TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

1:00 p.m.
Thursday,
March 11, 2004

Waller Creek Office Building
Room 437
507 Sabine
Austin, Texas

COMMITTEE MEMBERS:

ELIZABETH ANDERSON, Chairman
C. KENT CONINE, Vice-Chairman
PATRICK GORDON
SHADRICK BOGANY

STAFF PRESENT:

EDWINA CARRINGTON, Executive Director
RUTH CEDILLO
ROBERT ONION
BILL DALLY
CHRIS WITTMAYER
BYRON JOHNSON
TOM GOURIS
DAVID GAINES
ERIC PIKE
SARAH ANDERSON
BROOKE BOSTON

A G E N D A

P R O C E E D I N G S

CHAIRMAN ANDERSON: Good afternoon, you all. I call to order the March board meeting of the Texas Department of Housing and Community Affairs. The first item of business is to call the roll. Let me do this without this piece of paper. Mr. Bogany?

MR. BOGANY: Here.

CHAIRMAN ANDERSON: Mr. Conine?

VICE-CHAIRMAN CONINE: Here.

CHAIRMAN ANDERSON: Mr. Gordon?

MR. GORDON: Here.

CHAIRMAN ANDERSON: Mayor Salinas?

(No response.)

CHAIRMAN ANDERSON: Mr. Gonzalez?

(No response.)

CHAIRMAN ANDERSON: We have four board members present and two absent. We do have a quorum.

The first item of business is public comment. Those of you that are familiar with the department's procedures know that you have the option of making public comment here at this introductory portion of the meeting. We will also, at your option, provide for public comment on each agenda item, after the presentation is made by department staff and any motions made by the board.

So we are going to start out this afternoon with public comment. If any of you all have not completed a witness affirmation form, and you'd like to make public comment, please come up and get a witness affirmation form.

The first form I have is for John Henneberger.

MR. HENNEBERGER: Hello.

CHAIRMAN ANDERSON: Good afternoon.

MR. HENNEBERGER: I'm pushing my luck today.

CHAIRMAN ANDERSON: You look great.

VICE-CHAIRMAN CONINE: The jacket, it's an upgrade from this morning.

MR. HENNEBERGER: Hi, I'm John Henneberger, director of the Texas Low Income Housing Information Service. We're a nonprofit organization that works on affordable housing issues. I'd like to speak briefly to you about items 3-B and 3-I on your agenda.

First of all, item 3-B is an item for me to wish us all a happy anniversary because this is the tenth-year anniversary of the passage of the Quality Work and Responsibility Act, which mandates that every organization which acts as a public housing authority should have a resident on its board of commissioners. That includes, of course, the Texas Department of Housing and Community Affairs. One of the reasons why there is not a seventh member on this board is that the governor has yet to appoint a commissioner.

I note on page 43 of your plan submitted to HUD, in

Section B, that the department has correctly checked that it does not qualify for the exemption provided under the law. The department notes that the appointment office of the governor continues to explore the issue. I would, at the risk of -- I'd just say that I'd hope that we'd have a commissioner someday.

The second item I wanted to mention is item I, which has to do with performance measures. This is an area which becomes of concern when the legislature attempts to evaluate the success of the agency in meeting the policy goals that the legislature sets forth.

As I'm sure you all are aware, every year when the legislature, the finance committee and the appropriations committee review the department, there is a lot of searching for information which will help the legislature actually assess how much assistance is being provided and who is being provided assistance.

At the last several sessions, we've noted that it would be very helpful if the performance measures were expanded to include some specificity, within each housing program that you administer, about the income levels of the beneficiaries who receive assistance under those various housing programs. It's a recurring question, particularly among the senators, about is the agency serving the low income? Are you meeting the most needy?

All of this lead to the adoption of rider 3, which mandated a certain amount of targeting of funds. I think that the performance measures which the staff has recommended to you do some help, a slight bit in that way, but I would suggest that you provide for that type of differentiation in the housing goals.

Within each objective, instead of saying the number of low, very low, and moderately income households assisted with housing bonds, and then give a number, it would be more helpful if you could say the number of low income families assisted by housing bonds, the number of moderate income families assisted by housing bonds, the number of very low income family assisted by housing bonds, and the number of extremely low income families assisted under the program.

So the addition of the extremely low income category within each housing program category, and the specific calling out of those numbers, would, I think, help the legislature as they look at the agency's performance in this regard. They would be able to get answers to their questions ahead of time, rather than having to ask the department to provide those numbers. It would certainly help the public in their assessment of the agency's performance.

I know that these figures are readily available. We've seen them. We're pleased with the agency's performance and the direction that the agency's headed in this regard. I think it's just a matter of getting this on the record, in the right place, so that people can see it.

That's the extent of my comments. Thank you very much.

CHAIRMAN ANDERSON: Questions?

(No response.)

CHAIRMAN ANDERSON: Thank you.

Mr. James Flinn, I think you prefer the agenda item and only if needed?

MR. FLINN: Right and when the item comes up.

CHAIRMAN ANDERSON: Okay. Thank you.

Eva Goldman?

MS. GOLDMAN: When the discussion comes up.

CHAIRMAN ANDERSON: Thank you. Thank you, Mr. Gordon for that reminder.

Mr. Nat Tovar?

MR. TOVAR: When the item comes up, ma'am.

CHAIRMAN ANDERSON: Okay. Steve Davis?

MR. DAVIS: When the item comes up.

CHAIRMAN ANDERSON: Thank you. David Russell?

MR. DAVID RUSSELL: When the item comes up and I'd like to defer my time.

CHAIRMAN ANDERSON: Pat O'Connor?

MR. O'CONNOR: When the item comes up.

CHAIRMAN ANDERSON: Thank you. Tom Leahy?

MR. LEAHY: When the item comes up.

CHAIRMAN ANDERSON: It looks like that's what we have.

Gerald Russell?

MR. GERALD RUSSELL: When the item comes up.

CHAIRMAN ANDERSON: Richard Wilson?

MR. WILSON: When the item comes up. Thank you.

CHAIRMAN ANDERSON: Okay. Well, any other witness affirmation forms that we have at the moment?

(No response.)

CHAIRMAN ANDERSON: Okay. Well, that concludes public comment for this portion of the board meeting and we will take the rest of those at the agenda item.

The first item on the agenda is the presentation, discussion, and possible approval of the minutes of the board meeting of February 11.

MR. BOGANY: So moved.

VICE-CHAIRMAN CONINE: Second.

CHAIRMAN ANDERSON: A motion on the floor. Is there any discussion?

(No response.)

CHAIRMAN ANDERSON: All in favor?

(A chorus of ayes.)

CHAIRMAN ANDERSON: Opposed?

(No response.)

CHAIRMAN ANDERSON: Motion carries.

Item number 2 is a presentation, discussion, report from the programs committee. Mr. Conine?

VICE-CHAIRMAN CONINE: Thank you, Ms. Anderson. I would like to report to the rest of the board that we had a very good discussion this morning regarding the HOME Program. We talked a lot about our funding levels and the various programs we have within that program. We had a lot of good public testimony from participants in our program and others who brought certain things to our attention.

I think no action is required here. The programs committee will continue next month in drilling a little deeper into the programs, learning some of the features and some of the ways that the money is being used to make sure it's user-friendly, and other particular nuances that we can explore.

At some point, I would guess more likely later on this summer and into the fall, after we've had time to get a lot more input from studies and so forth, we'll be coming back to the board and asking your consideration on several potential changes.

So anyway, it was just a good meeting. I just thought I'd let the board know that.

CHAIRMAN ANDERSON: Thank you. Now, we move on to presentation, discussion, possible approval of several programmatic items, the first of which is proposed amendment to public comment procedures, and comments of public hearings and meetings. Mr.

Conine?

VICE-CHAIRMAN CONINE: Well, I'll turn this one over to Ms. Carrington.

