudes that say, you know, this person is probably unable to make decisions for him- or herself, so I'll need to step in and just direct them on what they should do. And certainly there are people with disabilities that needs support in the decision-making process but they need to have the ability to make their own decisions with that support, and sometimes they need to be allowed to make decisions that maybe are not the best decisions.

And maybe with those decisions that they make, sometimes there might be guidelines that won't allow them to take advantage of what someone has to offer because of the decision they want to make, however, they need to be allowed to make that decision and understand what the consequences of that decision may be.

No two people who have the same disability have exactly the same housing needs, everybody is different. You know, I have cerebral palsy; I have several friends who have cerebral palsy; none of us have exactly the same housing needs, nor do we have the same housing desires.

Some myths and misconceptions. People with disabilities are not capable of living in the community, renting or owning or maintaining a home of their own. That's not true. Not everyone with a disability needs to be a homeowner; not everyone who does not have a disability needs to be a homeowner; home ownership is not for everyone. But persons with disabilities should have the opportunity to choose a living situation where they're most comfortable.

There should be no list of prerequisite skills or abilities that a person has to have for living in the community. When we all left our parents' home, some of us, many years ago, you know, it's kind of a trial-and-error sort of thing, you learn as you go. You know, all of us probably have some real interesting stories to tell. I know for certain I do, however, I'll spare you from that this morning.

Again, where a person lives and how they choose to modify their home should be a decision that's left up to the person that's going to live there. People with disabilities expect equal treatment, not special treatment, and want to live in homes of their own choosing. They choose control, integration and inclusion, and again, home modifications continue to be an exception to the rule when they must find their way into the general consumer media and marketplace, and over time I think the department can help us get there.

What is a disability? It may be a physical disability, it may a cognitive disability, it may be a disability that's readily observable or it may be a hidden disability -- for example, someone who may have a heart condition -- it may result from a variety of causes. How many people have disabilities? I'm going to give you a couple more current numbers than what are on this slide. Currently there are 54 million Americans who have disabilities; around 2.9 million Texans have disabilities, around 24 percent of the state's population; over 1.5 million Texans have a severe disability and that's about 12 percent of the state's population.

Rates of disabilities for Texans are higher than the rates for disability in the United States as a whole, 24 versus 21 percent, and then 12 versus 10. These numbers came from the U.S. Census; they didn't give a reason as to why Texas was a little bit higher than the nation as a whole. I began to wonder and I'm going to do a little research because I'm curious about these numbers; I'm wondering if it's maybe because our state is so big and we have so many people that live here.

Housing philosophies. People with disabilities should have the same opportunity as unlabeled citizens to choose and get and keep regular integrated housing. People with disabilities should also, just as anyone else would, have the opportunity to accept or refuse any and all supports and services that may be available to them.

Again, the housing problems of people with disabilities is a poverty issue. Supports and services that may be chosen by people with disabilities must be readily accessible and tailored to meet the individual needs. In other words, if there's an array of services they need, the individual needs to be able to choose from among that array those services that are best going to need their support needs.

People with disabilities don't need to live in special places. Integration is the key to full community inclusion for people with disabilities; integrated housing is essential to full community inclusion.

A sense of advocacy in Texas. We have a state visitability ordinance that was passed in '99 and that means that all homes built with public funds must incorporate some visitability component so that we begin to have a housing stock that is visitable, which means that people with disabilities can move out and about in their community and over time begin to visit their friends and family and neighbors.

Section 504 design standards is the standards in the Low Income Housing Tax Credit properties. That was done last session. That is going to go a long way towards slowly and steadily increasing our stock of affordable, accessible housing for people with disabilities. And you know, I have the opportunity and the privilege to do some traveling nationally and go to different conferences and that kind of stuff, and I've had a number of people come up to me and say how in the world did you all get Section 504 to be used a threshold in your Tax Credit Program -- I've had people from other states ask me that question. So people are watching and they're excited to see that we've done it and hopefully we'll begin to see that in some other places.

Senate Bill 623 is the Visitability Ordinance. It kind of talks about the components of visitability. And then state legislation for 2001 talks about Section 504.

Disability Advisory Committee recommendations. These are recommendations that we've made and I just kind of wanted to bring them to you again and talk about some of the progress that's been made with the assistance of the board and the department. The integration definition that has been developed, you all are going to be talking about that as part of the Consolidated Plan today, and we have begun to have the opportunity to review agency planning documents and give you all some input before they go out to public comment.

Compliance with Section 504 of the Americans with Disabilities Act and the Fair Housing Act must be evident in all of your programs. We've made some progress in this direction; we still really need a self-evaluation component for providers who are applying for your funds just to raise their own awareness about whether or not their programs and services are accessible. I hope that we'll get there; I know we're beginning to move in that direction.

Capacity-building money needs to target organizations that need to build capacity, it should not go to organizations that already have capacity. You all are beginning to look at that issue. There was a great focus group that was held last Thursday on the Housing Trust Fund; I had the opportunity to be part of that, and I really think good things are going to come out of that process that we started last Thursday, so I'm very encouraged.

The agency needs to seek and commit resources and conduct an in-depth study of the house needs and preferences of people with disabilities. The Texas Department on Aging did something similar from the last session because they got funds to do that, and we're going to be encouraging the department to use the same model that TDOA used, and we're going to try to assist you getting some funds to make that happen through our education and advocacy efforts.

That concludes my presentation; I'd be happy to take any questions from the board members.

MS. ANDERSON: I have a question, Jonas. Early on you were addressing the whole concept of home modification and the fact that there are uniform standards and people don't know how to modify homes. Are there other states that are sort of leaders in helping to educate the building and the remodeling industry about things to consider when they work with a person to modify a home? Are there lessons from other states we could learn?

MR. SCHWARTZ: I'm not sure if there's a specific state that kind of has some things to share or not. I know that there is a curriculum that's out there and that's available, so that groundwork has been laid to try to help increase awareness and that kind of thing.

MR. JONES: Jonas, early in your presentation you said that one of the obstacles to housing was prejudice, and I understood your comment about the paternalistic attitude, but is there something more than that, is there something that we might understand?

MR. SCHWARTZ: Well, I mean, maybe it's not prejudice, maybe it's a lack of awareness, but when an individual goes into a leasing office to rent an apartment and their source of income is Social Security or some other type of assistance, and maybe it appears to the person in the leasing office that that individual is going to need a lot of assistance, and so because of a lack of awareness and a lack of understanding, they may just say, you know, we don't have any units available right now. So I think because of a lack of awareness there is some misconceptions and some stereotyping that goes on.

I don't think people want to be malicious necessarily, but I think because of a lack of awareness they just don't know how to proceed.

MR. JONES: I understand.

MR. CONINE: Jonas, can we get your comments in written form, a copy of your comments in written form?

MR. SCHWARTZ: I actually have then here, and Mr. Conine, I think they're in your board book as well.

MR. JONES: Don't tell him that. We only let him know what we choose to let him know.

(General laughter.)

MR. JONES: Jonas, we sure do appreciate it, and if nobody else has any questions, thank you so much.

MR. SCHWARTZ: Thank you.

(Whereupon, a brief recess was taken.)

MR. JONES: I would like to call to order the meeting of the board of the Texas Department of Housing and Community Affairs for December 17, 2002. The first order of business is a roll call and certification of a quorum.

Ms. Anderson?

MS. ANDERSON: Here.

MR. JONES: Mr. Bogany is absent.

Mr. Conine?

MR. CONINE: Here.

MR. JONES: Mr. Gonzalez?

MR. GONZALEZ: Here.

MR. JONES: Mayor Salinas?

MAYOR SALINAS: Here.

MR. JONES: We do have a quorum; there are five members present and one absent.

At the outset of this meeting, I would like to take just a moment to say something about a meeting I attended last week in front of the Sunset Commission, and the real good news is that my meeting with the Sunset Commission last week and the meeting of the department with the Sunset Commission last week was a very positive one and one that I think we all enjoyed.

I would like to say this, it would be, I think, a real error in judgement on my part and the board's part if we did not recognize, as the Sunset Commission did, the outstanding contributions of our executive director, Ms. Carrington, over the past few months -- and it's still months -- and to thank her for those outstanding contributions and to thank her for the great strides that are being made in this department.

(Applause.)

MS. CARRINGTON: May I say something?

MR. JONES: You certainly may.

MS. CARRINGTON: Thank you very much, Chairman Jones. I, like you, actually enjoyed the meeting, but I will tell you what I told the Sunset Commission staff last week and that is that we have a wonderful staff at TDHCA and that wonderful staff backed me up for about three weeks getting me ready to go, with all kinds of information, all kinds of questions; we even did kind of a run-through the week before, and I was sort of grousing a little bit because they didn't ask us all the questions we'd prepared for, but I think we obviously did well on the questions that we did prepare for.

And again, this staff is well on its way to implementing Senate Bill 322, the board being reconstituted and doing what they needed and wanted to do for this agency, and so you all make me look really good and I appreciate that very much. Thank you.

MR. JONES: I would like to also say that besides the meeting going well, it's more important, I believe, that I agree with many of the comments that were made about the good things that are going on in this department -- and again, I thank our executive director for that -- but I think there are also many other individuals. And when you start thanking people, you run the extreme risk of not thanking the right ones, and I know I will do that, but I think there are some people that have made tremendous contributions to this department over the past several years through some tough times, that it would be very inappropriate not to recognize.

The first one I would like to recognize is certainly an unsung hero -- he's not an unsung individual -- but it's Governor Perry's office. Before Governor Perry became governor, when he knew he was going to become governor, I had an opportunity to meet with him, and he knew as I well knew, that the Sunset process was looming on the horizon, and he knew as I well knew that there had been individuals that said this department would never survive the Sunset process that we were about to go through two years ago, and the history of this department is that it has problems during the Sunset process.

And he offered me and provided me excellent guidance and advice. He also directed his staff in the meeting I was at to support us in any way they could, that he was committed to this department, that he wanted us to get through it and he wanted us to become better. And I think that under his leadership we certainly have been able to do that.

There are many people in that office that helped us, but I will say this, that Patricia Shipton -- who I believe is the legislative director for the governor -- personally, I don't know how I would have survived the Sunset Commission hearings two years ago without her help and her guidance. I know that Ken Anderson in the Appointments Department has been very instrumental in putting the excellent people that are on this board that have helped lead us through the past few years. Mayor Salinas, Mr. Gonzalez, and Ms. Anderson have been very committed board members; I know Mr. Conine and I have really enjoyed working with them. We may not always see eye to eye, we do disagree on many things, but I thin that when working with these people you know that they try to do what's right as God gives them the wisdom to see it; and then secondly, they have the best interest of the people of Texas, and nobody else, in mind as decisions are made. And then finally, Paul Hudson has always been available to us.

So there was a lot of leadership, I think, shown there and they've been a great asset to this department, and I think it would be very remiss if we did not thank them for that.

And then finally -- well, maybe not finally; I guess I've got two finally -- I would like to say this, Ms. Carrington has done a wonderful job -- I agree with the comments that have been made by the state senators and the representatives and other members of the Sunset Commission -- particularly Dr. Roth. He and I have had many discussions about our department and to hear him say something nice about it was wonderful. I would say this, we need to go back and remember the committee that gave the leadership to select her; Mr. Conine's leadership there, Mayor Salinas, Mr. Bogany -- who is not with us right now -- but I thank them greatly for all their leadership. That was a harder job, I think, than anybody knows and when you want to praise our great executive director -- which I certainly do -- it would be very remiss not to remember them and their great contributions.

And then finally, I do want to thank, for the progress we've made the last few years, the real unsung heroes, probably more so than the governor, and that's the people that have been on staff for years. Bill just introduced me to David who had been here for 17 years; Ruth, you've been around ever since I've been here; and again, Delores -- and I'm missing so many people -- and when I say this, I hope nobody takes it as a disparagement of those people who have come and left. Certainly careers take you other places and they've made great contributions to this department, but I just want to say I have tremendous admiration for the staff members who went through some really tough times the past few years and they've stuck in it with this department and they continue to make this department work.

As I told the Sunset Commission, it's great to hear you praise us right now, but the truth is I came here two years ago and told you that good things were being done and that was the truth, I did not lie to you, and it's still the truth today. And I think we've made great improvements and I think the Sunset Commission helped us make great improvements, but there have been many loyal staff members who have stayed here through the tough times, and made this department continue to serve the needs of this state and have made this department continue to exist, and get us through not only one Sunset process but now we're going through out second one. So to those people, I give you my great thanks and my great admiration.

(Applause.)

MR. JONES: Sorry to take so long, and with that, we will turn to Item 1 on the agenda which is the presentation, discussion and possible approval of minutes of the board meeting of November 14, 2002.

MR. CONINE: Move for approval.

MS. ANDERSON: Second.

MR. JONES: Motion for approval has been made and seconded. Any questions, comments? Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, say nay.

(No response.)

MR. JONES: Motion carries.

We will then turn to public comment and the first witness affirmation form I have is from Mr. Schwartz

MR. SCHWARTZ: That was for the presentation.

MR. JONES: Thank you, sir. It was well, well done.

The next person that would like to speak is Mr. Foster.

MR. FOSTER: Thank you, Mr. Chairman. My name is John Foster and I am here representing an entity called Costa Verde, Ltd. which is a Tax Credit applicant, and we believe the applicant next up in line after a project called Heatherwilde in San Antonio. I appreciate the opportunity to address the board this morning about this issue that's important to us, and I believe it's important as an indication of how this agency is going to enforce its own rules.

First off, the Heatherwilde project is one which we believe -- and I've communicated this to the board before -- is a grant that's in excess of those permitted, the amount of grant permitted to one developer under Senate Bill 322, and I believe the staff -- there's a memo by Ms. Boston that has recognized that. That's not what I'm here to talk about.