MS. CARRINGTON: Thank you, Mr. Conine. The board may remember in February, last month, you all approved a rule for public comment procedures and topics at public hearings and meetings, which is Title 10, part 1, subchapter A. This is a requirement in Senate Bill 264 that the board will adopt rules for topics to be covered in public comment.

You all did go ahead and approve the rule that we proposed to you in February, last month. However, you did ask us to go back, and take a look, and incorporate two additional items in that rule. Those are on the bottom of the summary page. What we did incorporate was language at Section E that says, "any matter considered by the board to be relevant to the approval decision, and the furtherance of the department's purposes and policies of Chapter 2306, and other good cause as determined by the board."

So then, the rule that you have included in your board book is identical to what was adopted by the board in February with the exception of E-10 that adds that language. And then, over on the next page, it carries onto that recommended language. Should the board approve this today, what we will do is put this rule out again for comment and go through the process of getting it adopted.

VICE-CHAIRMAN CONINE: Move for approval Madame Chairman.

MR. BOGANY: Second.

CHAIRMAN ANDERSON: Any discussion?

(No response.)

CHAIRMAN ANDERSON: Hearing none, I assume we're ready to vote. All in favor, say, Aye.

(A chorus of ayes.)

CHAIRMAN ANDERSON: Opposed, no.

(No response.)

CHAIRMAN ANDERSON: The motion carries.

Item b is the Section 8 program public housing authority plan for 2004.

MS. CARRINGTON: Thank you. As has been mentioned by Mr. Henneberger, it is indeed time for our public housing agency plan to be approved again. The due date for this plan, the due date to HUD is April 17, 2004. So we are a little early in getting it to the board. This plan is the fifth. It's a five -year period for this plan and this is the fifth year on this particular plan which began in fiscal year 2000.

I think some important points to bring out of the plan is that the department continues to work for maximum utilization of our Section 8 vouchers. You all may remember that in at least one prior audit, there was a statement that the department was not fully utilizing its vouchers. We are now at about a 93 percent utilization rate on our vouchers.

The department is going to continue to administer the 35 project excess vouchers to service the disability community that's impacted by the Olmstead decision. We are also, in this plan, going to continue to work closely with the states' local PHAs to address affordable housing needs of the citizens of Texas.

And then, next year, the department will submit a new five-year plan to Housing and Urban Development.

I think the couple of noteworthy things that have happened over this past year, we certainly have increased the utilization of our vouchers. At one point, it was up to about 95, 97 percent. We did transfer 30 vouchers from the San Antonio area that went to the Marble Falls Housing Authority. They had a need. They requested them. We had some vouchers that weren't being fully utilized. And so, that transfer at least from the department back to HUD, has been accomplished. I understand it's still awaiting approval from HUD central, but we've done our part there.

And then, you all may remember that almost a year ago now, we did ask HUD, with you all's approval, to consolidate the three annual contributions contracts we have with HUD for the administration of those three areas of the state. We have requested that of HUD. We are still awaiting approval from the HUD central office for that request.

With that, I think it might be noteworthy to let you all know how much our Section 8 budget authority is. It's about $10,478,000.

VICE-CHAIRMAN CONINE: Move for approval.

MR. BOGANY: Second.

CHAIRMAN ANDERSON: Discussion or questions from the members?

(No response.)

CHAIRMAN ANDERSON: Hearing none, I assume we're ready to vote. All those in favor, please say, Aye.

(A chorus of ayes.)

CHAIRMAN ANDERSON: Opposed, no.

(No response.)

CHAIRMAN ANDERSON: Motion carries. Thank you.

Item 3(c), proposed multifamily eligible tenant income limits.

MS. CARRINGTON: I'll take a deep breath here because this is the agenda item the board struggles with every year. This applies to the particular transactions that you see listed on your summary page. I believe, in counting them, there are eight of them. All of these were multifamily bond issues that were issued prior to

1986. So that was prior Tax Reform Act.

The targeting for those particular developments was 20 percent of the units at 80 percent of median and they weren't adjusted for family size. So it was really fairly minimal targeting on those. The requirement that the state did put on those bond issues was that 100 percent of the tenants living in these developments must be determined eligible. This board, years ago, did determine what that eligibility amount was.

And so, what we come to you for every year is an adjustment of that eligibility limit. If you will go over two pages, you will see on these eight transactions, again old, multifamily transactions, we have move in limits. And then, the renewal limit is at 125 percent of what the move in limit was. We had it both for a single-person household and a household that's comprised of two or more members.

MR. BOGANY: So moved.

VICE-CHAIRMAN CONINE: Second.

CHAIRMAN ANDERSON: Any discussion, questions?

(No response.)

CHAIRMAN ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say, Aye.

(A chorus of ayes.)

CHAIRMAN ANDERSON: Opposed, no.

(No response.)

CHAIRMAN ANDERSON: Motion carries.

Item 3(d), revised single family average area purchase price limits.

MS. CARRINGTON: Very good news and at long last, the average purchase price limits have been revised. They were published and effective by the Internal Revenue Service on February 10 of this year. You all may remember it's been ten years since we had revised purchase price limits. They did go up substantially in our market areas around the state.

What we are asking the board to do is to approve these revised single family average purchase price limits that will be in conjunction with both our single family mortgage revenue bond programs -- and that's programs, s, so it will apply to any existing programs that we have out there -- and also our mortgage credits certificate program.

We have provided for you, on the second page of your board materials, the calculations for the MSAs around the state. And then, if it's not in an MSA, what it is for all other areas of the state. These are a substantial increase.

I think, Mr. Bogany, I think from Houston it went up from about 150, 160 -- is Eric here?

MR. PIKE: 143.

MS. CARRINGTON: From 143 to --

MR. PIKE: 189.

MS. CARRINGTON: -- 189, so a substantial increase for the areas around the state. Staff is recommending that the board does adopt these average area purchase price limits.

VICE-CHAIRMAN CONINE: So moved.

MR. GORDON: Second.

CHAIRMAN ANDERSON: Any questions, discussion?

(No response.)

CHAIRMAN ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say, Aye.

(A chorus of ayes.)

CHAIRMAN ANDERSON: Opposed, no.

(No response.)

CHAIRMAN ANDERSON: Motion carries.

Item 3(e), Ms. Carrington. I won't read all of that.

MS. CARRINGTON: Item 3(e) relates to the issuance of single-family mortgage revenue bonds for our first time homebuyer program for 2004. Mr. Johnson, do you want to kind of just start making your way up here? This is Byron Johnson, who is our director of Bond Finance.

This will actually be three series. It will be a single-family mortgage revenue bond series, a 2004 A and B. And then, it has a third taxable junior lien piece related to this.

I know that you all remember last year at the end of the year, we did a commercial paper program, where we had bond allocation, bond authority from last year that we did not utilize. We didn't feel like it was prudent to issue bonds last year since we still had mortgage money out there. So we rolled that into a commercial paper program. The commercial paper program does expire in May of this year. And so, what we are looking at doing is converting that commercial paper program and the lendable proceeds in a single-family mortgage revenue bond program.

100 million of this single-family program would be assisted. So we'd have down payment assistance. It's up to 4 percent of the loan amount. The interest rates that we're targeting would be 4.99 percent if it was unassisted. In other words, it didn't have any down payment assistance attached to it. It would be approximately 5.65 percent if it does have down payment assistance attached.

Byron has provided a very nice write-up. It explains what we're doing here. The bottom line may be over on the third page. This will be program 61. We outline the down payment assistance, how much in volume cap we have, and what our timetable is for the Bond Review Board.

We've already had the planning session. The approval for the Bond Review Board will be next week. The pricing window, when we plan to close, we need the commercial paper. And then, at that point, when all of that happens, then we will have bond proceeds that will be available to make mortgage loans for first time homebuyers around the state.

CHAIRMAN ANDERSON: Byron, I had a question for you. On the TDHCA -- well, off of 4 percent recapturable down payment assistance loans, could you explain that?

MR. JOHNSON: Okay. I'm Byron Johnson, Director of Bond Finance. We started out thinking that we would offer a 4 percent assistance loan. It would be kind of a hybrid between the DPAP program, where we drew the 5, 7,500, and 10,000 and where we give 4 percent assistance to the borrower and charge them a slightly higher rate.

What we're doing here is providing 4 percent of assistance and requiring that the borrower sign a second lien. We started out thinking that we would forgive one-tenth of the assistance amount over ten years. In talking with Mr. Conine earlier today, we may change that. Here are the new specifications.

What we're looking at doing is offering a 4 percent assistance rate, with a 0 percent borrowing rate, for a 30-year term. The amount of the assistance would be due upon the sale, prepayment, or maturity of the residents.

MR. BOGANY: The whole amount?

MR. JOHNSON: Right, yes.

VICE-CHAIRMAN CONINE: I'll make that as an amendment to the -- well, there's not a motion on the floor. Excuse me. I can't amend it yet.

MR. BOGANY: The other question I had -- in order to promote fast origination of mortgage loans, mortgage reservation periods under program 61 has decreased. Could you kind of explain that to me?

MR. JOHNSON: We, in the past, have provided six months for new construction and three months for existing. We're reducing the time that the lenders can reserve those loans to two months and to four months. So a lender would have four months in which to reserve the funds and close the loan for new construction and two months for an existing home.

MR. BOGANY: How would that affect -- you know, you go into to an affordable housing community, the builder's just now building streets, but he's already beginning to pre-sell the neighborhood. The streets are not in, but he's doing it. He's selling and getting people involved and getting that period of time. And then, to have four months, because if you've got weather, or rain, or whatever, it may take longer to get that subdivision developed and up on the table.

So once he gets that up, then that gives him roughly two months or so to get these loans closed, not counting you may have issues that you have to work through. I personally like the six-month period. It's just simply for those developers who are pre-selling and wanting to reserve that money. What was the rationale behind switching them to four months?

MR. JOHNSON: To speed up the origination and it's consistent with our move to try to provide continuous funds throughout the year. We feel that funds will be available at all times, and that rather than locking in funds for six months and tying it up, that as people get closer to the closing, that's when they know they can go in and lock up the rate and close the loan. So the objective was to speed up the origination of the funds because we have about $300 million we're trying to originate.

MR. BOGANY: Okay. So let's just say the four months went through, and the scenario I just painted earlier happens. Do they come back in and ask for an extension? Or do they come back in and you release them the money? Do they go back in and reserve it again? Now, how does that work?

MR. JOHNSON: Initially, we were contemplating charging a lock fee. We decided not to go with that on this program. So what they'll do, and what they have been doing even with the six months, is notifying Countrywide or Eric, Eric in single-family production, with regard to the extension.

MR. BOGANY: Okay.

MR. JOHNSON: Either Countrywide or single-family production.

MR. BOGANY: All right. Thank you.

VICE-CHAIRMAN CONINE: Can I follow up on that? I promise you I didn't prompt him for any of those questions, but I'm proud of him for asking them.

If a builder sells a house before they start construction, the four-month time is a tough time frame. Granted, most guys should be able to do an affordable home in a very quick manner, but to have to have the department go through the paperwork of giving extensions in cases where those are needed, I agree with Mr. Bogany that the six-month time frame is probably appropriate for new home construction, especially on presale activity before construction.

The two-month time frame on existing is appropriate because you've got a house that's under contract already and most existing home sales can be completed in a two-month time frame without a whole lot of trouble, especially with today's expanded underwriting and so forth. So I would, I guess, agree with Mr. Bogany that the two and six sound like good numbers.

MR. JOHNSON: Okay. Well, six it is.

CHAIRMAN ANDERSON: What's the board's pleasure?

VICE-CHAIRMAN CONINE: Why don't we move to stack recommendation subject to a couple of amendments? Do you want to take them separately? Let's get the motion on the floor. Move to approve.

MR. BOGANY: Second.

VICE-CHAIRMAN CONINE: Now, can I make a couple of amendments?

CHAIRMAN ANDERSON: Absolutely.

VICE-CHAIRMAN CONINE: I'd like to amend the staff recommendation to extend the -- it's okay if I actually do this?

CHAIRMAN ANDERSON: Let's do this.

VICE-CHAIRMAN CONINE: Amend the staff recommendation on the new home time frame, which is six months instead of four and to, on the 4 percent down payment assistance, make those 0 interest due upon sale or refinance, 30-year loans, in a second or third leaf position. That's my amendment.

MR. BOGANY: Second.

CHAIRMAN ANDERSON: Discussion on the amendment?

MR. JOHNSON: I'd like to also point out, in the resolution, we have requested that you acknowledge that -- I guess back in 2001, legislation was passed, Section 2306.142, requiring the department to provide

A-minus and B loans for geographic and economic submarkets.

As you know, when we set out the pilot program in 2002, that was the extended approval program. So the objective was to develop a self-authenticating program which minimizes TDHCA's exposure to interest rate risk, pipeline risk, and credit risk. The courses of action we have taken have been we have incorporated the standard approval laws into a bond transaction in 2002. Since that time, only three loans have closed.

We have increased the fee to the lenders and we're looking at some other actions to take. We examined it using a senior, mezzanine, and subordinate bond structure, which provide internal credit enhancement, but the structure was not feasible given the credit agency rating loss coverage reserve requirements.

We also examined using external credit enhancement that was a bond finance brokered with bond insurance companies and mortgage insurance companies, but that also turned out not to be feasible. We worked with a mortgage consultant to establish an A-minus/B flow-through and that particular mortgage consultant couldn't get it done.

So what we're doing, and what our prospective plans are, include discussing an A-minus/B flow through land with the mortgage finance company. That's the taxable program we brought to you in

January, the CitiMortgage Financial Group. We're also exploring the MI subsidy for the standard approval loans. Actually, we should be able to come back to you next month with a recommendation on that.

VICE-CHAIRMAN CONINE: I think you changed the subject and we never voted on the motion.

MR. JOHNSON: This is part of the resolution of this motion.

VICE-CHAIRMAN CONINE: It is?

CHAIRMAN ANDERSON: This is the rest of your staff presentation before we vote on it.

MR. JOHNSON: Yes. I can show you the section in the resolution. It is Section 3.2 on page 11.

VICE-CHAIRMAN CONINE: What you're talking about now has nothing to do with this 187 million, does it?

MR. JOHNSON: Yes.

VICE-CHAIRMAN CONINE: It does?

MR. JOHNSON: Yes.

VICE-CHAIRMAN CONINE: How?

MR. JOHNSON: The legislation requires that we set aside 40 percent of the funds for A-minus and B borrowers.

VICE-CHAIRMAN CONINE: Okay.

MR. JOHNSON: What I just read to you were reasons why we cannot set aside that 40 percent. So we're asking you to acknowledge that doing so would impair the department's financial condition. And then, when we go to the Bond Review Board, they also ratify, or approve, this exception.

VICE-CHAIRMAN CONINE: Okay.

MR. JOHNSON: The exception is provided for by the legislation under paragraph -- I don't know the exact citing, but the paragraph of Section 2306.0114.

CHAIRMAN ANDERSON: In your work session with the Bond Review Board a couple days ago, you discussed this topic with them, about not being able to do that 40 percent?

MR. JOHNSON: Yes.

MR. BOGANY: So, on this bond issuance, program 61, there will be no expanded approval or no A-minus?

MR. JOHNSON: No A-minus or B loans.

VICE-CHAIRMAN CONINE: It's because we've got so much hanging around from the other ones. Right?

MS. CARRINGTON: Correct.

MR. JOHNSON: Correct.

MR. BOGANY: I have one other question. So we pass this program. How are we going to go about marketing this program and getting it out to the people who need it, to get the builders to sign up? Is it any cost to any builder, or developer, or any lender, who would want to sign up for this particular program? Did we have a marketing program to make sure that people know it's out there, whether they use it or not, but at least they know?