The fact is that as we sit here today, two weeks from the end of the year, the Heatherwilde project does not have the zoning to build its project. Our applicant who is next in line does have and we are capable of going forward immediately. Their application was to expire on October 11; it was extended by the board to

November 30; as I understand it from talking to Mr. Wittmayer, since that time it's undetermined or it hasn't been determined definitively whether the zoning is proper in the San Antonio city rules.

We do know that on October 1 the zoning commission voted 11-0 denying the zoning request the applicant made. Since that time the staff has received conflicting communications, the last of which was to the effect that they did not have the proper zoning. As I understand from talking to Mr. Wittmayer, the staff and he are awaiting word from the city attorney in San Antonio which has not been received.

I handed him this morning, however, a copy of the city council agenda for December 19 for the city council in the City of San Antonio which includes an item on the agenda which is a resolution to direct the Development Services Department to bring forward to the zoning commission their recommendation to this city council for consideration the change of zoning that this applicant requires to build the project for which it's been granted these credits.

We do know at least the city council of San Antonio thinks that they don't have the proper zoning now because they have on their agenda an issue to bring that up before the commission. Remember, the commission voted 11-0 against that zoning on October 1. I don't know what's going to happen next Thursday or what's going to happen when the zoning commission finally considers this zoning application, but we do know on November 30 of this year when the Heatherwilde application expired, according to this agency's rules, it did not have the zoning that's required.

What's our concern for the State of Texas is whether or not this $10 million in Tax Credits is going to go away, whether there's ever going to be a Heatherwilde project built. We don't know and we won't know until after the zoning board and after the city council votes on that whenever they get around to it. And in two weeks, as I understand it -- and you know this much better than I -- those credits will expire.

That's what I wanted to bring to the attention of this board. Appreciate the time, and if there are any questions, of course I'd be happy to answer them.

MR. JONES: Thank you, sir; appreciate it. Any questions?

(No response.)

MR. JONES: Thank you.

MR. FOSTER: Thank you.

MR. JONES: Ms. Bast?

MS. BAST: I'd like to speak at the agenda item, please.

MR. JONES: And which agenda item would that be?

MS. BAST: 4(a).

MR. JONES: 4(a) Thank you.

Is there anyone else that would like to speak to the board? Those are all the witness affirmation forms I have. Yes, sir?

MR. KAHN (audience): I turned one in to the secretary but I'd like to speak on 4(c) please.

MR. JONES: Okay. Do you know where that might be? Oh, sorry, I found it. Thank you.

Is there another one? Yes, sir?

MR. BOWLING: I would like to speak on 4(c) also.

MR. JONES: Okay. Anybody else that would like to speak to the board? Anybody else? Going, going, gone. Okay, I will then close the opportunity for public comment, and we will have three people speak to us as their agenda item comes up.

With that, we will then turn to Item 2 on the agenda. Ms. Carrington?

MS. CARRINGTON: Thank you, Mr. Chairman. Item 2 is a discussion that's a presentation from the Community Affairs Division; it's a quarterly presentation that we started doing to the board on the activities in our Community Affairs Division, and that will be presented to you this morning by Eddie Fariss.

MR. FARRIS: Good morning, Chairman Jones and the board. I'm Eddie Fariss, division director of the Community Affairs Division.

In September I spoke to you about the programs of the Community Affairs Division; we went through all of the programs in some detail. This morning I'd like to just talk briefly about performance as reported through November for the division, and then I would like to establish sort of a pattern of how I make these presentations, and that is to focus on one particular program in the division and talk in a little bit more detail about that. So after I talk about the performance of the division this morning, I'd like to talk about the Emergency Nutrition/Temporary Emergency Relief Program.

On a monthly basis we prepare for executives' information something called an Executive Brief, and in doing that we identify each of the strategies and outputs that we report to the Legislative Budget Board on our activities, and in the Community Affairs Division there are five outputs, three for the Community Services Section and two for the Energy Assistance Section.

For the Community Services Section, those address: number of persons assisted through homeless and poverty-related funds; number of persons assisted to achieve incomes above the poverty level; and number of shelters assisted. Through the end of October we have assisted 78,000 persons which is 19 percent of our plan, so for two months that's about 16 percent, so we're right on target with that.

The number of persons assisted to achieve incomes above the poverty level, reported through the end of October we have 501 which is 77 percent of our goal and I believe that occurred because occasionally certain programs will, however their programs end, they will have more people in the pipeline that they have gotten jobs, worked with to achieve higher income, and then they have to track those people for 90 days before they report that, so often that number will not exactly fit the 16 percent for two months. So we're ahead of schedule for that one.

The number of shelters assisted also is above what our goal was, 120 percent. When we plan on the amount of money that we'll have in the Emergency Shelter

Grant Program, we're doing that two or three years before we even know if we're going to have money in that program, so we try to plan conservatively for that in case of loss of funding. We did provide funding to 72 shelters which was 120 percent of what we had planned for. And prior to today's board meeting I did open our annual Emergency Shelter Grant application training workshop which is occurring today at the Thompson Center.

For the Energy Assistance Section, the two output measures are: number of households that receive assistance for heating and cooling expenses, and that's under the Comprehensive Energy Assistance Program; and number of dwelling units weatherized by the department under the Weatherization Assistance Program which actually is a combination of three different programs: Department of Energy Weatherization, System Benefit Fund Weatherization, and Industrial-owned Utility Weatherization programs.

The number of households assisted through October, 12,873 for 27 percent of our planned goal; and the number of dwelling units weatherized by the department, 724 for 14 percent of our target. More importantly, I think, though, and good news is that according to the latest figures that we have with the

System Benefit Fund which was delayed in starting -- we didn't start that contract until January and then there was additional delay due to administrative support in that grant -- as of about two weeks ago we had $7-1/2 million that we provided under contract for that program, $7.1 million was for direct services and $358,000 for admin, we had spent $6.5 million or that, or 87.8 percent, and we're still receiving final reports, so we expect to come very close to expending that money.

2,442 households were weatherized and 1,941 energy efficient refrigerators were installed, so we now have contracts in place for the 2003 System Benefit Fund and well on our way to providing assistance under that program.

Now I'd like to talk a little bit out the Emergency Nutrition/Temporary Emergency Relief Program, and I chose this program to talk about today because although it's one of the smaller programs in the Community Affairs Division, the department ha requested $6 million to fund that program in our legislative appropriation request, $3 million for each year of the biennium, and the department chose to put that as its top priority.

This program is the only state-funded emergency assistance program. The 68th Texas Legislature created

ENTERP in 1983 to assist counties by providing state funds to match local and federal funds to provide emergency assistance to low income and homeless persons. ENTERP was implemented in 1984 and was originally administered by the Texas Department of Human Services; in 1992 the legislature moved that program to the Department of Housing and Community Affairs.

As I said, it's the only state-funded program dedicated to providing emergency assistance such as food, shelter, clothing, healthcare, utility payments for low income and homeless persons. It was originally funded with General Revenue funds which was a very flexible fund and could provide all of those types of assistance; however, about two years before it was transferred to the Department of Housing and Community Affairs, the majority of funding provided in that program came from the Oil Overcharge funds which were restricted to energy-related assistance. So because of that increase in Oil Overcharge funds and the consequent reduction in General Revenue funds, the program became more focused and less flexible because of the amount of funding we had under Oil Overcharge, we had to focus on energy-related assistance.

However, between 1993, the first year we ran that program, and FY 2000, we obligated $22,881,000 and assisted 684,849 persons. During that period of time we averaged approximately $2 million per year and 80,000 persons annually.

According to the ENTERP rules, funds were to be allocated to each county by formula based on the poverty figures in that county and the unemployment figures in that county, and no county could receive less than $1,000 from each funding source or a total of $2,000 while the program was funded from General Revenue and Oil Overcharge.

The funds were offered to each county on a first right of refusal to the county commissioners. They could choose to administer that program or they could designate a non-profit in the area to administer the program for them, and because there was a match requirement, many rural counties and some urban counties chose to designate non-profits in their area. We typically would run 90 contracts covering all 254 counties. A large number of those contracts were with community action agencies who administered the ENTERP program for county commissioners courts in several different counties.

By Fiscal Year 2000, no new Oil Overcharge funds were available; the state legislature obligated a total of $712,000 in General Revenue, and that was to run a two-year program. They also granted us unexpended balance authority for those two years which allowed us to spend an additional $500,000 in FY 2000 and $117,000 in 2001 which finished the Oil Overcharge funding.

In FY 2002 and '03, we again got only General Revenue funds a total of $753,000 to run a statewide program, and with each county getting $1- or $2,000, we didn't think that that was feasible for us to administer or useful for them. So at that point we began using those funds on an as-needed basis to address manmade or natural disasters.

In FY 2002 we obligated all $355,000 of that and spent all that money -- floods, tornadoes, hailstorms; beginning with 2003 we have five requests for assistance that are in the pipeline to execute contracts. But what we're asking once again from the legislature -- I know that this will be a difficult decision for them as they sort through budge shortfalls -- but we would ask for, again, $6 million, $3 million for each year of the biennium, to restore funding to this important Emergency Assistance Program which provides funding directly to county judges to assist needy persons in their county.

Do you have any questions?

MS. ANDERSON: I've got a question. Can you characterize for me which counties chose to administer this program as part of county government versus which ones were more likely to pick a community action group?

MR. FARISS: It was about a third of the counties. When I say we had about 90 contracts, about 30 of those contracts were directly with counties.

MS. ANDERSON: Did they tend to be the bigger counties?

MR. FARISS: They tended to be the larger counties. The other 60 contracts tended to be half community action agencies and half other private, non-profit organizations.

Any other questions? Thank you very much.

MR. JONES: Thank you so much; we appreciate it.

We will then turn to Item 3 on the agenda. Mr. Conine, or do you want to let Ms. Carrington take care of this?

MR. CONINE: Let Ms. Carrington do it.

MR. JONES: We will let Ms. Carrington take care of this.

MS. CARRINGTON: Thank you, Mr. Conine.

Item 3(a) is the approval of a rehab loan in the amount of $852,240 to be made to the Cameron Apartments; it's under our Multifamily Housing Preservation Incentives Program and is behind Tab 3(a) in your book.

This is a 56-unit apartment complex; was built in two phases, it was built in 1980 and 1982. You will remember several months ago we did the junior lien program and of that program we have $10 million that we programmed for various activities; one of the activities that we did program funds for was preservation, and so what we will be doing is providing a rehab loan. It amounts to about $10,500 a unit in direct construction costs.

Right now the underwriting report indicates that the complex is about 79 percent occupied and extremely deteriorated. As part of the material that you have been provided, there is a writeup on the work that would be done to this complex, and staff is recommending that the board approves the award of $853,240.

MS. ANDERSON: I move approval.

MR. JONES: We have a motion. Is it seconded?

MR. CONINE: Second.

MR. JONES: We have a motion that's been made and seconded for approval. Any discussion, questions or comments? Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, nay?

(No response.)

MR. JONES: Motion carries. Item 3(b).

MS. CARRINGTON: Thank you, Mr. Chairman. Item 3(b) is the request for a refunding of a previous 501(c)(3) bond issue that was conducted by the department in 1996.

This is a portfolio of nine properties. If you'll look behind Tab 1, it's called the Asmara Project; it's a National Housing Partnerships -- NHP Foundation is the current owner of these nine properties. They range in age from being built in 1970 to 1985; it's a total of 1,635 units. And if you will look in your board book behind Tab 1 and then behind page 8 of the summary that staff has prepared, there's a Finance Committee and Board Approval Memorandum -- which is an eight-page document -- and then right behind that is a chart that staff has prepared where you can compare the 1996 transaction that was conducted by the board and the refunding bond transaction for 2002.

There were six public hearings that were held in areas where these properties are located; they're located in Dallas, Fort Worth, Houston, Arlington, six of them being in Dallas, the other three in Fort Worth, Arlington and Houston.

The chart does compare for you the date of issuance. The original bond issue was 1996; this one would be completed by the end of this year. The original bond amount was $27,560; this is $31,500. You can see on the interest rate one of the purposes of doing the transaction would be a substantial decrease, about 175 basis points in interest rate.

The transaction that was done by the department in 1996 did not have any credit enhancement; the transaction that will be done in 2002 at the end of this year does have credit enhancement by Freddie Mac. The bond rating in '96, the bonds that are currently outstanding right now, rated A; the refunding bonds would be AAA rated. Initially there as about $90,000 that was required annually by the bond documents to go into social services; as you can see with the refunding, there will be about $200,000 annually that will be required by the bond documents to go into social services, And there's an amount a little over $3 million that will also go into the rehabilitation of these nine properties.

And staff is recommending that the board does authorize the approval and the refunding of our 1996 bonds.

MR. CONINE: Mr. Chairman, I move for approval of Resolution Number 02-73 authorizing the refunding of these bonds.

MR. JONES: The motion has been made.

MS. ANDERSON: Second.

MR. JONES: A motion has been made, motion has been seconded. Questions, comments, discussion?

MS. ANDERSON: I have a question, Ms. Carrington. I read the public comments from the public hearings and there was a lot of concern about security in some of these units, and so I just wonder if there's been any discussion with this developer, you know, give us some sense as part of their rehab to address any of these through fencing or even address what sounded like sort of legitimate security concerns?

MS. CARRINGTON: Yes, there have been those discussions, Ms. Anderson, and we could either ask Robert Onion to come up, or I do so Ghebre Mehreteab, who represents the NHP foundation. Ghebre is in the audience.

MS. ANDERSON: Just briefly.