MS. CARRINGTON: We will be discussing that in the next agenda item.

MR. BOGANY: Okay.

(Pause.)

MR. BOGANY: Second question.

CHAIRMAN ANDERSON: Any other questions?

(No response.)

CHAIRMAN ANDERSON: I have a question.

MR. JOHNSON: Go ahead.

CHAIRMAN ANDERSON: Go ahead.

MR. JOHNSON: I missed the second part of the question.

MR. BOGANY: Is it any cost to the lenders to sign up for this program?

MR. JOHNSON: No, sir.

MR. BOGANY: So they just come in and write their name on a sheet? Mortgage brokers, anybody can just come in, write on a sheet, take the train?

MR. JOHNSON: Primarily mortgage bankers, but we do not require an allocation fee or participation fee.

MR. BOGANY: Okay. It won't cost a builder? So they can't reserve $20 million of this money at all?

MR. JOHNSON: No, sir.

MR. BOGANY: They just use it as they need it.

MR. JOHNSON: First come, first served.

MR. BOGANY: Okay. Thank you.

MS. CARRINGTON: We do have a qualification process for lenders who do want to participate. We have a questionnaire. We do request information form them and they do go through a process to get on our list of approved vendors.

MR. BOGANY: Okay.

CHAIRMAN ANDERSON: I have one question, Mr. Johnson, and that's about the interest rate swap part of this. You know, I can see the interest rates of 4.99 and 5.65. What were you projecting the interest rates to be without the swap in the variable rate derivative component of this? I mean, how much lower is the rate because we are using this kind of a vehicle?

MR. JOHNSON: The transaction structure reduces our cost of capital by about 40 basis points. If we did not issue the variable rate demand bonds and hedge it with the swap, the rates would be around 6 percent and around 5.40. Overall, the structure saves 81 basis points and because we included certain features, par termination rights, well, certain features to reduce portions of our risk, that 81 basis point savings was decreased to about 40. We told the Bond Review Board that the savings would range from 30 to 50, but we expect it come in about 39 to 40.

CHAIRMAN ANDERSON: Thank you. Any other questions?

(No response.)

CHAIRMAN ANDERSON: All right. We're voting on Mr. Conine's amendment.

MR. JOHNSON: I have one other comment, please.

CHAIRMAN ANDERSON: Sure.

MR. JOHNSON: I wanted to disclose to you that when we do these transactions, we have to get credit ratings. We submit the cash flows to the credit rating agency. In this case, we have bond insurance also.

Those cash flows have to comply with their requirements. Those requirements are extremely stressful and they assume that all of the funds are originated on the last day of the origination period. So in this case, all $180 million would not be originated until 42 months after we issue the bonds.

Under that scenario, with the rating agencies, if we did not originate any of the funds for the 42 months, to make the cash flows work properly, we shut down the department fees. Now, that's only under the credit rating agency runs.

We also run a separate group of runs that are expected origination. In other words, we expect the money to flow out over an expected period of time at a certain rate.

Under those scenarios, and we've made some changes, but under those scenarios, there is only one case where we would have to shut down one program. That's if there's zero prepayments over the life of the deal. That's throughout the entire life of the transaction. The deal we would have to shut down the expenses on would be the 2002 transaction, the 57-A, the program with the expanded approval loans in it, because as you recall, last month we just restructured that and reduced the rate to 5.9.

So we do not expect that pro land to remain stagnant and we are in the final stages of completing the restructuring. So Bond Finance's recommendation is to move forward and that the credit rating agency stress loads are highly unlikely. It is highly unlikely at these rates of 5.65 and 4.99, that the funds would remain unoriginated for 42 months.

CHAIRMAN ANDERSON: Anything else?

MR. JOHNSON: I think that's it.

CHAIRMAN ANDERSON: Thank you. Hearing no further questions, discussion, I assume we're ready to vote on the amendment. All in favor, say, Aye.

(A chorus of ayes.)

CHAIRMAN ANDERSON: Opposed, no.

(No response.)

CHAIRMAN ANDERSON: The amendment carries. Now, we'll vote on the main motion. Are there questions or discussion on the main motion?

(No response.)

CHAIRMAN ANDERSON: Hearing none, I assume we're ready to vote. All those in favor, say, Aye.

(A chorus of ayes.)

CHAIRMAN ANDERSON: Opposed, no.

(No response.)

CHAIRMAN ANDERSON: Main motion carries.

Okay. Item 3(f) is the single-family mortgage revenue bond marketing plan.

VICE-CHAIRMAN CONINE: Where are you going?

CHAIRMAN ANDERSON: Oh, back up just a second. For the record, the resolution number for the motion that just carried, the resolution number is 04-018. Thank you.

MS. CARRINGTON: Item 3(f), at the board's request, Mr. Bogany, is our future marketing plan and a report to you all of what we have done over the last several months in marketing the current single-family mortgage revenue bond money that we have out right now.

We are in the process of putting together an invitation to bid to secure a professional marketing firm, that we would look to have on board by June 1 of this year, that could assist us in creating and implementing a marketing plan. As part of that, of course, what we are going to want to do is be able to report to this marketing firm what we have already done, so that they can help us identify either the markets that we're missing, or the type of vehicles that we should be using, that we have not currently been using.

So for the board's information, we have provided you, probably over about the last four or five months, our recent events, the conferences that we have attended, the mortgage bankers association, a Spanish radio station in Houston with an interview, and then also Corpus Christi, press releases, Marshall Housing Authority speaking engagement, THA lender meetings that we've had around the state, back probably three, four weeks ago, our involvement with the Texas Association of Realtors.

Again, Mr. Bogany, we appreciate you having me follow up on that. I think it was very beneficial for the agency.

Also, I met with Cindy Leon a few weeks ago and HUD has housing fairs around the state. They have regional housing fairs. They have agreed to take our marketing materials and include those as information to hand out as they have their marketing fairs. And then, we have some upcoming events, the local homebuyers fairs, the mortgage bankers association, lender trainings that will be coming up with the release of this money, and a couple of other activities.

So what we want to do is, you know, relate to the board what we're doing, what we've done, what we plan to do, and then work with our marketing firm to have them take a look at what we've done, and then decide whether we do need to spend money developing materials, or whether we need, basically, consulting advice from them on how else we best market our programs, because we do have a substantial amount of single-family, mortgage revenue bond money out there now. With this issuance, it will be about another $170, $180 million.

So, obviously, the department needs to make sure that the home-buying market in Texas, and those who assist them in buying homes, are apprised of our programs and we're able to successfully originate the funds.

MR. BOGANY: One comment. I appreciate you guys taking on this. The Houston Association of Realtors, at the end of the month, is having a home-buying fair. They've had 700, 800 people come out to this event. It will be on March 27, on a Saturday. I know it's kind of quick, but I really would like to see if somehow Texas Department of Housing can get an opportunity to have a booth there, or hand out some material, or something, you know, about this particular program.

I get an opportunity to speak there, to the homebuyers, but I would really rather it come from you guys, than me speaking about it, because you all are the experts. So I would love it if you could make that happen.

MS. CARRINGTON: We will be there.

MR. BOGANY: All right. Thank you.

VICE-CHAIRMAN CONINE: Yes, I would echo Mr. Bogany's comments in that a motion here, we're talking about maybe June 1 being a target date. That seems a little long to me, you know. I think we can move that up to May 1 and have that as a target date. This is something that should be a whole lot easier to get accomplished now with the increase in price limits.

MS. CARRINGTON: Right.

VICE-CHAIRMAN CONINE: I don't think we're looking for a Ditech.com kind of media campaign to go on, but we need to somehow drive this. Instead of the lender community, we need to drive it from the public. We need to say, first-time homebuyers that want 4 percent down payment assistance in closing that home, do you know we have 4.9, whatever, money available. Let the public generate some of that.

So I hope you express that to the marketing company and find the most cost efficient manner to do that. The most cost efficient marketing in the world today is the Internet. It doesn't cost anything, but that's not going to reach everybody. That, at least in my mind, should be part of the plan that you guys bring forward.

So I look forward in seeing what comes out.

MR. JOHNSON: Mr. Pike, Eric, and Mr. Gordon met with a broadcast marketing firm a week or so ago. For a certain amount of fixed funds, they will broadcast or provide air time for not-for profits, or agencies like ourselves, for I think it's like two or three months. All we have to do is get the production of the tape and the actual commercial put together. So that's what we're exploring also.

CHAIRMAN ANDERSON: Is that it? Are you through?

MR. JOHNSON: Yes.

CHAIRMAN ANDERSON: I just have one comment. I mean, I'm glad to see us moving forward with this. We've had discussions, you know, over at least a year, from time to time about this topic and I would just urge that we not try to build Rome with this invitation to bid thing, that we do something very simple, sort of echoing in some respects what Mr. Conine said, very simple, RFQ or something. Let's not spend all the time on the front end building a big RFP document, because you know I'm in the billable business.

I am a consultant, and I'm in the billable business, and I know how they operate. You don't want to build a big scope of work so that they're going to come back with a big proposal that is going to blow us out of the water financially. You want a quick start request for bid, with sort of time-phased, you know, multiple modules of things.

Make them offer you some options so that you can evaluate the bid quickly, get started with somebody, and get noise out over the radio waves, air waves, Internet waves, however we're going to do it, but I would just caution you not to build a request for invitation that's so sophisticated that it drives a big elaborate response. You'll never get it started by May 1 if that's your approach.

VICE-CHAIRMAN CONINE: Uh-huh.

CHAIRMAN ANDERSON: So I'm like, let's sort of crawl, walk, run. Let's get something out to bidders to bid on. Get some firm, or multiples of them, in house, where you have them do small, little pilots of a concept. Let's see what these people can do for us. You'll be able to do it a lot faster if you take that approach. That's my two cents. Thanks for listening.

VICE-CHAIRMAN CONINE: Would you swing by the bar association and give that speech?

CHAIRMAN ANDERSON: Now, this, Ms. Carrington, really is a report item. Is that right?

MS. CARRINGTON: Yes, it is.

CHAIRMAN ANDERSON: So there's no action required on this. Is there any other discussion on the plans for the marketing plan?

(No response.)

CHAIRMAN ANDERSON: Great. Thank you, Mr. Johnson.

The next item is the recommendation for the underwriting time for program 61. Ms. Carrington?

MS. CARRINGTON: Thank you. For the program that you, anyway, two items before that you approved, program 61, we are recommending the investment banking team for this particular program. What we have is a handout. Maybe it's different than the one in the book.

MR. JOHNSON: Correct. One of the firms, the co-seniors, was taken out.

MS. CARRINGTON: It's a little bit different estimation on the size of the transaction. The one in your book says 180 million. The one that you were just handed says 180.5 million.

UVS Financial Services will serve as the senior manager on this transaction. George K. Baum will serve as co-senior. And then, we have four co-managers on this transaction, Estrada Hinojosa, Lehman Brothers, M. R. Beal, and Morgan Stanley. With that, this is the team, the underwriting team, that the department is recommending for program 61.

VICE-CHAIRMAN CONINE: Move for approval.

MR. BOGANY: Second.

CHAIRMAN ANDERSON: Any discussion or questions?

(No response.)

CHAIRMAN ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say, Aye.

(A chorus of ayes.)

CHAIRMAN ANDERSON: Opposed, no.

(No response.)

CHAIRMAN ANDERSON: Motion carries.

The next item is item 3(h), proposed new rule regarding ethics and disclosure requirements for outside financial advisors and service providers.

MS. CARRINGTON: In December of last year, the board approved a policy relating to ethics and disclosure requirements for outside financial advisors and service providers. This was as a result of a legislative change in the ethics and disclosure regulations that was passed by the 78th session of the legislature.

The department currently had an investment policy in place, back last fall. And so, what we did was take that investment policy and include these required changes to our investment policy. What we have now done is taken that language for the ethics and disclosure requirements and we're turning it into a rule, which is what we believe that the legislature intended.

So I don't believe that we have any language changes or any terminology changes. Byron says we do.

MR. JOHNSON: Well, I think it's now Section 1.16, rather than 1.15.

MS. CARRINGTON: Okay. So it's 10 TAC 1.16?

MR. JOHNSON: Yes.

MS. CARRINGTON: Okay. So we do need to make that change. So it will be 10 TAC 1.16, but the document that you all are looking at today is the same document that the board approved as a policy to our investment policy back in December. We are requesting that you do approve this as a draft rule and it will go through our standard rulemaking process.

MR. BOGANY: So moved.

VICE-CHAIRMAN CONINE: Second.

CHAIRMAN ANDERSON: Questions or discussion on the motion?

(No response.)

CHAIRMAN ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say, Aye.

(A chorus of ayes.)

CHAIRMAN ANDERSON: Opposed, no.

(No response.)

CHAIRMAN ANDERSON: Motion carries. Item 3(i) is a performance measurement. Mr. Johnson?

MR. JOHNSON: Can I introduce the investment bankers?

And then, I'll step down.

CHAIRMAN ANDERSON: Oh, yes, please do. Thank you.

MR. JOHNSON: I'm sorry. You guys just moved so fast on that, I didn't get a chance to speak up, but representatives from the senior manager firm are here. I just wanted to acknowledge them. Mr. Joe Tait and Ms. Robin Redford are here. Robin is in Austin native and she works up in New York now. I just wanted to say that they did an outstanding job. They came in. In about six weeks, they got us a liquidity facility for the variable rate bonds, worked with FSA to get the insurance commitments, and got us to this point today. So everything went very well and has gone well so far.

MS. CARRINGTON: While we're saying thank yous to folks, Byron and Elena Pinada, from our Governmental Affairs Division, have spent a lot of good time over with the members of the Bond Review Board, explaining this variable rate demand structure. We attempted to do one last year. As you all know, we did not follow through with that. There are new members of the Bond Review Board and they have spent some time over there explaining it to them and I think that time was well spent.

MR. JOHNSON: Thank you all.

CHAIRMAN ANDERSON: Now, on to 3(i), performance measures.

MS. CARRINGTON: Yes, ma'am. We put this back on the agenda at the board's request, from last month. What you have in front of you has not changed from what you saw last month.

You know that we are having a discussion with the Legislative Budget Board on making some changes to our current, existing performance measures. We are still in discussions. I don't think anything has transpired since last board meeting, at least with the LBB. So we are presenting this again and opening it up for you all's discussion. May I ask Sarah Anderson to come on up for any specific questions you all may have?

VICE-CHAIRMAN CONINE: Can we get it on the table? I move for approval.

MR. BOGANY: Second.

CHAIRMAN ANDERSON: Discussion, questions from the board?

(No response.)

CHAIRMAN ANDERSON: I have a question. I'd be interested in your point of view, Sarah, of the comment that Mr. Henneberger made of showing the breakouts of the population served, you know, the income level breakout that he mentioned in his public comment.

MS. SARAH ANDERSON: Actually, I would probably concur with his recommendation. I don't think we'd have a problem doing that.

CHAIRMAN ANDERSON: That's not a data gathering problem? You collect that? You have access to that kind of data --

MS. SARAH ANDERSON: Right.

CHAIRMAN ANDERSON: -- to report with confidence?

MS. SARAH ANDERSON: Right. These are generally projections. The majority of what goes through with the performance measures are projections. And so, we certainly should be able to do that.

MR. BOGANY: Should we offer an amendment to that?

CHAIRMAN ANDERSON: I guess, yes.

VICE-CHAIRMAN CONINE: Probably so.

MS. SARAH ANDERSON: Okay.