MS. CARRINGTON: They are the current owner and they will continue to be the owner of the NHP Foundation and continue to the owner of these properties after the refundings.

MR. MEHRETEAB: Good morning.

MR. JONES: Good morning, and if you would, sign a witness affirmation form after you speak. Delores will help you do that. Thank you.

MR. MEHRETEAB: First, I also would like to echo Chairman Jones's assessment of Executive Director Carrington. We have been working with this agency since 1996 -- actually 1995, and we are incredibly pleased with Ms. Carrington and also her staff.

In answer to your question, you're right, two of our properties -- one was Wellington and the other is Arbour -- what we have done, I was in Dallas four weeks ago and met with the Deputy Chief of Police Floyd Simpson, and what we have decided to do is we will spending about over $200,000 for security purposes for those two properties. What we plan to do is hire off-duty cops.

I also want to take this opportunity, if I may. We are incredibly happy about those projects. The agency, NHP Foundation would like to think this should set a model for a number of non-profit entities in this state and also in other parts of the country. This is our joy, we are very, very happy with our property. We continue to show it to other people and our hope is to work more and to expand our properties in this great state.

You may want to know why I call it Asmara. I am originally from Eritria, which is Africa which used to be part of Ethiopia; it's on the Red Sea. If you remember, the Secretary of Defense was just in Asmara. Asmara is the name of the capital city, and I was born there, so we ran out of names, I said why don't we name it after my city. Thank you for having us.

MR. JONES: Thank you for being here. I'm sure you've seen the transcripts of the public comment that Ms. Anderson just talked about, and I hope there were other concerns raised by your residents, and I hope that as you go through this process you can help address those concerns to make the shining jewel, as you just said. We particularly want it to be for the residents.

MR. MEHRETEAB: Although we have agreed to spend $200,000, I will assure you we will be spending more money than that because the need is much more than that. And because the nine properties were not built for low income families, they were market rate so they required a tremendous amount of rehab work. They are large units, very large landscape, but it is true, those two properties we have had some issues with the security and we are dealing with that. Thank you very much.

MR. JONES: Thank you. Any other questions, comments, discussion on the motion. Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: The motion carries.

We now will turn to Item 4 on the agenda, 4(a) Ms. Carrington.

MS. CARRINGTON: Thank you very much, Mr. Chairman. Item 4(a) is discussion and approval of the 2003 Underwriting, Market Analysis, Appraisal and Environmental Site Assessment Rules and Guidelines.

You will remember that this document followed the process with our Qualified Allocation Plan through our Tax Credit public hearings and considerations in the fall. We had a variety of industry meetings last summer that were sponsored by the department, industry meetings with lenders, with syndicators, with market analysts, gathering their input. This is the four pages that we took out of the QAP and now made 18 pages. I think Mr. Gouris has taken enough abuse about that, so I promise I won't say that anymore, although I do think we have a very good document that, as I've said before, we're going to use on many of the agency programs which is one of the reasons we wanted to get it out of the QAP because it is going to apply to the HOME Program, the Trust Fund, other funding sources at the department.

We tabled this at the request of a board member in November. It has been out for public comment, we have received comments, and those comments are included in information that you have in front of you today.

MR. JONES: While we're on public comment, we have one other person that would like to comment, so would this be an appropriate time?

MS. CARRINGTON: Yes, it would.

MR. JONES: Ms. Bast? I hope I said your name right; if I didn't just come up here and hit me with this hammer.

MS. BAST: Good morning. I'm Cynthia Bast of Locke, Lidell and Sapp, and I have cedar fever and I apologize.

I'm here today representing four development companies that are experienced and respected developers in the Tax Credit industry who have previously provided comment on the underwriting guidelines in public testimony on September 12 and in a memorandum to Tom Gouris. We sincerely appreciate the consideration that has been given to the public comment and have reviewed the revisions proposed. We seek your assistance in addressing one remaining important issue.

As noted in Mr. Gouris's memo, the department received much comment on the manner in which identity of interest transactions are analyzed, and most of those who commented opposed the department's position on this issue. The unanimity of opposition should give the board some indication that there is a legitimate concern here.

The department requires an applicant to submit an appraisal from a department-approved appraiser containing three universally recognized methods of valuation to support the acquisition price for the property, yet the underwriting staff can ignore those three valuations and substitute its own valuation for the acquisition price. To disregard the independent information required by the department is replacing objectivity with subjectivity in an environment where the department is otherwise striving for objectivity.

The department's current position is that the underwriting staff can employ a unique calculation to reduce the acquisition cost below the appraised value. This calculation is based on the original acquisition cost for the property plus any holding costs. Any reduction of the acquisition cost can, of course, affect the amount of financing available for the project.

The use of holding costs as a measure of real estate valuation can be problematic; it can lead to odd results. And if I may, I'd like to give you an example. Assume a developer acquired two properties in the same city at the same price; one is a property dedicated to seniors and the other is a property dedicated to families. The tenants in the senior property have kept up their units, it's in good shape; the family property has experienced more wear and tear and needs more capital expenditures over the years. But using a holding cost valuation, the family property would actually be valued higher than the seniors property that has had less capital expenditure.

The items included and excluded from the definition of holding costs are also problematic. If a property owner makes certain capital improvements to the property during its ownership that are treated as expenses, the owner's return from operations are decreased. Then if the owner wants to include those capital improvements in the definition of holding costs upon the sale and refinancing of the property, it is prohibited from doing so. This cuts into the owner's return from the property a second time and essentially double counts the cost against the owner.

The department claims that it maintains the authority to reduce the acquisition cost below the appraised value using this unique calculation in order to prevent owners from extracting equity from a development. This is punitive to property owners and provides a disincentive for preserving and maintaining the affordability of existing housing stock.

If a property owner refinances and rehabilitates an existing affordable housing property under the Tax Credit Program, the Internal Revenue Code already limits the back-end equity that the owner can receive under the related party rules. Under the department's policy, the property owner's opportunity to earn a profit on its long-term ownership of the property is limited on the front-end and on the back-end. It is limited when the property owner transfers the property to the related party and it is limited again when the related party transfers the property at the end of the Tax Credit compliance period. Essentially, a property owner can never receive a fair market value of its equity.

We recommend that the department use an appraised value in identity of interest transactions rather than a unique calculation that can be flawed by subjectivity. If the department believes that it absolutely must be able to disregard the appraised value in certain circumstances, then we recommend a different calculation be used. For instance, the calculation could be a flat rate of return on investment that the department deems appropriate.

We appreciate your consideration on this point and hope the board will recommend an appropriate revision to the underwriting guidelines. Thank you very much.

MR. JONES: Thank you so much.

Ms. Carrington?

MS. CARRINGTON: What I would like to lay out and what you have in front of you is the first section going up through page 16 were substantive comments that we received on the underwriting appraisal, et cetera guidelines, the comments that we received from the public and the department's response. Beginning on page 16 we had requests for clarification which we have outlined for you, and then at the end we have minor technical changes for consistency.

And I guess with that, I would like to ask the board how you all would like to proceed through this document. We can go through it -- Mr. Gouris and I can go through it item by item, if you're interested in us doing that; if there are items that you have particular interest in, we can address those.

MR. JONES: I would kind of suggest that at this point we turn it over to the board members and let them ask questions, unless another board member has a better way.

MS. ANDERSON: Is there a motion on the floor?

MR. JONES: There is not a motion yet; there is no motion on the floor.

MR. CONINE: I'm going to move adoption of these guidelines.

MAYOR SALINAS: Second.

MR. JONES: We have a motion to adopt that's been seconded, and now we go to discussion, and again, whatever the board's pleasure or suggestion would be, that board members kind of start directing the attention of our discussion at this point.

MR. CONINE: Can we get some comments from Mr. Gouris related to Ms. Bast's testimony?

MR. JONES: We certainly can.

MS. CARRINGTON: For the board's information, the item that Ms. Bast is talking about is on page 9 of 40, Section 1.32(e)(1)(B), Identity of Interest Acquisitions.

MR. GOURIS: Tom Gouris, director of Underwriting for the department.

We did work long and hard at trying to find solutions and compromise to the issues that were addressed in the underwriting guidelines. This was one issue that we weren't able to come to a solution during the time that we had to work through it. I think subsequent to the release of this draft, we had talked about some other alternative possibilities. Some of those are worth going through; the flat rate of return is something that's probably worth going through -- that was the last comment that Ms. Bast made.

But before we get to that, some of the issues that she brought up suggesting that our calculation is based on our own unique calculation. It's unique, I think, to the State of Texas but it's really based on what the applicant is telling us their costs are, and what we are trying to do and I think what we tried to reiterate is to ensure that value doesn't escape the transaction, especially when we need as much funding into these transactions as possible. We're trying to make sure that we can bring the affordability level down as far as we can and I think a lot of our policies and procedures require us to look at ways where profit is able to escape and profit is limited in our guideline -- developer profit and contractor profit are explicitly limited.

MR. JONES: Is the microphone on? And I apologize to everybody. I know that sometimes we have problems with the sound system

MS. CARRINGTON: It seems to be.

MR. JONES: Is it on?

MR. GOURIS: I think it's on.

MS. CARRINGTON: Tom, can you maybe direct your mic up just a little bit?

MR. JONES: I tell you what, you might want to kind of turn yourself kind of halfway. I know you're talking to the board but you're also talking to everybody.

MR. GOURIS: Sure.

MR. JONES: And I apologize.

MR. GOURIS: That's okay.

I think what we are trying to get accomplished is to ensure that as much of the funds that are available to the property reside in the property, stay with the property, so they can continue to provide an affordability level.

I think we tried to make as many concessions on this point as possible by allowing the applicant to give us as much documentation as they can to substantiate holding costs and include whatever holding costs that they might have, including exit costs, which has been a big issue especially on the rural rental developments. We don't want to prevent preservation from occurring and we don't want to prevent development from occurring, but what we do want is to ensure that we are able to utilize as many of the available funds for the development itself, for the construction and for the affordability period of the development. That's what our thinking is on it.

MR. JONES: If I could interrupt our discussion for just a moment. I'm about to break my own rule here and I want to tell the board why I'm doing this. The way we handle public comment is we give an opportunity at the beginning of our meetings for public comment, we then also give an opportunity when an agenda item comes up. Our recommendations from our staff are made in writing, they're on our website; we allow the staff to make that recommendation known to the public and then we allow public comment again.

It is the practice of this chair not to allow public comment after that time once the board has made motions and started debating an issue because I do not think it's appropriate to intervene public comment into the board's own debate. However, in this instance I'm going to go ahead and do it and allow Mr. Littlejohn to give public comment.

But I would like to say this just for everybody's benefit in the future, it helps us if you'll go ahead and give us your witness affirmation form at the time we ask for public comment. These meetings are going very long and we have to plan them. There are instances where we need to know how much time is going to be taken by various matters, and board members do have schedules. So because of that, I really would ask everybody that when we have the time at the beginning of our meeting for public comment that you give us your witness affirmation form.

Now with that out of the way, Mr. Littlejohn -- I'm going to break my own rules -- please give us your comment.

MR. LITTLEJOHN: Thank you for your consideration. I was running a little late; we had to finish up a carryover for the department and we just finished it.

My name is George Littlejohn; I'm with Novogradac & Company; we're a national CPA firm that specializes in Section 42. I am here because I've had the privilege of serving on the underwriting roundtable with Mr. Gouris and to provide public comment in the past, and this is an issue that affects many of my clients.

The two things I want to bring out today is I believe the current underwriting guideline for identity of interest acquisition is: one, inconsistent with other underwriting guidelines; and two, it is inconsistent with both the IRS and other state housing credit agencies in the way they treat this issue.

First, the big issue here is we want to make sure -- or at least my understanding of the purpose for this guideline is to ensure that related party transactions do not gain any advantage over transactions that would be unrelated. We treat this consistently throughout the underwriting guidelines in the QAP: related party developer fee, you cannot earn more developer fee than an unrelated developer. That is consistent.

Second, related party general contractor cannot earn more fee than a non-related general contractor. And in fact, as we perform cost search, when we have a related party contractor, we actually have to go under, look at the real invoices, the subcontractor invoices, and determine the actual profit and overhead of that contractor as opposed to what appears on the construction statements, and we have to make sure that that is limited by that approach.

Here are we doing that and now we're inconsistent. We are treating an identity of interest land transfer as an issue in which it is unlike an unrelated transaction. An unrelated land transfer would typically occur at market value; we're saying with this guideline we don't care about market value other than it limits how high it can go, we're going to look at other factors.

Second, in the memo that you're seeing, Mr. Gouris indicates that in his example that there's a transaction that actually maybe had a $300,000 land profit and this is not limited by the developer fee or the contractor fee limitation. He is absolutely correct. That's because the sale of land is not part of what you do to earn your developer fee, it's not what you do to earn your contractor fee, it's a separate transaction. And our goal should be to ensure that it occurs at a rate that is not advantageous for the related party, that it is a market value transaction.

Second, as Ms. Bast stated, the IRS guidelines are very clear on identity of interest transactions, they want them to be arm's length transactions which they define as the result would be the same as if there was no related party -- in other words, market value.

Second, I can't speak for all 49 other state housing credit agencies, but I did an informal poll with principals and partners in our national offices, and I asked a question is there any other state that underwrites related party transactions this way, and nobody could come up with one. There may be a state that does this; I am unaware, and my belief is that most states use some type of third party or market value approach.

In concluding, as we have just completed a reorganization and as the party is trying to maximize the use of its full-time equivalents or FTEs, I believe this is a problem that we already have safeguards against, that the IRS guidelines protect us against, and that our efforts in our Underwriting Department will be better served on other issues. Thank you.

MR. JONES: The bad thing about broken rules is you have to keep doing it. Ms. Flores? The board is going to kill me; there will be an execution.

(General laughter.)

MS. FLORES: Good morning. My name is Nicole Flores, and I'm here today representing myself as president of Madhouse Development Services. I also honored to be a member of the subcommittee that looked at underwriting rules and I want to commend the department and the underwriting staff for the amount of time that was committed to that process. I think it was a very worthwhile discussion and it was a very all-inclusive group that included representation from across the industry.

I have to echo the very fine comments made by Ms. Bast and Mr. Littlejohn. I think they've done an excellent job of describing the issue that is near and dear to my heart in these underwriting rules which is the identity of interest land transfer.

I just want to add to that some anecdotal comments. I represent a small fledgling non-profit American Sunrise. They basically have very little capital but they represent an impoverished area in San Antonio and they had interest in submitting some Tax Credit deals. They planned to do that by working with landowners to share ownership so that they didn't have to expend the earnest money and some of the other costs involved in that transaction.

When I explained to them the identity of interest land transfer issue, they recognized that they might have a potential problem because these landowners were sellers that had held this land for 10 to 20 years in some cases, and of course when we went back and met with the land sellers and described for them the process that would be used to valuate their land for an identity of interest transfer under a Tax Credit application, they indicated to us that they simply could not abide by getting reimbursed for the costs in that land that were 20 years old that did not reflect current market value for the land. So this non-profit will not be submitting Tax Credit applications this year, unfortunately, because of that scenario.

I also wanted to bring forth to you, I've been asked several times when I have indicated that in previous applications in previous years before this department this rule was not enforced and was not a previous underwriting standard. I was told that was not the case. I did review previous deals from years before and I would state for the record that TDHCA Low Income Project Number 97058, Yeager Lane Apartments, was valuated just as the industry has recommended which is via a third party appraisal where a portion of the land with an identity of interest was valued by an analyst, and the third party analysis of the land valuation via that third party was what was adopted for the sale price. Also, TDHCA Project Number 95006 was also valued that way.

So in terms of historical anecdotal evidence in terms of these land transfers and how they can be valued differently, I just want to echo the comments by Ms. Bast and Mr. Littlejohn and say that I also take exception to that rule. Thank you.

MR. JONES: Thank you. Excuse me for the interruption, and now we will go back to discussion of the motion.

MS. ANDERSON: Can we hear maybe from Mr. Gouris what the additional public comment received, if he has any additional comments he wants to make to us as a result of that?

MR. GOURIS: I think that the department has in the past utilized different methodologies for determining this, and back in '97 that may have been the case. I know in the past three years, at least, we've been trying to ensure that we could see as much funds stay in the property and the project as possible.

Our mission is to build affordable housing, provide funding for affordable housing, it's not develop land, not to see land get turned over.

MR. CONINE: Can we bifurcate this discussion into land and an income property transaction, because I think the two are totally different. Let's talk about land for just a minute. If it goes in at a carried cost number -- which you're advocating -- versus an appraised value number, in preserving the resources, as you call it, what resources would be used up because of the difference between the carried cost and the appraised value?

MR. GOURIS: In a land transaction the only time this would ever affect the transaction is if it affected gap, if the price of the land was so much that it allowed -- it created an extra need for funds for the development. In the case where that extra need is going to be covered by the deferral of developer fee, it wouldn't affect the Tax Credits either way. It's only going to affect the Tax Credits --

MR. CONINE: So you could have the use of, say, HOME funds. If they needed a HOME fund piece on the higher land cost transaction; they might not need the HOME fund piece if they had carried cost transactions. Is that correct?

MR. GOURIS: Exactly.

MR. CONINE: But since land is outside the Tax Credit basis anyway --

MR. GOURIS: The only time it will affect the Tax Credit transaction is if we're using a gap-based analysis to determine the credits.

MR. CONINE: So why not write the rules of the game to kick in, if you will, or to roll back to a calculated cost basis if other federal sources, federal or state sources of funds are needed in order to fill the gap?

MR. GOURIS: Well, I think that's what effectively happens. They provide what they think the appropriate acquisition cost is and they're required to provide the other documentation, and we do an analysis to see if it matters, to see if with the documentation they provided if that provides enough of a difference.

MR. CONINE: If it's just debt and Tax Credit equity, it doesn't make any difference; if it still works, it still works, as far as you're concerned on the land transaction. Is that correct? But if it's just standard construction debt or permanent debt and syndication of Tax Credits that are out there, it really doesn't affect the amount of Tax Credits, from my perspective, if the land value is X or Y. Correct? I guess the debt would be affected, the debt piece would.

MR. GOURIS: Again, it does. If they're a million dollars in debt and $500,000 in syndication proceeds from the Tax Credits and that's the only sources of funds that they have, and it turns out with the higher sales price --

MR. CONINE: Higher basis in the land.

MR. GOURIS: -- that they have a million six in total cost, but without it they have a million four in total cost, well, at a million four they still have the million dollars in debt, they don't need $500,000 in syndication proceeds, they'd need $400,000 in syndication proceeds. So we'd reduce their syndication, we'd reduce the credit amount accordingly so that they wouldn't be able to receive more than what they would actually need. That's how we'd be preserving the credit.

And it's the same thing for if there are HOME funds or another sources of funds. The reason why it's in here the way it is is so that it can apply to all the programs uniformly.

MR. CONINE: Well, I see your point but it sure is a hard way to get there.

Ms. Carrington, could you share with us your thoughts on the subject matter just from your experience, please? Not to put you on the spot or anything.

(General laughter.)

MR. JONES: Boy, she's so glad you asked that.

MS. CARRINGTON: I'm so glad you asked. Staff acknowledges that all of the comment that we received on this calculation was or is opposed to what we are proposing to the board today, and we absolutely say that in our material that we're presenting to you.

Tom and I have spent a lot of time talking about this over the last couple of months and he even explained it to me so that I could explain it, and we recognize we're going against the industry. I do believe that this is a way that allows us to preserve or save some of the credits, spread the credits out, not pay for additional equity, and so I am supporting -- I mean, this is staff's recommendation.

MR. CONINE: Tom, do you see a case where, as Ms. Bast used, where you have disparity -- I'm going to income property stuff now -- where you have a family and a seniors and you can have higher on one side than the other, is there a case to be made on the income property side only for the lesser of carried cost in a project or appraised value?

MR. GOURIS: If I heard your question

correctly, is there a case for --

MR. CONINE: Is that what we're doing here?

MR. GOURIS: [Inaudible].

MR. CONINE: So if you had identity of interest and you show up with more carried cost than your appraisal is on an as-is basis on a project that they want to rehab, you're saying that you use the appraised value versus the carried cost in your underwriting guidelines?

MR. GOURIS: Yes, effectively that's why we request the appraisal. I wouldn't imagine that that would ever occur, but it could occur.

MR. CONINE: Some of these rundown old projects, I think it would.

MR. GOURIS: You're right, it could.

MR. CONINE: I think it would probably more often than not. I guess my question is is there flexibility in these guidelines to take the lesser of the two or do you have to stick with your carried cost scenario?

MR. GOURIS: Well, we definitely want to identify that because what we'd be doing then is not making the owner whole and he'd have little if any interest in doing the restructure if he's made whole, and that's why I don't think it would occur. It's likely to occur in the real world as a possibility but whether it would come to us for funding would be probably less likely because they wouldn't be being made whole, they would be trying to find another way to be made whole. And that's what we're trying to do is make them whole, just not let them take equity out of the property.

MR. CONINE: No more questions.

MR. JONES: We have a motion on the floor that's been made and seconded. Any further discussion or question for Mr. Gouris or Ms. Carrington or anyone else? Hearing none, I assume we're ready to vote. Is that true? All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed to the motion, please say nay.

(No response.)

MR. JONES: The motion carries. And at this time we'll take a five-minute break.

(Whereupon, a brief recess was taken.)

MR. JONES: We will get back started, and Ms. Carrington, I believe we're on 4(b).

MS. CARRINGTON: Thank you, Mr. Chairman. Item 4(b), this is an award of an additional $13,000 in project funds from the HOME Program to fund two owner-occupied rehabilitation projects which exceeded the original contract amount, and in our HOME Program, if an amendment is more than 25 percent of the original budget, then board action is required. And actually, the revised contract amount instead of being $54,500 would be $54,600, and this is for two units, owner-occupied, and the reason for the additional funds was lead-based paint inspection/removal and repair, so it was some unanticipated expenses related to these two HOME awards, and staff is recommending that the board approve this additional $13,000 in project funds.

MR. CONINE: Move for approval.

MR. GONZALEZ: Second.

MR. JONES: A motion has been made and seconded. Questions, discussion? Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: Motion carries. We would then move to Item 4(c), and we have two people who would like to give public comment. Mr. Kahn?

MR. KAHN: Chairman Jones, members of the board. My name is Barry Kahn. First of all, I'd like to say I never had any doubts that Ms. Carrington would lead the department through Sunset very successfully.

MR. JONES: That's easy to say now.

(General laughter.)

MR. KAHN: I think she would even say I was an advocate early on; I've had the pleasure of knowing her for 7-1/2 years and only have outstanding comments to say about her.

Anyhow, I'd like to make a quick comment on the regional allocation, and what my concern is I fully understand and agree that Tax Credits should be spread around the state and that the big cities are getting perhaps a disproportionate share.

However, the calculation that's being used includes the full amount of the bond dollars. There is not a benefit for the full amount of the bond dollars, there's a benefit for the fractional amount, and if we look into the benefits each of the regions are getting, I'd just like to raise the issue that instead of taking 100 percent of the full amount of the bond dollars, that perhaps there's only a benefit in the 20 to 25 percent range of the face amount of the bond dollars, and that this issue be revisited and looked at so it is applied on a more equitable basis.

Thank you.

MR. JONES: Thank you, sir.

Mr. Bowling?

MR. BOWLING: Thank you, Mr. Chairman, members of the board. I am Bobby Bowling, a builder-developer from El Paso and I'd like to speak in favor of keeping the Regional Allocation Formula exactly as presented by staff.

I've submitted two letters in writing, actually one from me and I met with my State Senator Eliot Shapleigh, and I'd like to read from the body of those two letters real briefly just to summarize my comments.

"I've met extensively with my State Senator Eliot Shapleigh and have walked him through your methodology and rationale for putting the formula together. He's particularly interested in the development of this formula because he was the author of the governing legislation from the 76th Legislature, Senate Bill 1112.

"In a meeting with Senator Shapleigh I explained to him what you well know, that the 4 percent LIHTC program, or any other mortgage bond program on the market, cannot be used in El Paso and other border communities due to the fact that our income levels are so low. The 9 percent LIHTC program is really the only viable and financially feasible funding source for providing substantial affordable rental housing along the border.

"I mention all of this because I understand that you may be receiving some pressure to adjust the formula at this board meeting. I urge you and the department to be sensitive to the problems of the border and leave the Regional Allocation Formula in its present form."

And then real briefly I'd like to read from the letter that Senator Shapleigh has presented to staff and then again submit that to the board today.

"As the author of Senate Bill 1112 from the 76th Legislature, I want to commend you for your proposed 2003 Regional Allocation Formula. When I drafted the governing legislation for this formula, I envisioned a system that would take into account several factors in the distribution of funds from your department, specifically funds form the Low Income Housing Tax Credit Program, your department's largest source of funding for affordable housing.

"Providing for affordable housing in strategic investment areas in the state presents several unique challenges. The low income levels cause rents to be as much as 50 percent below rents in the larger, more affluent metroplexes in our state. However, construction costs are the same, if not more, in strategic investment areas due to geographic isolation and increased shipping costs for construction materials. Hence, it is virtually impossible to develop affordable rental housing along the border without a significant subsidy as is provided in the 9 percent LIHTC Program.

"Your formula in its present form takes into account all of these various factors and additionally acknowledges that in SIAs there is no conventional means of funding available to meet these needs. I urge you to keep the Regional Allocation Formula and continue to work on solving the affordable housing issues.

"The department has made great strides in the past three years in balancing the needs of affordable housing throughout the state. This year's version not only helps ensure the border communities continue to see a fair share of your LIHTC funds, but also is another step toward fulfilling the Sunset Committee's requirements."

Then in closing, I'd just like to bring to your attention Senator Shapleigh's office also completed a recent study that shows in El Paso County alone we have 86,000 people living in colonia conditions. I know that most of you have taken the opportunity to visit some of these areas in the past and you've held board meetings there in the last few years. There's really no way we could show you every colonia in the county in El Paso, but realize the only alternative to 9 percent Low Income Housing Tax Credits in El Paso County are cardboard shacks and scrap material buildings out in unincorporated areas in our county. So I again urge you to take a close look at this.

And one final comment is I've also met with Dr. Roth -- and Chairman Jones, if you'll remember, he's our renowned economist from our community in El Paso at UTEP -- and he's very pleased also with the Regional Allocation Formula. I don't have any comments from him, but I read the comments from the Sunset Committee and had a discussion with him about that; he's extremely pleased. The number I heard him say was you've completed 86 percent of the tasks at hand from the Sunset Committee as originally submitted to you. I believe this is in keeping with those original tasks, and again, I'd like to urge you to keep the RAF formula in its original form. Thank you.

MR. JONES: Thank you, sir.

MR. BOWLING: Unless there's any questions?

MR. JONES: Questions? Thank you, sir;

appreciate it.

Ms. Carrington?

MS. CARRINGTON: Thank you, Mr. Chairman. I'd like the board to look first at Agenda Items 4(c), (d), (e), (f) and (g) -- we will take individually.

MR. CONINE: Don't we need to vote on (b).

MR. JONES: We already voted on (b).