MR. BOGANY: I would like to amend the proposed change to performance measures by adding a breakout between the income levels of the people that we serve in our programs.

VICE-CHAIRMAN CONINE: Second.

CHAIRMAN ANDERSON: Any other questions or discussion?

(No response.)

CHAIRMAN ANDERSON: I have one other item of discussion. I mean, I think in general this change in the performance measures attempts to more sort of accurately and substantively try to represent what it is that this agency should be measured on and also what the agency achieves.

I think, what I would request is that in an effort to assure that we have clear communications with the legislative branch, that as we propose these changes and you have the discussions with the Legislative Budget Board, that I would like to -- I guess I'm really -- well, I'd like to ask that the staff prepare sort of a crosswalk between the old measures and the new measures. So that it is crystal clear that we haven't let something fall through the cracks, that we haven't picked up something. So that it's very transparent to the members of the Legislative Budget Board what the thinking is behind these changes that we're offering.

Are you willing to do that without me putting that in form of a record amendment?

MS. SARAH ANDERSON: Definitely. Just to go over the process a little bit, we actually have gotten, they finally put out the rules, or the guidelines, for the plan and we do have the new dates. On April 2, actually, is when we put in our request for some of these changes. As part of this process, we have to go through that exercise. So we'd do it at your request, but we also have to do it.

CHAIRMAN ANDERSON: Okay.

MS. SARAH ANDERSON: So there shouldn't be a problem. And then, the actual plan is going to be due July 2. So we have a couple more weeks than we thought we would, conditionally.

CHAIRMAN ANDERSON: Other questions or discussion?

(No response.)

CHAIRMAN ANDERSON: Are we ready to vote on the amendment, Mr. Bogany's amendment?

(No response.)

CHAIRMAN ANDERSON: All in favor of the amendment, please say, Aye.

(A chorus of ayes.)

CHAIRMAN ANDERSON: Opposed, no.

(No response.)

CHAIRMAN ANDERSON: The amendment passes.

Now, we'll vote on the main motion to approve the performance measures. Is there any discussion on the main issue?

(No response.)

CHAIRMAN ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say, Aye.

(A chorus of ayes.)

CHAIRMAN ANDERSON: Opposed, no.

(No response.)

CHAIRMAN ANDERSON: Motion carries.

Item 4(a) is the proposed issuance of multifamily mortgage revenue bonds for the Chisholm Trail Apartments. Ms. Carrington?

MS. CARRINGTON: Thank you, Ms. Anderson. The one item we have under bond issuance and 4 percent credits is the Chisholm Trail Apartments located in Houston. This would be an issuance of tax-exempt bonds with the department as the issuer, with 12 million in tax-exempt bonds in first series and then 1 million in subordinate refunding bonds.

This is the first transaction you all have looked at that is actually an '04. It's a 2004 transaction. The other private activity bond in credit transactions you've approved up to now have been '03 carryforwards. This is the first one for '04.

It is noteworthy to remind you that in 2004, the priorities did change for the Bond Review Board and the choices that developers make into what their set-aside requirements will be. In this particular transactions, they chose priority 1-A.

You still have three priorities as you've had in years past, but what the legislature did is say, in priority 1, we're going to give developers some choices of number of units that they will set aside at what incomes.

So in this particular case, it's Chisholm Trail. They chose priority 1-A, which means that 50 percent of the units will be at 50 percent of area median family income. And then, 50 percent of the units and rents will also be at 60 percent of area median family income.

One of the changes also in the way that we are presenting this, if you'll look behind tab 1, we basically looked at your information from tabs 2 to 9 and tried to summarize that for you, so that you all could basically take a look at one tab and get an idea of the kind of structure and what is being proposed at this particular development.

This development ranked third out of a total of 44 developments that we scored and ranked last fall in our tax-exempt bond program. You will remember also that our legislation did require that rather than just inducing all the applications that come to us, that we will score and rank.

We had a public hearing on this particular proposed development in January. There were 21 people in attendance, with five people speaking for the record. We do, of course, have the transcript and the summary attached behind this item. There were 38 letters from apartment complexes opposing the development, one letter from the Greater Greenspoint Management District. There were people also there in support.

This would be a variable rate tax-exempt bond transaction in the amount of $12 million. It would be credit-enhanced by Fannie Mae and would carry a AAA rating.

Behind tab 3 is the housing tax credit program recommendation for the 4 percent credits. So the department would be recommending, or is recommending, $826,184 in the way of a tax credit allocation, which is the eligible basis amount. The underwriting report is behind tab 5. The conditions are listed on the underwriting report.

Tab 7 is the map of where this proposed property would be located within the Houston area. It is north and a little bit west of Houston.

Behind tab 9 is the summary of the comments that we received at the public hearing, a copy of the transcript of the public hearing, and then also letters behind the orange, or yellow, it's gold --

VICE-CHAIRMAN CONINE: It's whatever color you want.

MS. CARRINGTON: Yes, thank you -- from the state Congressman Gene Green, who was opposing or is opposing the transaction, John Whitmire, the state senator who's opposing, the letter from the Aldine School District, opposing this transaction, Puget of Texas [phonetic], Greater Greenspoint, and then a letter of support for the transaction.

So with that, Robert Onion would be happy to answer any questions. Am I looking at the appropriate person, Robert?

Staff is recommending on this, the issuance of the tax-exempt bonds, and also the allocation of the 4 percent credits.

VICE-CHAIRMAN CONINE: Can you see public comments?

CHAIRMAN ANDERSON: Before the motion? Okay, that's fine. There's several people that want to make public comment. The first is Nat Tovar.

MR. TOVAR: Good afternoon. First of all, I'd like to introduce myself. My name is Nat Tovar. I'm a police officer for the city of Houston. Outside of our department, we work extra jobs. Right now, I'm currently working for the Green Pines Apartments as a courtesy officer.

I want to shift to the proposal of Chisholm Trail Apartments. The owner of Green Pines does not nor will tolerate any kind of crime. The management style of the owner is very positive and attractive to the apartment market. The Baum Management Company would take this approach to crime. As the owner of Green Pines Apartment, living would be more acceptable to the community.

This also helps the police department as far it reduces -- because of their general tolerance of crime, the owner has budgeted in his program to continue throughout the year. He will have the staff ready and in place to carry the zero tolerance program to the Chisholm Trails Apartment complex, if it is approved.

First of all, I'd like to say off-duty police officers have the same power as they do on duty. The only thing is officers on power duty allows for quicker response time for the property.

Police departments, when you dispatch a police officer from the department, they prioritize calls. So therefore, if there's a burglary and the suspect's already GOA, they're going to take a little bit longer than if the suspect was actually inside the apartment. Being that we're there, we can respond immediately. Off-duty officers respond immediately. The reports are handled faster and more efficient towards the residents.

Officers work, during the week, random hours. So we patrol the property before curfew and any criminal activity. Officers' presence make residents feel a little bit safer. Prospective residents that check property crime will see a decline. The common goal of the property and officers is a safe community.

The bottom line here is the owners of Chisholm Trail will not tolerate any kind of criminal acceptive and makes a better apartment complex for the residents to live. So I'll close out by that. If you have any questions for me, I'll be more than happy to answer any questions.

CHAIRMAN ANDERSON: Thank you very much.

Mr. Steve Davis?

MR. DAVIS: My name is Steve Davis. I've been active in the commercial real estate business in Houston for around 30 years. I come to Austin to vigorously support this project. That neighborhood desperately needs new housing, allowing some of the people that live in some of the older apartments, if they so desire, to move up and better their situation. There's a lot of housing out there, but a lot of it is substandard, built in the mid-'70s through late '70s, flooding problems, et cetera.

I've always felt personally that you should not doom somebody to be in those types of projects if they have a desire to better themselves and better their conditions. Like I said, I thank you for your attention. I very strongly support this. I'd be more than happy to answer any questions.

CHAIRMAN ANDERSON: Thank you, sir.