MR. CONINE: We just did?

MR. JONES: Did we not?

MS. CARRINGTON: Yes, you did.

MR. JONES: I believe we voted on (b).

MR. CONINE: Where was I?

MR. JONES: Voting aye.

MR. CONINE: Public comment on something we've already voted on.

MR. JONES: I think we're on (c).

MR. CONINE: Excuse me, (c). I'm sorry.

MR. JONES: I think we're on (c).

MS. CARRINGTON: We're on (c).

MR. CONINE: I meant to say (c). We haven't voted on (c)?

MR. JONES: We have not voted on (c).

MS. CARRINGTON: No, sir, we have not.

MR. CONINE: I thought Ms. Carrington was running way on down the street here.

MS. CARRINGTON: No. I was trying to put in in context as to how they all relate to one another; (c), (d), (e), (f) and (g) are all related items. We will take them one item at a time, and each one of them will have a presentation; however, all of these items went through the same public hearing process.

We had five general public hearings in October on the Regional Allocation Formula; the Affordable Housing Needs Score; the State of Texas Low Income Housing Plan and Annual Report; the State of Texas Consolidated Plan and One Year Action Plan; and our TDHCA Integrated Housing Policy that you heard Jonas mention this morning. And then in November we actually had six more public hearings that had drafts of these documents.

Items (c) and (d), Item (c), as previously mentioned by Bobby Bowling, was required in Senate Bill 1112, sponsored by Shapleigh, which does require the department to allocate all of its funds on a regional allocation basis.

As you all know, that's been eleven services regions; beginning next year it will be thirteen services regions. Item (d) -- which we'll be talking about in just a minute -- was really at the initiative of the department and it is our effort to further identify and drive down our funding to cities and counties within our Regional Allocation Formula to serve those areas in greatest need.

So all of these items that you're going to be considering have gone through the same public hearing process; at a series of public hearings, we talked about all of these documents. So with that said, I would like to go ahead, Item 4(c) which is the Regional Allocation Formula.

This does comply with our Sunset legislation and is really, we believe, one of the most visible and public activities that the department has conducted that has been done to ensure openness and to comply with Sunset. What we've done is develop a formula that has four needs factors and they are: severe housing cost burden, and we allocate 30 percent of the weight to that; substandard and dilapidated housing stock, 5 percent of the weight; winter overcrowding, 15 percent of the weight; and then poverty is 50 percent of the weight. And we do have separate needs indicators for the Housing Trust Fund and the Tax Credit Program, and then a little bit different for the HOME Program.

Over on the second page of this, one of the things that we have started doing is considering other funding sources also, so we look at those four needs indicators with the percentages, but then we are also considering other funding as we determine how much of an allocation for a particular program will go into a particular geographic area. And those other funding sources that we considered are listed on the second page of this document, and you'll see Tax Credit Housing Trust Fund and the programs under the HOME Program also.

I think it's important to note the changes from the 2002 Regional Allocation Formula and that is: one I've already mentioned, that we will go from eleven service regions to thirteen service regions per the comptroller; that we have modified the Affordable Housing Needs Indicator weights to more accurately reflect population size; we've included this calculation of other funding and we've identified that; and then we've also included two other types of HUD funding which is Housing for People with AIDS and Emergency Shelter grants.

The staff is recommending that the board do approve the Regional Allocation Formula methodology that you see in front of you, and in keeping with consistency, that the Tax Credit Program led the way in providing the board all of the comments from the public hearings, we have done that through all of these documents that you're going to be reviewing today. You've got a summary of the comments that were made at the public hearings and then staff's response to those comments.

MR. JONES: What's the board's pleasure? We're on Item 4(c).

MAYOR SALINAS: I move that we go ahead and take staff's recommendation.

MR. GONZALEZ: Second.

MR. JONES: We have a motion that's been made for approval of staff's recommendation, it's been made and seconded -- it was made by the Mayor and Mr. Gonzalez seconded. Further discussion? Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: Motion carries. 4(d), Ms. Carrington.

MS. CARRINGTON: Thank you. 4(d) is the approval of the 2003 Affordable Housing Needs Score, and this is indeed a policy document, policy priority for this agency, and as I mentioned earlier, it does allow us to drive down our funding sources into the cities and the counties that have the greatest need in the various service regions. It is not legislatively mandated; the department did take this one and is implementing this at our own initiative because we certainly recognize that all service areas are not the same in the way of need

In talking to Sarah Anderson about this yesterday, Sarah does tell me that Tennessee Housing Agency is using this and our allocation formula also as a model and they are looking at implementing such methodologies in Tennessee for the allocation of their funds, so I think that is something that our staff should be very pleased and proud of as we look at other states who might be modeling us.

In looking at this document, the applications will receive -- and that's applications for funding -- they'll receive an Affordable Housing Needs Score based on the following factors, and these are the four bullets that are in the middle of this page: their regional allocation factor; the percentage of county population; the census information; and then other TDHCA funding.

And I think with that, if there's any particular questions the board might have related to the development of our Affordable Housing Needs Score?

MR. CONINE: Could you refresh my memory on the needs score weighting, if you will, and our scoring criteria for the 9 percent Tax Credits?

MS. S. ANDERSON: Twenty points.

MS. CARRINGTON: Twenty points.

MR. CONINE: Total potential?

MS. S. ANDERSON: Out of 190 it was 20 points.

MR. CONINE: And the way this thing is going to work, the score of any particular community will be available all across the state now? We've already done the work and it's already out there?

MS. CARRINGTON: The draft certainly has been out there and then after the board approves it, yes, it will be available for those developers who are looking at submitting applications for '03.

MR. CONINE: Thanks.

MS. CARRINGTON: And Sarah and I have talked about this. I gather that it is being effective and that some developers are really looking to make their decisions of where they might go to develop a proposed 9 percent Tax Credit transaction based on what we are showing where the needs are. So I think that's the goal, that's what we want to do is put our funding -- have developers go to the areas that do have the greatest need.

MR. CONINE: Kind of makes sense, doesn't it.

MR. JONES: What's the board's pleasure?

MR. CONINE: Move for approval.

MR. JONES: We have a motion for approval by Mr. Conine. Is there a second?

MAYOR SALINAS: Second.

MR. JONES: Second by the Mayor. Further discussion, questions, comments? All in favor of the motion for approval, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: Motion carries.

At this point I have great news for the board. Ruth and Delores have prepared us lunch, and I thank them so much for that, we're looking forward to it, so we'll take a break for that lunch. For planning purposes for those of you in the gallery, we'll try to crank back up around 12:30.

(Whereupon, at 12:00 noon, the meeting was recessed, to reconvene this same day, Tuesday, December 17, 2002, at 12:30 p.m.)

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

(Time Noted: 12:45 p.m.)

MR. JONES: We will call the meeting back to order, and we will certainly thank Ruth and we will certainly thank Delores. We appreciate it so much; it was delicious.

MR. CONINE: Bravo.

MS. ANDERSON: Delicious.

(Applause.)

MR. JONES: We will turn our attention, I believe, to Item 4(e) on the agenda. Am I right, Ms. Carrington?

MS. CARRINGTON: That's correct, Chairman Jones, Item 4(e), and this is consideration and approval of the State of Texas Low Income Housing Plan and Annual Report.

This plan is called the SLIHP, and it's one of three comprehensive planning documents that's prepared by the department on an annual basis. There's four capacities that we use the SLIHP for: it serves to provide an overview of TDHCA housing and housing-related priorities; it outlines the statewide housing needs; it provides TDHCA program funding levels and performance measures; and then it reports on the department's activities during the preceding fiscal year.

This plan went through the same public hearing and public comment process that I described to you as we started the process, as we started talking about these items in Item Number 4, and in the middle of your page behind 4(e) is a summary of the proposed changes between the 2000 plan and the 2003 plan. One of the most notable changes is the bullet in the middle of the page which Jonas Schwartz mentioned earlier today, and this is $2 million that the department is allocating out of our HOME Program that will be used toward implementing the Olmstead Decision to de-institutionalize individuals with disabilities.

We also are expanding the eligible activities for the HOME Program. Previously we have not had acquisition, rehab and new construction of single family housing as an activity for CHDOs in the HOME Program, and we are looking to include that as an eligible activity. Behind this document you will see the comments and the department's responses as we have done in the other documents that you all have been presented the last several months.

Staff is recommending the approval of the State Low Income Housing Plan and Annual Report.

MR. JONES: What's the board's pleasure?

MR. CONINE: Move for approval.

MR. GONZALEZ: Second.

MR. JONES: Motion has been made by Mr. Conine, seconded by Mr. Gonzalez. Discussion, questions, comments?

MS. ANDERSON: I just have a question.

MR. JONES: Certainly.

MS. ANDERSON: Ms. Carrington, particularly on pages 121 to 125 of this report we go through the various goals of the agency and then measure our performance and how many people we served in the various component programs for FY '02. So my question is how do the goals then get set for FY '03 -- because I know that started in September -- and are those goals published or available somewhere? Because I'm interested in sort of a comparison.

MS. CARRINGTON: Those goals are published and are available and we provide on a quarterly basis to the Legislative Budget Board, the LBB, how we are doing, our report on our performance measures. So that is something the department does do on a quarterly basis. And when Eddie Farris was doing the Community Affairs report this morning, he was relating to you all how Community Affairs was doing in meeting their objectives. And those are actually outlined in our Legislative Appropriations Request, in our LAR, which of course we're in the second year of that two-year LAR, and then our LAR has already been submitted to the Governor's Budget Office and the LBB for '04-05.

MS. ANDERSON: So the goals looking out forward then, I could find in the LAR?

MS. CARRINGTON: Yes, you can, you certainly can.

MS. ANDERSON: Okay. I should know that.

MS. CARRINGTON: And then what we're implementing now is the LAR that got approved two years ago.

MS. ANDERSON: Okay, thanks.

MR. JONES: Further comments, questions, discussion? hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed to the motion, please say nay.

(No response.)

MR. JONES: The motion carries. Item 4(f).

MS. CARRINGTON: 4(f) is asking for approval of the 2003 State of Texas Consolidated Plan and the One Year Action Plan, and this is required to be submitted to HUD and it describes our federal resources that are expected to be available to the department for the upcoming year in the following programs: the Community Development Block Grant Program which, as you all know, is now administered by ORCA and has been since December of last year; the HOME Investment Program; Emergency Shelter Grants Program; and the Housing Opportunities for Persons with AIDS Programs -- and that's actually through the Texas Department of Health.

So what this document does is require the department to coordinate with ORCA, with the Department of Health to identify all of the funding sources and present this to HUD for their approval and then part of it is also our One Year Action Plan. And in the middle you have six bullets that describes the capacities that the plan serves.

MR. JONES: What's the board's pleasure?

MS. ANDERSON: Move adoption.

MR. GONZALEZ: Second.

MR. JONES: Motion by Ms. Anderson, seconded by Mr. Gonzalez. Further discussion, questions or comments? Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: Motion carries. We'll turn our attention to Item 4(g).

MS. CARRINGTON: 4(g) is requesting the approval of the Integrated Housing Policy, and what we will be doing is incorporating this policy in the State Low Income Housing Plan and then we will be following up with the board in the next month or so with a formal rule for this policy for the department.

Jonas mentioned this integrated policy this morning and what we are looking to do with this is in all of our funding sources is that we would have a percentage -- and these are listed over on the second page of this document -- that depending on the size of the development that is being funded, if it's 50 or more units, you'd have not more than 18 units of a multifamily development that would be set aside for people with disabilities; if it was a smaller project, if it was less than 50 units, you'd provide no more than 36 percent of the units in a multifamily development that would be set aside for families or individuals with disabilities.

There's been a considerable amount of input, specifically from our Disability Advisory group on this integration policy, and staff is recommending approval of this policy.

MR. CONINE: I'll get it on the floor for discussion. Move for approval.

MS. ANDERSON: Second.

MR. JONES: That was Ms. Anderson.

MR. CONINE: Ms. Carrington, the census data indicates that 18 percent of the U.S. population is disabled with the definition being with the Americans with Disabilities Act. How many of those -- if you know this or maybe Jonas does -- would be physically disabled as opposed to disabled in general? In other words, my understanding is some of them are not physically disabled, they can walk and turn on light switches just like the rest of us. Would you know?

MS. CARRINGTON: I do not know, but Jonas, do you have a statistic on that?

MR. SCHWARTZ: I don't have a statistic broken down physical disabilities versus other; I can find that out but I don't have it with me.

MR. CONINE: Well, my understanding of what this policy is doing is targeting 18 percent in some cases and up to 36 percent in other cases of the units being set aside for disability uses, and my understanding is that is a range; it is a maximum but it's not a minimum.

MR. SCHWARTZ: That's right.

MR. CONINE: Is that my understanding of what the committee has done here?

MR. SCHWARTZ: Yes.

MR. CONINE: So we're targeting our projects to be anywhere between the minimum and this maximum that we say we're going to promote.

MR. SCHWARTZ: Yes. The goal of the policy is to preclude the development of an apartment complex, as an example, that is 100 percent units only for persons with disabilities; we're trying to get away from that. So in the development of this policy, the public comment that we got, we had to set some percentages and some ranges. So based on the public comment and some other research that we've done, that's how we came up with the percentages that we got. We tried to make it a flexible enough policy to be something that was beneficial to a large development as well as to the small development.

MS. CARRINGTON: In our HOME Program and our Housing Trust Fund we have had language in our rules for at least one year and maybe in the last two years that says the department supports the development of integrated housing. What has been troublesome for us is what's an acceptable percentage of integrated housing, and so what we're trying to do here is further clarify or set some limits on what in our minds would constitute a development that was an integrated development as opposed to one that was too concentrated with either individuals with disabilities or special needs.

MR. CONINE: Well, I have, obviously, an interest in understanding what the physical disabilities number would be just in the future. By the time the department actually brings the rule to the board to how we're going to put this particular policy into effect, I'd like to take a look at that. And I don't necessarily want to get into some scoring criteria that would say take a project that promoted a 12 percent amount of units to anything less than maybe one that would do 18 percent.

I think integrated is exactly what we want, but I am curious as to where the numbers came from and what we go forward with in the future because I have a cost concern, quite frankly, and I want to do as much for the disabled community as humanly possible, but again, keeping affordability in mind. We go through this thing with building codes, for instance, on an annual basis with a lot of the building codes, and there may be health, safety and welfare issues related to construction of a unit but affordability is always in the back of our mind.

So I'd just like some more input. I'm in firm support of the integration policy. I don't think the world is as bleak as maybe Jonas had painted it; I think the building and remodeling community in this country has responded adequately to the needs of the disabled community in a very robust way over the last ten years and continues to do so, but we can always improve and I think this is a good policy for us to have.

MS. ANDERSON: Can I ask a question, Mr. Chairman?

MR. JONES: Certainly.

MS. ANDERSON: Ms. Carrington, when we say set aside for people with disabilities on bullets 2 and 3, does that mean that the units are -- I'll try out the word -- restricted? I guess my question is after some period of time when there's no -- does set aside mean that no one is going to occupy those apartments under any circumstances except a person with a disability?

MS. CARRINGTON: In our Tax Credit Program what we do is ask the owner, ask the developer to keep track of all of the marketing that they're doing, the outreach they're doing, and after a period of time if they have sincerely and with a genuine amount of effort marketed to individuals with disabilities and working with the disability advisory groups and other groups in the community that serve people with disabilities, if they have not been able to lease those units to individuals with disabilities, then they do have the ability to lease those units to any other eligible type of tenant.

MS. ANDERSON: Thank you.

MR. JONES: Further questions, discussion, comments? Hearing none, then I think we have a motion on the floor that's been seconded and I assume we're ready to vote. All those in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: The motion carries. I would like to say this. Now, Ms. Carrington and I have an instruction from you, I have an instruction from Mr. Conine, and I want you to know he trumps you.

MS. CARRINGTON: I bet he does

MR. JONES: He has instructed me that now would be a real good time to thank Sarah and all her staff for the hard work they've done on this item, and I know that you would also encourage me to do that.

So on behalf of the board, we thank you for all your hard work. I do want the board members to know that she has made me a promise at the last break that we would not see her again for another year, but I want you to know we hope that doesn't happen and we hope to see you many times in the coming year.

MS. S. ANDERSON: So when I leave, don't be offended.

MR. JONES: I understand, you have work to do.

MS. S. ANDERSON: Thank you.

MS. CARRINGTON: Thank you, Sarah.

MR. JONES: We will then turn our attention to Item 5(a) on the agenda, and we have some people that would like to provide public comment on that item. Mr. Magill? I think all the people that will present public comment on this item do so with regard to the Southern Oaks.

MR. MAGILL: Good afternoon. My name is Alan Magill; I live at 1445 Firebird Drive, Dallas, Texas.

I'm here to oppose the application at Southern Oaks that is a multifamily application requesting Tax Credit assistance. I want to also indicate that I'm speaking on behalf of the coalition of African-American based organizations which is an informal that meets from time to time in public forums to discuss issues of concern to the neighborhood.

Our opposition is basically centered around two factors --

MR. JONES: Sir, could you tell us, if you would, who comprises that coalition?

MR. MAGILL: I'd be happy to provide a list of those organizations for you.

MR. JONES: Thank you.

MR. MAGILL: Our opposition to this application is centered around two factors mainly. One is the community has spoken any number of times and said quite clearly and quite forcefully and repeatedly that it may be a project that is needed somewhere but the project is not wanted in that community. This is an old community, single family residences, other types of multifamily projects, and we have heard all kind of responses regarding this project.

One of the responses has been well, this community probably is like some other communities that are located north of the Trinity in Dallas that says, basically, to multifamily projects: "Not in my backyard." Well, one of the documents that I have handed out to you all -- or I will -- indicates that an informal survey that we commissioned to have taken of the neighborhood indicates that within a two-mile radius of the proposed development we documented 19 multifamily projects. So there in our mind it's not just a case of, as the proposer put in his marketing study, of seven comparable apartments, but there are 19. And if you stretch that out for three miles, as is proposed in the marketing analysis that's included as part of this application, that number goes up to nearly 38 apartment complexes. So we have a sufficient number.

If you're aware of the demographic and the economic status of neighborhoods that are mainly south of the Trinity and particularly southeast Oak Cliff, those neighborhoods are mainly African-American; many of those neighborhoods are low income census tracts; and it has a huge number of multifamily projects scattered all over southeast Oak Cliff, not just this particular market area, but we have documented, within a two-mile area, 19. And I'd be happy to provide that list if I didn't include it with the handout that I gave to you.

What is also rather disturbing -- and we only got to see this document this morning when we arrived here -- is that the community's opposition to this project is not noted anywhere in the staff comments or in the market analysis, and there is a note here that the approval of this project's rezoning request was put off for two weeks or three weeks or four weeks, whatever that time frame was, and it didn't indicate why that happened. Well, that happened because of the vocal, strong, stringent opposition to this project.

I do have the sign-in sheets that on one occasion or maybe two occasions that neighbors signed when they came to one of the public hearings, and you will note, if you can make it out, that there is a word "No" or "Yes" written beside many of the folks who signed in. Well, they were asked when they signed the sign-in sheet to indicate whether they were in support of this project or not, and as you go down the list of those folks that signed in, it's clear what they felt about this, they were opposed to this particular project.

It puzzles me as to how the analyst who finally determines all of the factors that he's going to weigh and decide whether or not this is a project that is not only compatible financially but it's also compatible with that neighborhood, and we have had a terrible, terrible time in trying to attract retail into our neighborhood, a terrible time. And right now there's a statement in this document, in the marketing section of this document in the application that indicates that shopping is available in the Dallas metropolitan area.

Well, that's a very misleading statement, to put it as mildly as I can put it, because of those individuals that live in that area to find a grocery story, they've got to get to the highway and travel a distance, and to have this piece of property rezoned from regional retail as it is -- it's basically the largest assembly of property that's there that's zoned regional retail in that area, so to have it taken off the books and there's property directly across the street that has been zoned multifamily forever, I suppose, but certainly has been over the last years that I've known it and currently, so there are some serious issues that we have raised regarding this project.

We're not saying that it's not a good project and all of that, but when a project comes into the kind of opposition that this project has faced, then there ought to be some consideration about is there another location or is there something that I can do to work with these neighbors to try to do something to help their concerns. But that has simply not happened, and what has happened is that the bulldozer has just kept going.

So the mandate that the African-American based organizations and the residents and small business people gave to me was clear. They wanted me to come and convey to you as strongly as words would allow me to their strenuous opposition to this kind of project, and particularly to taking that regional retail zoning designation off the books when retail is such a critical need in that area, and particularly still in southeast Oak Cliff.

When I came to Dallas I '89, there was not a single branch bank in southeast Oak Cliff, and that's in a population of 100,000 people which is larger than some of the towns you may be from. We did not have a single branch bank, not one, and it was only because of the efforts of these kinds of organizations that are non-profit volunteer, people who have full-time jobs who go and work and come back and volunteer for our organizations and try to help us accomplish some of the very things that these projects help de-stabilize. And it strikes us as somewhat contradictory that the mission of the agency is to stabilize, to help stabilize, and in some instances these projects and programs that you sponsor have the responsibility to do just that, but when Tax Credits are used to help move a project where we see it as a destabilizing force, certainly there's something contradictory about that kind of goal, and we certainly think that is a policy, public policy issue that needs to be addressed.

MR. JONES: Can I ask you a question?

MR. MAGILL: Certainly.

MR. JONES: We've obviously dealt with these issues before, but I'd like to zero in on the zoning question. Has the zoning been approved for this Southern Oaks?

MR. MAGILL: I believe that it has, yes.

MR. JONES: So you went before the zoning board and despite your reservations and despite public opposition, the zoning changes were approved. Is that true?

MR. MAGILL: Well, the evolution of that decision was that we appeared before the CPC and they unanimously voted against this project. The project, as I understand it, was appealed to council and it passed through council. So the people that are closest to the decision voted unanimously against it.

MR. JONES: So the zoning has been changed by whoever had the authority to do that.

The second question I'd like to ask you is this: are you telling the board that this development is not needed in your community, or are you telling the board that you don't like the particular location that's been chosen for this development in your community? Do you understand the difference I'm asking you? Do you need this development? I mean, are there people in your community that need it?

MR. MAGILL: I don't believe that in this neighborhood we need this development, and certainly at this location we certainly don't need this development.

MR. JONES: Well, let's talk about the greater area that you've just talked about, the area of 100,000 in south Oak Cliff, does that need more affordable housing? Are there people in that 100,000 group that need this type of housing, this kind of a place to live?

MR. MAGILL: What we need is not so much more new construction as we need to have some of the existing housing units renovated and refurbished, et cetera. We have many, many multifamily projects aimed at moderate and low income residents is in dire need of refurbishing and renovation.

MR. JONES: And finally I ask you this -- obviously we've got to vote today -- could you give me a rundown of the community groups that you're here representing today, just as best as you can recall. I know it won't be an exhaustive list but just give me some kind of idea.

MR. MAGILL: Well, the reason I wanted to send you a printed list is because some of them are smaller neighborhood based groups that --

MR. JONES: Just give me a representative sample.

MR. MAGILL: Well, I'll give you two groups that serve as kind of an umbrella for all of them: one is the Black State Employees Association of Texas; the other is SCLC. They kind of serve as the umbrella groups.

MR. JONES: What does SCLC mean?

MR. MAGILL: Southern Christian Leadership Conference.

MR. JONES: And both of those groups have authorized you to speak to us today?

MR. MAGILL: That's right.

MAYOR SALINAS: But I would think that this is why you have your planning and zoning commission in the City of Dallas to make those decisions. All we do is vote on the staff recommendation as far as the Tax Credits. I think we made it very clear in McKinney and we did it in Houston about three weeks ago where they have no zoning.

I think we make it very clear we've got to respect the decisions of the people that are in that planning and zoning and the leadership in Dallas who are sending this. As you can see here, they changed your zoning from commercial to do this housing project; it went through the planning and zoning and city council -- which would be pretty hard for us to tell those people they're wrong.

I would think the recommendation that we have to take here today would be the approval of that zoning and the approval of our staff.

MR. JONES: Further questions for Mr. Magill? Thank you, sir; appreciate your testimony and your input.

Next we have, again speaking with regard to Southern Oaks, Dr. Reagan.

DR. REAGAN: Good afternoon. I'm Darren Reagan; I'm the chairman of the Black State Employees Association of Texas, and I'm a 43-year-old resident of southeast Oak Cliff. I've lived in Dallas practically all of my life and grew up in Dallas; I attended school, came out of South Oak Cliff High School and grew up down the street from this proposed project and have a very serious, and it has a true meaning to me of how we develop our communities. And I think that for the most part this agency has served its mission well and some of the projects that I'm familiar with, not only in Dallas but in the metropolitan area, they're nice and they're attractive and they're doing, I believe, fairly well.

The key component for me is one as Mr. Magill mentioned, how communities -- and we all encourage this -- communities get together, neighborhoods get together and plan out, strategize how you want to see the neighborhood develop, and that's traditional wherever you go. And in this case we started some years ago on development in southern Dallas.

Mr. Magill mentioned that about ten years ago if we were to have had this discussion, there were no banks in southeast Oak Cliff, and we led the charge to encourage investment in southern Dallas and we've been successful as being the developers and owners of the West Cliff Shopping Plaza in southern Dallas where we have an Albertson's, the second largest Albertson's in the state of Texas, a Washington Mutual Bank branch, Blockbuster, and about 17 other tenants.

This was done on a cooperative basis with the residents in mind, we had some community banking partners that worked with us; this project was done without any public funding. So we all embrace the concept of self-determination for communities, and it holds true in this case. Mr. Magill mentioned that this project has come under intense opposition, to say the least. And it's nothing personal on Mr. Potashnik and his group that's put a number of nice, attractive and affordable units, and encourage them to continue doing so and encourage this agency to continue working with them.

However, this came to mind as we were working toward developing the location where there was a second portion adjacent piece of property to this property that was on hold by the Dallas public schools. And many of you are aware of some of the problems we had with our superintendent, the change of guard and leadership, so this extended some three or four years, and working through these different agencies and different leaderships, it's been a difficult time in terms of having them to release the second portion of the property back over to the city to be auctioned off.

Well, in the process of doing so, we worked with our council person and we worked with the city officials, the city manager and the people over in real estate, and we got a call, a notice that there was a change of plans, and we don't know what precipitated that, all we know is that the other portion of the property had been placed under contract with a housing group -- Brian's group -- to rezone the property while we're working to get the property loose from the Dallas public schools in order to pull together the feasibility and possibly getting both projects under contract to look at it in terms of retail development. That has been about a four or five-year stint with this process. So the process of self-determination was working.

Well, when we got this notice about the rezoning, we don't know what the council person was thinking and why they decided to go and rezone the last major piece of retail in that area back to multifamily when, in fact, across the street and down the street there are properties already zoned multifamily. So all concerns have been documented clearly and conveyed to Ms. Carrington, as well as Mr. Bowie and some of the others.