MR. DAVIS: Thank you.

CHAIRMAN ANDERSON: Sorry.

VICE-CHAIRMAN CONINE: I have one quick question, Mr. Davis.

MR. DAVIS: Okay. I'll have a quick answer.

VICE-CHAIRMAN CONINE: I noticed you were at the public hearing and testified there, but there was a Mr. Baker right behind your testimony that was talking about the location being a bad location.

Of course, in the public hearing, you don't get a chance to respond. I think what he said was he was a professional planner. The location at this site is "surrounded north, south, east, and west by industrial and warehousing. The activities going on, and the uses, would most likely not be compatible to residential development.

I just wanted to make that comment."

Can you respond to that, please?

MR. DAVIS: The problem with the city of Houston is we don't have the zoning. So we end up with a Greenspoint where you've got three projects down one side of the street and 20 projects down the other side of the street. That looks great in 1977.

In the year 2004, you have got an enormous -- it's a concentration of people that have too much time on their hands. When you move away, what you're doing now, where you're starting to move these projects out, they're isolated. Therefore, they're going to be easier to keep up, because if you keep yours up and the guy across the street lets his apartment run down, everybody is pulled down.

So I would take issue with the location observation because you're going home. You're living there. You have the security. There is nobody living next door to you.

Until we get zoning, we're going to have to live with those types of things. I think, in the 21st century, this is a better location.

VICE-CHAIRMAN CONINE: Yes, well, the sun's going to come up in the west and the far east is going to get zoning approved. Thank you.

MR. DAVIS: Thanks.

CHAIRMAN ANDERSON: David Russell?

MR. DAVID RUSSELL: I would like to defer my time to Pat O'Connor.

CHAIRMAN ANDERSON: Okay. Thank you, sir.

Pat O'Connor.

MR. O'CONNOR: My name is Pat O'Connor. I'm president of O'Connor and Associates. We're a 95-person real estate services firm. We do real estate appraisal, market research, and consulting. We've been in business for 30 years. Since 1988, we've conducted a quarterly survey of every apartment complex in the Houston area with at least ten units. So we're experienced at surveying the Houston apartment market.

I've been asked to address two primary issues, one is the effect that the subject property would have upon the Greenspoint apartment market, or that submarket. The second is whether there's a need for this project. Does it serve a need that's not currently being served?

To analyze this issue with a little more detail, we did a survey Monday morning, March 8, of 78 apartment complexes in the area that's bounded by Beltway 8 to the south, on the west, that's two miles west of 45, to the north, just about a mile shy of 1960, and on the east, to the East Texas Freeway, or U.S. 59. Out of these 78 projects, we were able to successfully visit with folks at 54 of the properties, or about two-thirds responded to our survey on Monday of this week.

The result we found is that the Greenspoint apartment market overall is vibrant. However, there are property-specific issues which are material. While the overall apartment vacancy rate is about 14 percent, there are properties which have specific issues mostly relating to flooding.

Of those, the six properties that had the most vacancies, four of them had flooded an average of 2.5 times in the past three years. That's not the past 100 years, 2.5 floods in the past three years. So, basically, it's once a year. Of the other two, they didn't respond to the question about whether they had flooded or not. Of the twelve projects which had the most vacant units, six reported flooding. Four of those projects had a total of 410 units that they reported which were flood damaged. The flooded units in those four projects were 75 percent vacant.

With three floods that have occurred in this area since Allison of 2001, the word has gotten out to the resident community that since this project is so close to Green's Bayou, there is an issue with flooding. However, if you get past these projects, the news gets a little better. If you look at the top two quartiles, the projects at the top quartile and the second quartile, those 27 projects only have a 4.4 percent vacancy. So the projects that are well run and well maintained are only 4.4 percent vacant.

If you remove the eight worst properties, the vacancy for the others is approximately 8.5 percent vacancy for the other projects. So you can quickly see that the vacancy is stratified to projects that either have an issue with flooding or properties that have an issue with management or deferred maintenance.

Leasing activity in the area is strong. When we visited with folks about leasing, they indicated 186 leases last week at 44 of the complexes. So of the 44 that responded, they indicated 186 leases last week. The 33 complexes that reported elapsing in the prior month indicated a total of 508 leases, or approximately 15 leases per property per month, which is consistent with what new apartment complexes in the metro area are currently achieving.

The simple capture rate for this project will be approximately 4.5 percent. So this project should have a minimal impact on this market. The inclusive capture rate is 10.8 percent, which includes any units currently under construction. In this case, it says, Park at North Vista property, but the 10.8 percent is well below the 25 percent threshold that the TDHCA has established.

To put it in a little bit more perspective, Chisholm Trail would only account for 1.2 percent of the units in this area. So it will not have a meaningful impact on supply of apartments.

Let's talk very briefly about does this apartment serve a niche that's not currently being served. This area is very shy on three-bedroom units. There are only four of the 54 properties we talked to which had any three-bedroom units and the three-bedroom units in the area only account for 2.6 percent of the total inventory of units that were considered. The 2.6 percent is low compared to about 5.5 percent of three bedrooms in the metro area.

In addition, the three-bedroom units were 100 percent occupied. We did not locate any three-bedroom units during our research this Monday, after talking to people at 54 properties. That supports the need for the property since this project is about one-third three-bedroom units.

The other issue is Section 8 units. Of the projects in this area, only 22 percent accept Section 8 residents. Those projects only have 54 Section 8 residents between the various properties which do accept Section 8.

So, in conclusion, the Greenspoint apartment market is strong for well-run, well-maintained properties which do not have a flooding issues. The projects in the submarket are property specific. The supply and demand balance is good, again, for well-maintained, well-run properties which do not have a flooding issue. Chisholm Trail will serve residents who are not currently being served in this area.

I appreciate your consideration.

CHAIRMAN ANDERSON: Questions?

(No response.)

CHAIRMAN ANDERSON: Thank you very much.

MR. O'CONNOR: Thank you.

CHAIRMAN ANDERSON: Mr. Tom Leahy?

MR. LEAHY: I'd like to defer my time to Gerald Russell.

CHAIRMAN ANDERSON: Thank you. Mr. Russell?

MR. GERALD RUSSELL: I'm Gerald Russell. I'm a principal in the ownership and the development entities of Chisholm Trail Apartments. The 228-unit property has been through the planning process at the city of Houston and received final approval from the city planning commission last week.

As has been indicated previously, the property is located in an area of light industrial warehouses and undeveloped land. There's good employment and retail base nearby.

The property will have the amenities located on the screen and the attendant support services as also shown on the screen. Security and safety features of the property include a full perimeter fence, remote control entry and electronic access gates, automatic fire alarm and fire sprinkler system, individual unit security systems, computer-monitored closed circuit video cameras on entry and exit tapes, office, clubhouse, laundry, interior driveways, and perimeter fences. All tenants will undergo application screening, including a credit check, income and employment verification, criminal background check, and prior rental history.

We also constructed another tax credit property, at 6060 Green's Road in Houston. It was completed in September 2002. The property is fully representative of the quality expected at the Chisholm Trail Apartments. That property is currently 100 percent leased, 98 percent occupancy, with no rental concessions being offered.

During our TEFRA hearing in January, the Greater Greenspoint District and representatives from several of the apartment communities located in the district recorded their opposition to the proposal to construct the Chisholm Trail Apartments.

At the item, we contracted to purchase the property, we were unaware it was within the boundaries of the Greenspoint district, as the site is located approximately 1.5 mile north of Greenspoint Mall. If the property were located on the north side of Rankin Road, the Chisholm Trail would not, in fact, be in the Greenspoint district.

Unfortunately, the management district has directed their considerable financial and political influence in attempting to defeat our efforts in developing Chisholm Trail, to solidify their own position and maintain their monopoly on rental property in the area. At the TEFRA hearing, Burt Baker, of the Greenspoint district, said, "Further dilution of our occupancy is not an investment in our property's future."