The zoning basically follows the wishes of the council person, and I don't know why the council person -- as Mr. Salinas made the some reference to -- that they approved the deal to be rezoned. All I can tell you is that the of number of residents who are most directly affected by this proposed project, not a single one said yes, we want it to be here. And none of the residents we know, I've known over the years, many seniors, one of the finest neighborhoods in the city of Dallas, and to have this happen in their opposition with ultimately this deal being placed on your desk for approval, I think that it raises the issue of responsibility and accountability this agency has back to those citizens there and those community organizations that strive so hard to develop their neighborhoods.

So with that being said, our request again is that you all deny this application and that it's not an issue of "Not in our backyard." As Mr. Magill mentioned, there are a number of units already; we have some 3,100 units and all have specials. And this raised our concern with regard to how this agency really looks at these market analysis that the developers select to make part of their application.

So there are a number of concerns that we have, but mainly we wanted to travel to this fine city of Austin. Mr. Jones, we have another project underway we're very fortunate to be a part of, but we wanted to come to Austin to share with you all our concerns as a board and place these petitions from the residents who could not make it -- many are seniors -- before you all, and I would hope that you would have seen those in the board discussions or your packets.

Again, thank you so much for your time.

MR. JONES: I would say this, I've followed in the paper and watched the development in south Oak Cliff and it's very impressive. Your community groups are very much to be congratulated.

DR. REAGAN: Thank you very much.

MR. JONES: Another speaker that would like to speak on this same matter is Mr. Potashnik.

MR. POTASHNIK: Good afternoon, board chair, members of the board. My name is Brian Potashnik; I am the president of Southwest Housing; we are the developer of the Southern Oaks project before you today.

I do want to commend Mr. Reagan and Mr. Magill as retail developers on the work that they have done in Oak Cliff. I do want to point out that Southwest Housing has invested through the participation of TDHCA and the City of Dallas, over $250 million in the southern sector for housing, and it has been that housing that has created the retail opportunities, and they're not going to have retail without the rooftops. You are not going to have the quality of life issues that everybody wants without quality housing, and I think this board recognizes it and Southwest Housing has certainly done their part to turn a lot of these neighborhoods in these areas around, and we're proud of that.

We've taken some of the worst housing in the city, neighborhoods that people would not go to that are now building new homes because of Tax Credit developments that are put into these neighborhoods.

MR. JONES: I couldn't agree with you more about that point you just made. Let me ask you this, though. I think you would agree with me that the kind of groups we're hearing from today doing the kind of work they're doing in south Oak Cliff are the kind of work this department wants to join arm-in-arm with and work together with.

MR. POTASHNIK: Absolutely.

MR. JONES: I guess can you give me your take on why we seem to be at so cross-purposes here. You know, how did we get here? Because we get here occasionally and it seems like we should not be here because these are the kind of people I want to work with.

MR. POTASHNIK: Absolutely, as do I, and these are the kind of people that we do work with, and I want to say that there are a number of organizations, including the neighborhood associations, that we met with over a dozen times along with their elected officials on this very development. We did exactly what this board and this staff has encouraged us to do which is to meet with the neighborhood, to reach out to the neighborhood, to get the input of the neighborhood.

And this is even a bigger issue at the local level than it is here today because that is a requirement of the Planning and Zoning Department of the City of Dallas, that is a requirement of the Dallas City Council as well as the mayor of the City of Dallas. In addition to that, as you know, the HFC, the Dallas Housing Finance Corp, is the bond issuer. This is the first new construction multifamily bond issue that the Dallas HFC has supported and approved, and it was an act of city council that allowed the Housing Finance Corp to enter into an agreement to issue these bonds. And I'm very proud of that because I worked very hard as part of the mayor's task force to allow the city to do just what they're doing here.

So this development comes with unanimous, not only neighborhood support from people who live in this area that want to see this redevelopment and want to see the new investment that the housing is bringing in, but it comes from the elected officials, not only the local councilmen but every council person and every planning and zoning person that voted in favor of this development, and that includes the mayor.

MR. JONES: Did I miss something or did he say that the Planning and Zoning Commission voted unanimously against it and then the council overruled it? Did I misunderstand that?

MR. POTASHNIK: Well, Planning and Zoning unanimously approved the development.

MR. JONES: Okay, I'm sorry; I was out to lunch.

MR. POTASHNIK: Now, what he might have said and what actually happened are two totally different things.

MR. JONES: I bet he said it right and I bet I got it wrong.

MR. POTASHNIK: I can tell you this property, this development, this zoning is unanimously approved, both by Planning and Zoning and by the Dallas City Council. And there were a number of neighborhood meetings that went on to address issues that are concerns to the neighborhood, and we have actually entered into an agreement with the neighborhood to add additional security for crime issues, to do landscape beautification in the area, to have access entry gates, to have an after school program to empower working families to grow and to take the next step into home ownership.

We are doing things that the community, both in the neighborhood and at city council level, have encouraged Southwest Housing to do, and it is the city that is supporting this project, and it is the city who comes before you today to say we want this in our community. And we have worked very hard and very closely with the neighborhood to do that.

And I do want to stress that this is an economic development issue, one that is going to stabilize a neighborhood. Yes, there are multifamily properties in this area, some of them are 30 or 40 years old and they're substandard and they are far beyond even being able to be rehabbed; they need to go away. And we have done that, we have torn down substandard properties with numerous code violations to create new housing that has set the standard, not only in southeast Oak Cliff but all over the city, and we're very proud of that.

So I do ask that you look carefully, and I think a lot of hard work that the staff put into seeing what really constitutes the overall support and overwhelming support for this development. I thank you all very much.

MR. CONINE: Mr. Potashnik, I noticed in here that it says there's some dollars set aside in the development for tenant relocation in the overall cost of the budget. Can you tell me who is there on the property now?

MR. POTASHNIK: Okay. The property is a dilapidated shopping center that very much needs to go away and there are a few residents there -- excuse me -- tenants with the landlord who is the retail equivalent of a slum lord still collecting rents. You have a small barber shop, you have an auto repair shop, you have a church that is in the former location of a grocery store that is operating on that property. So there are small businesses that we have given the opportunity -- even though they're on month-to-month leases, even though these people -- legally, with a termination of their lease -- we have no obligation to do anything for them, to be a good neighbor, we are giving them one year's worth of their rent -- which is in most cases $3- to $400 a month -- as well as their relocation costs to go somewhere else and to relocate their business and to stay in the community.

So we're very sensitive to the needs of the small businesses here and we are doing everything we can to relocate them, even though they have no obligation under current leases to stay on the property.

MR. JONES: Any other questions? Thank you, sir.

MR. POTASHNIK: Yes, thank you.

MR. JONES: That's all of the public comment, so we'll turn back to Item 5(a), Ms. Carrington.

MS. CARRINGTON: The staff's recommendation is that the department allocate Tax Credits to Southern Oaks Housing, LP in the amount of $943,763, for 256 units, and has previously been mentioned, the issuer for this transaction would be the Dallas Housing Finance Corporation.

MS. ANDERSON: So moved.

MAYOR SALINAS: Second.

MR. JONES: The mayor seconded the motion. We have a motion that's been made and seconded for approval. Further discussion? Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: The motion carries. Item 5(b), Ms. Carrington.

MS. CARRINGTON: Thank you, Mr. Chairman. The staff is recommending the allocation of 4 percent tax credits to the Primrose SA II Housing, LP; it is 280 units; it is a proposed new construction to be located in San Antonio; the Tax Credit allocation amount would be $1,044,394; and the issuer for this transaction, the private activity bond issuer would be the Bexar County Housing Finance Corporation.

MR. CONINE: Move for approval.

MAYOR SALINAS: Second.

MR. JONES: Motion has been made and seconded. Further discussion, questions, comments? Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: Motion carries.

MS. CARRINGTON: The third and last multifamily to consider for the allocation of 4 percent Tax Credits is Harris Park Partners, LP, the Parks at Kirkstall; it's new construction, family, 240 units; the Tax Credit allocation recommended amount is $687,827; and the issuer will be the Harris County Housing Finance Corporation.

MS. ANDERSON: So moved.

MAYOR SALINAS: Second.

MR. JONES: Motion has been made and the Mayor seconded it. Further questions, comments, discussion? Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: Motion carries. 5(b), Ms. Carrington.

MS. CARRINGTON: Thank you. When you look at 5(b), don't be alarmed. We can take some of these as a group, and that's the first 14 behind Item 5(b).

MR. JONES: Can I ask you a question?

MS. CARRINGTON: Certainly.

MR. JONES: We had public comment from a Mr. Foster at the very beginning about the Heatherwilde. Which one does that apply to?

MS. CARRINGTON: The Heatherwilde is not on the agenda, but Mr. Wittmayer and I are ready to talk about that if indeed you would like us to.

MR. JONES: Well, since it's not on the agenda, I presume we should not, but I was just -- like I say, his comments had piqued my curiosity and I've trying to figure out where they apply.

MR. WITTMAYER: It's not on the agenda. We're permitted to give you a brief factual response if you'd like that or not. We can put it on the next agenda, if you'd like, and then discuss it further at that time.

MR. JONES: Why don't we put it on the next agenda. And I'm sorry for interrupting.

MR. CONINE: I'd like to talk about it.

MS. ANDERSON: I'd rather talk about it.

MR. JONES: The board would prefer to talk about it. Excuse me. The chairman just made a mistake; he'd like to repent.

(General laughter.)

MR. WITTMAYER: Under the Open Meetings Act, we're not permitted to have board discussions on items that come up for public comment that are not on the agenda; we are permitted, however, to give you a brief factual response to the statements that are made.

Heatherwilde was awarded tax credits by the department in our regular allocation round; they were required to have zoning in place by I believe it was mid-November. The developer provided documentation that they did have proper zoning, and we were moving forward with the allocation based on the communication we had from the City of San Antonio.

We subsequently received some conflicting information from the City of San Antonio about whether or not they had the proper zoning, and we are now awaiting a further letter of clarification as to whether or not they have the correct zoning.

MR. JONES: Ms. Anderson?

MS. ANDERSON: I'd like to ask -- may I?

MR. JONES: I think you can ask a question. Can she?

MR. WITTMAYER: Yes.

MR. JONES: Yes, you may.

MS. ANDERSON: I'm trying to think how to say this. Tax Credits that we allocated in the round that we're over, if they are not -- and we've already reallocated a few from projects that didn't, but am I correct in my understanding that Tax Credits that we do not reallocate by December 31, then according to the waiting list that we've given the executive director approval to go ahead and do by December 31, then those credits aren't lost to us but they become part of next year's pool and they can't be reallocated to wait list entities after December 31. Is that right?

MR. WITTMAYER: After December 31 the waiting list goes away and they would be reallocated next year, they would not be lost

MS. CARRINGTON: They'd become part of the 2003 amount available. One of the comments that was made was that the credits expired, and technically they do expire, but they're not lost to the State.

MR. WITTMAYER: Correct.

MS. ANDERSON: But they're lost to people that today are sitting on the wait list.

MR. WITTMAYER: Correct.

MS. CARRINGTON: Correct.

MS. ANDERSON: Do we have any idea when we might hear from the City of San Antonio? Before the 31st or after the 31st?

MS. CARRINGTON: We've been told daily; we expected to hear from them.

MR. WITTMAYER: We expected today.

MAYOR SALINAS: But it's not on the agenda, so I would consider everything is lost; everything should be lost as of today, unless we have another meeting.

MS. ANDERSON: The way I understand what we did in the last meeting was we granted the executive director approval to go ahead and approve projects off the wait list which she would be able to do if we hear definitively one way or the other by the 31st.

MR. WITTMAYER: If Heatherwilde is not

successful in getting their zoning, if we have clarification that that's the case, then we could reallocate to the waiting list before the end of the year.

MS. ANDERSON: Okay.

MR. JONES: By action of the executive director.

MR. WITTMAYER: Correct.

MS. ANDERSON: Thank you.

MR. CONINE: May I follow up?

MR. JONES: You certainly may.

MR. CONINE: My understanding of the action we took last month was that we gave Ms. Carrington the authority and the discretion to do that subject to notification to the board when somebody fell out and somebody else came on. I haven't received any notification so I just wanted some sort of assurance from Ms. Carrington that that hasn't happened yet.

MS. CARRINGTON: It has not happened, and we will be providing that information to you all if and when it does.

MR. JONES: Thank you, Ms. Carrington. Which brings us then to Item 5(b).

MS. CARRINGTON: Item 5(b).

MR. JONES: Excuse me. I get confused easily.

MS. CARRINGTON: It is where we are, and if you'll look at your agenda, you'll see that the first 14 are grouped together -- Clark's Crossing Apartments, you can draw a line there -- I'd like to take all 14 of these together.

The agency had a deadline of November 8 where developers were to notify us -- it was a progress report and they were to notify us that they had started substantial construction, and these 14 developments that you see listed had not notified us, they had failed to provide their progress reports; however, when staff did due diligence, we found that they had actually met that November 8 deadline and indeed had started substantial construction and had just failed to notify us that that indeed was the case.

So what we're asking is the board to give us till December 17 -- give these developers till December 17 to provide progress reports for the commencement of construction. Basically, we're forgiving them for not filing progress reports.

MR. JONES: That's today.

MS. CARRINGTON: That's today, yes.

MR. JONES: What's the board's pleasure?

MS. ANDERSON: So moved.

MR. JONES: Ms. Anderson makes that motion.

MR. CONINE: Second.

MR. JONES: Mr. Conine seconds it. Further discussion, questions or comments? Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: Motion carries. Ms. Carrington.

MS. CARRINGTON: The next group of recommendations are all also related to missing that November 8 deadline, however, on all of the ones that you see in front of you, we are asking for a longer deadline, an extension, basically, of their deadline, and each one of them we have given you the reason. What we're asking for is an extension on the commencement of construction, and depending on what factors were in place on what development, that's how we determined whether we were recommending to the board the deadline that they had requested or some other deadline.

So I can take them one by one, or you can take them as a group. Staff is recommending extension approvals.

MR. JONES: I would like to take them as a group unless somebody objects. Hearing no objections, we'll take them as a group.

MAYOR SALINAS: So moved.

MR. GONZALEZ: Second.

MR. JONES: We have a motion for approval of the extension that's been made by the Mayor, and I think it was seconded by Mr. Gonzalez. Discussion, comments, questions? Ms. Anderson?

MS. ANDERSON: I have a question for Ms. Carrington.

MR. JONES: Yes.

MS. ANDERSON: Since we have these 18 entities that forgot to submit a report or so on -- I sound like a broken record because I talk about this every meeting -- at least these 18 now, what their reporting schedule is and that your staff has bent over backwards to accommodate them in this case and we'd appreciate their timely filing of needed reports.

MS. CARRINGTON: Yes. I gather what we've been doing in the past is notifying developers that their deadline is due and so they've been pretty good about meeting deadlines; this time we didn't notify them that their deadline was due and so they missed their deadlines.

So we are sensitizing them, we hope, to these deadlines.

MS. ANDERSON: Good, because it just makes more work for your good folks.

MR. CONINE: Again -- I probably sound like a broken record too -- these are projects that were awarded, for the most part, Tax Credits in July of 2001, and we asked them to get the project started because our goal here in this agency is to get affordable housing on the ground and to get it on the ground in a hurry, and for projects to take as long as they have -- and it looks like eight of these cases -- although it looks like one of them had to do some substantial revisions to their project because they got last minute notice on some leftover credits, but for the most part I think we want to do business with those who are ready to do business in the future, and just wanted to so note that.

MR. JONES: Excellent point. Further questions, comments? Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: The motion carries. We will now turn to Item 6 on the agenda which I would like to say, you know, there's definitely got to be an amendment to that resolution, Ms. Carrington, because I want it to be sure to say that the chairman can't sign anything.

(General laughter.)

MS. CARRINGTON: I don't know. You'll have to talk to the board secretary about that, Mr. Jones.

MR. CONINE: Move approval of Resolution Number 02-71 because it's got the chairman on it.

MAYOR SALINAS: Second.

MR. JONES: The motion has been made by Mr. Conine, it's been seconded by the Mayor. Any discussion, questions, comments?

MS. CARRINGTON: I do need to correct one title that is listed under signature for bond transactions -- actually and for real estate transactions. There is a reference to controller. As a part of the reorganization, the controller title is director of financial administration. So that will need to be corrected on the resolution that is actually signed.

MR. CONINE: I'll accept the amendment.

MR. JONES: The amendment has been accepted. Any further questions, comments, discussion? Hearing none, I assume we're ready to vote. All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: The motion carries.

If we could, what I'd like to do next on our agenda is go to the executive session and then have the executive director's report at the end of the session, with your permission, Ms. Carrington. So with that, I'll declare that we'll go into executive session on this day, December 17, 2002 at a regular board meeting of the 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 began its executive session today, December 17, 2002, at 2:52 p.m. The subject matter of this executive session deliberation is as follows --

MR. CONINE: 1:52.

MR. JONES: 1:52. Excuse me -- 1:52 p.m. The subject matter of this executive session deliberation is as follows: litigation and anticipated litigation regarding Cause Number GN-02219, Century Pacific Corporation v. Texas Department of Housing and Community Affairs, et al., 53rd Judicial District Court of Travis County, Texas; number 2, consultation with attorney pursuant to Section 551.071(2) Texas Government Code regarding Multifamily Housing Mortgage Revenue Bonds, Williams Run Apartments, Series 2000A; personnel matters regarding discussion and possible approval of performance evaluation for the executive director under Section 551.074 Texas Government Code; discussion of any item listed on the board meeting agenda of even date.

And with that, we will now go into executive session.

(Whereupon, at 1:50 p.m., the meeting was recessed, to reconvene following executive session.)

MR. JONES: We'll go back into open session. I hereby certify that the agenda of an executive session of the Board of Housing and Community Affairs was properly authorized pursuant to Section 551.103 of the Texas Government Code, posted in the Secretary of State's Office seven days prior to the meeting, pursuant to Section 551.044 of the Texas Government Code, and all the members were present with the exception of Shad Bogany, and that it is a true and correct record of the proceedings pursuant to the Texas Open Meetings Act.

The subject matter of the executive session was: litigation and anticipated litigation regarding Cause Number GN-202219, Century Pacific v. Texas

Department of Housing and Community Affairs; number two, consultation with attorney pursuant to Section 551.071, Texas Government Code, regarding Multifamily Housing Mortgage Revenue Bonds, Williams Run Apartments, Series 2000A; personnel matters regarding discussion of possible approval of performance evaluation for the executive director; and discussion of any item listed on the board meeting agenda of even date; and action taken with regard to all of those items was none. And with that, I will sign this with regard to our executive session.

As a result of our executive session, are there any motions that any board member would care to make?

MR. CONINE: I have one, Mr. Chairman.

MR. JONES: Yes, Mr. Conine.

MR. CONINE: As required under our personnel policy manual, we did a performance evaluation for the executive director and would like to ask this board to approve the recommendations put forth by the Evaluation Committee.

MR. JONES: We have a motion that's been made. Is there a second?

MR. GONZALEZ: Second.

MR. JONES: Motion has been made and seconded. Further discussion? All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed?

(No response.)

MR. JONES: And congratulations, Ms. Carrington, and thank you so much for your service.

MS. CARRINGTON: Thank you, Mr. Jones.

MR. JONES: With that, we will then turn our attention, I believe, to the executive director's report And I need to make a phone call, and the chair is going to turn the gavel over to Mr. Conine.

MS. CARRINGTON: The first item I'd like to report on is our partnership in cooperation with the Manufactured Housing Division of TDHCA. They from time to time have an opportunity to take back manufactured homes, and we've had such a situation with a home that was placed incorrectly in Corpus Christi, and what we are doing is working with Bobbie Hill of the Manufactured Housing Group to find -- and Homer Cabello, our director of Colonia Initiatives -- to find families along the border area who own their land but live in substandard housing, and so we have relocated our first manufactured home from the Corpus Christi area to a colonia in Eagle Pass where it will be a new home for a family.

And in this case, A-1 Champion Homes arranged for obtaining the replacement home and the home was delivered free of charge by one of the retailers and also all of the hookups, the air conditioning, the utilities, was done free of charge also to the home buyer. And so this is the kind of cooperation that we want to foster and develop with the Manufactured Housing Division of this department. So we think it's a great story to tell and we wanted the board to know about that.

MS. ANDERSON: What's the source of funding for the Homeowner's Recovery Fund? Is it a general revenue appropriation, is it a fee on mobile homes?

MS. CARRINGTON: It's a fee on mobile homes.

The second item for the board's consideration is a copy of the memorandum that went to Marcelo Guevara, who was our project manager at the Sunset Advisory Commission, and the memo is divided into two parts: one is substantive changes the department is recommending to Senate Bill 322, which is our Sunset legislation; and then the second part of is cleanup changes that were recommended. And Sunset did ask us or invited us to go ahead and present these proposed changes to them; we have done that. This was also included in the material that was provided to the legislature and the members of the

Sunset Advisory Commission last week when we did our report.

I do want you to note on page 2, Section 6 of the bill, Section 2306.142(l) through (o), Authorization of Bonds, the department is deleting this request. After giving it some thought and after talking to some of the folks who were instrumental in getting the 40 percent put in the legislation in the first place, we have rethought that and we have sent a letter of rescission over to Joy Longley at Sunset and asked them to provide that letter also to the members of the Sunset Advisory Commission.

I'd be happy to answer any questions that the board might have on any of our proposed changes. Staff worked on this all summer. Anne Paddock is actually the one who put this together for the department, along with a lot of staff's input. As we looked at potentially what we might like to see changed, we talked about where the language had come from, whose issue it was, how much of an issue it was, and really decided whether we wanted to take it on or not. So we tried to be very politically sensitive about it, yet also get some cleanups that will make it easier for us to do our business.

MR. CONINE: Did you have any discussion about the ex parte rule that's in 322?

MS. CARRINGTON: From a staff's perspective or from Sunset?

MR. CONINE: Any or all the above.

MS. CARRINGTON: When staff discussed the language in the ex parte, I think that we would think in some instances it's made doing our business a little bit harder, but we also recognized what an issue it was for the legislature as this was put in our legislation last session, and decided it was probably something we did not want from a staff's perspective to initiate any kind of change or potential change. I think we felt like if there were some changes to that, there were proposed changes, best come from someone else -- since we're doing to well on it.

MR. CONINE: Way to toss the ball.

MS. CARRINGTON: Some more good news on our Project Access update. The department received in May this year 35 Section 8 vouchers to help in the implementation of the Olmstead Decree with the Supreme Court for, again, the de-institutionalization of individuals with disabilities. It's actually being administered by the Texas Department of Health and Human Services and TDHCA, and DHS has referred 36 clients to us; some of them have been placed using these vouchers, some have not.

It's a program that is beginning to work very well for us, and Sarah Anderson does tell me that she has been asked to participate, I guess in the next couple of months, in a conference in Baltimore because TDHCA's participation and partnership with these other state agencies in receiving these vouchers and the implementation and utilization of these vouchers is being looked at as a model across the county, so Sarah is going to participate in that in the next couple of months and tell about the story.

Sarah has also asked me to thank particularly Jorge Reyes of her staff who has worked very diligently in getting these partnerships together with the Department of Health and Health and Human Services.

MR. CONINE: Any questions from any board members?

(No response.)

MR. CONINE: Next, Ms. Carrington?

MS. CARRINGTON: And the last item -- which is Dennis and Socks stayed -- thank you, guys -- is the chart on the reorganization of a portion of the divisions within the department. Mr. Conine, you now have a chart with names.

MR. CONINE: Good.

MS. CARRINGTON: And numbers, and those numbers relate to the FTEs, full-time equivalents, that are in each of the divisions of the department. And if you'll notice, over on the right-hand side in a box we have a breakdown of where those FTEs are assigned. We also have 5.5 FTEs that we've recognized as savings in our reorganization, and we're holding onto those because we know as we start operating in our new work groups that we will have probably one or two areas where we have understaffed in the way of FTEs and we're probably going to need to do some assignments of those FTEs.

I'd call to your attention what I think are two or three of the very substantial changes, improvements. We have reactivated the position of controller -- which, as I said to you earlier, it's director of financial administration. Our chief of agency administration is Bill Dally, and under Bill our administrative support which, of course, includes our human resources and all of our facilities management; information systems also is under Mr. Dally, and the controller's position, the director of financial administration. This is really the largest division of the agency -- well, not really -- they have 69, it looks like our Programs area has 75. The two areas that didn't exist previously are the Multifamily Finance Production area and our Single Family Finance Production area. So that's where the bulk of the reorganization activities fell into.

We have a Real Estate Analysis Division which includes underwriting, cost certifications and workouts. It provides a loop to us, it provides feedback to us as we do our underwriting; then we get feedback on the cost certifications, we get feedback if developments have to go into workout on how well we're doing and how credible is our underwriting.

Portfolio Management and Compliance gained about eight FTEs because they're taking on additional responsibilities of construction monitoring, approving construction draws, and then an asset management component within that division.

All of the division directors were named and in place by December 1; the mangers have been named; we're in the process of naming the supervisors; and on the 23rd of this month the remaining FTEs within the agency will know where they are going to be assigned. They had an opportunity to fill out a survey that said where do you want to go, what do you think your skills and abilities are, and so we're in the process of doing some matching on that. And basically after the first of the year we begin what we call our migration plan which is moving from the area you're in now to the new area, and we're looking at implementation as far as in their place, doing their job by March 3.

MR. CONINE: Any questions from the board?

(No response.)

MR. CONINE: It's been a long time coming,

MS. CARRINGTON: Indeed it has.

MR. CONINE: Nine months, I guess.

MS. CARRINGTON: Well, some folks would tell you several years. And I understand why nobody did it; it was a lot of hard work. And of course the proof is where we'll be a year from now as we look at how we're performing our jobs and the operations and the efficiencies and the productivity of the agency, has it improved those things.

MR. CONINE: Does that conclude your report?

MS. CARRINGTON: Indeed it does.

MR. CONINE: Mr. Wittmayer, I think what we did was we passed a resolution confirming the recommendation of the Evaluation Committee, the board passed that resolution. Is there anything else specifically we need to do?

MR. WITTMAYER: If you want to take an action based on your deliberations in executive session relating to the personnel discussions related to the executive director, you should do that in open session. You already did that?

MR. CONINE: I think that's what we did.

MR. WITTMAYER: Okay, you did that in my absence.

MR. CONINE: Yes.

MR. WITTMAYER: So you did the right thing.

MR. CONINE: Okay, good. I'm glad to hear that.

Any other open discussion or action from any of the board members? How about a motion to adjourn?

MR. GONZALEZ: So moved.

MAYOR SALINAS: Second.

MR. JONES: All in favor, say aye.

(A chorus of ayes.)

MR. JONES: We stand adjourned. Thank you.

(Whereupon, at 2:25 p.m., the meeting was concluded.)

C E R T I F I C A T E

MEETING OF: Texas Department of Housing and Community Affairs board of directors

LOCATION: Austin, Texas

DATE: December 17, 2002

I do hereby certify that the foregoing pages, numbers 1 through 137, 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.

01/06/03
(Transcriber) (Date)

On the Record Reporting, Inc.
3307 Northland, Suite 315
Austin, Texas 78731