Although a quasi-government agency, a taxing authority, the Greenspoint district appears to be using their influence to protect the interest of certain property owners within the board representation without consideration for other taxpaying property owners and residents of the area.

The City View Properties, owned by ARCON affiliate and managed by Lincoln Properties comprise most of the properties in the Greenspoint district. It is noteworthy that Mark Wolcott of the ARCON group and John Ridgeway of the Lincoln Property Company are on the board of the Greater Greenspoint District.

This letter dated February 9, 2004, and recently received from Jack Drake, president of the district, highlights the district board. Also highlighted in the letter is a statement, "Developing land in Greenspoint makes more financial sense now than ever." That's what we're proposing to do.

The management has indicated to various public officials their concern with our building the property because of high vacancy rates of Greenspoint area apartment properties. As has been previously pointed out by Mr. O'Connor, the Greenspoint area properties' vacancy rate is directly attributable to area flooding problems. Most apartments in the district are older, having been built in the '70s, and many have flooded three times in the last two years.

The photo on the screen was taken by the Houston Chronicle on October 29, 2002. The caption below the photo says, "A whirlpool forms in the floodwaters in the Arbor Court Apartments on Seminar, near Greens Road. The apartments were flooded during heavy rainstorms which swept through the city last night."

The next photo was taken by the Houston Chronicle again on October 29, 2002. The caption below the photo says, "Latoya Butler tries to sweep water out of her apartment in the Arbor Court Apartments, on Seminar, near Greens Road. Butler is six months pregnant and has two other children. She said this is the second time this year that her apartment and car both had been flooded."

The aerial photo overlay shows the relationship between the Greenspoint area apartment properties and the floodplain boundaries as established by FEMA. The overlay also shows the location of Chisholm Trial and its relationship to the floodplain. The Chisholm Trail property site is located well above the 500-year floodplain for the area and you can clearly see the rooftop within the floodplain. These are all apartments in this area here.

Everyone deserves a decent, safe place to live without the fear of flooding and the health hazards associated with mold and the other problems that come from living in a flood-prone area. We feel that specific political agendas are attempting to undermine the intent of the tax credit program and stand firm in our commitment. Chisholm Trail will not only be a model property for the program, it can serve individuals in a capacity not currently available in the Greenspoint area.

Having said that, I'll be glad to answer any questions.

CHAIRMAN ANDERSON: Questions?

(No response.)

CHAIRMAN ANDERSON: I have a question, sir.

MR. GERALD RUSSELL: Yes, ma'am?

CHAIRMAN ANDERSON: I mean, I think it's interesting that Representative Thompson supports your proposed development, but Senator Whitmire expressed an opposition. Did you meet with Senator Whitmire directly? Could you talk to me a little bit about that?

MR. GERALD RUSSELL: He wouldn't meet with us. We wrote letters. We left messages. We tried every way we could. He would not talk to us.

CHAIRMAN ANDERSON: Okay. Thanks.

MR. GERALD RUSSELL: Yes, ma'am.

CHAIRMAN ANDERSON: Thanks for your time.

MR. GERALD RUSSELL: Thank you.

CHAIRMAN ANDERSON: Okay.

VICE-CHAIRMAN CONINE: Is that all the public comment?

CHAIRMAN ANDERSON: Oh, I'm sorry. I'm sorry, Mr. Wilson. We have one more item of public comment from Richard Wilson.

MR. WILSON: I'm Richard Wilson. I'm one of the principals in this development also. I appreciate the opportunity to come appear before you all today. It's good to hear your work in action and learn a little bit more about what you do, besides help what we're always working on.

TDHCA program were created for housing such as the Chisholm Trail Apartments. I'm here to solicit your vote. We have a proven development team, a proven design, a proven contractor, and a proven concept located in a qualified census tract.

Chisholm Trail was one of the highest scoring applicants based on the new points system. We feel like the location is good because it's very close to employment base and it's equidistant from Interstate 45 and the Hardy Toll Road. It's also in proximity of the Houston Airport.

The opposition we have experienced was based on false information. Mr. Russell has outlined the benefits of our apartment community and Mr. O'Connor, who is Houston's foremost apartment guru, has detailed the market and illustrated the need.

We will provide decent, safe, and sanitary housing with this new community and ask that you vote with us to make this possible. Thank you very much.

CHAIRMAN ANDERSON: Thank you, sir. That's the end of the public comment on that agenda item.

VICE-CHAIRMAN CONINE: Move for approval of Chisholm Trail Apartments, mortgage revenue bonds in the amount of $12 million, and it's resolution 04-017. Do we do tax credits at the same time?

MS. CARRINGTON: Yes.

VICE-CHAIRMAN CONINE: Tax credits are in the amount of $826,184.

MR. GORDON: Second.

CHAIRMAN ANDERSON: Any discussion, questions on the motion?

(No response.)

CHAIRMAN ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say, Aye.

(A chorus of ayes.)

CHAIRMAN ANDERSON: Opposed, no.

(No response.)

CHAIRMAN ANDERSON: Motion carries.

Item 4(b) is the proposed refunding of the multifamily mortgage revenue bonds for Meadow Ridge Apartments in Round Rock. Ms. Carrington, and then I have someone available for public comment only if needed.

MS. CARRINGTON: Thank you, Madame Chair. You will remember that the board looked at this item last month and asked staff to defer it and bring it back for this month. This was the first time the department has been proposed with such an issuance. It's actually a refunding of some existing mortgage revenue bonds, private activity bonds that were outstanding. The department issued the bonds in December 1997, in an original amount of $13,575,000.

The property is located in Round Rock. The syndicator has replaced the general partner. The current general partner has put additional money into the development, has loaned additional money and additional equity, and what they are requesting of us is a restructuring of those existing bonds. The remaining bonds that are outstanding would be $12,850,000. We have proposed the new structure. We've outlined a new structure for you.

Also, when you look at the underwriting report, you will notice that the underwriting report does still say -- it was still the underwriting report from last month, which was that not being able to recommend the transaction due to the uncertainty, based on our underwriting guidelines at the end of the five-year term, and determining that there would be sufficient money available to indeed pay what needed to be paid.

In talking to staff, and coming up with staff's recommendation, which is to approve the refunding of these bonds, what we are relying on from a staff perspective to make this recommendation to the board is the strength of Red Capital, who is the syndicator on the transaction and has already stepped up with additional funding, and Provident, who is the lender on the transaction.

So that's how the staff is getting to an underwriting report that based on our guidelines we were not in a position to recommend, but when we take a look at the strength of the partners that are involved in the transaction, and what they have done to date related to this transaction, we feel that we are in a position to recommend it to you.

MR. BOGANY: So moved.

VICE-CHAIRMAN CONINE: Second.

CHAIRMAN ANDERSON: Discussion, questions on the motion?

(No response.)

CHAIRMAN ANDERSON: I have a question. I understand that the reliance on Red Capital and Provident changed the underwriting picture. I guess what my question is, is we're hearing this verbally, but it's not reflected in the underwriting report that supports this board action. Could we hear why we don't have sort of written documentation to help us make that reliance?

MS. CARRINGTON: Mr. Gouris? He and I had that discussion this morning.

MR. GOURIS: I'm Tom Gouris, Director of Real Estate Analysis. We actually do. If you look at the underwriting report, in the first condition, it talks about a methodology for accepting, or going forward, with the transaction. In the second part of that number 1, it just talks about the principal contribution and the reliance on the fact that the principals who make that contribution.

You know, we have spent a lot of time speaking to, in the rest of the report, with regard to how strong Red Capital is and how strong Provident and the Federal Home Loan Bank raft of the credits is. The bottom line is that the transaction is going to be followed. It wouldn't be one we'd do from scratch today, but it's a workout situation.

Does that answer your question? I hope that it does.

CHAIRMAN ANDERSON: I understand that technically it answers my question. I know you're busy and trying to produce an additional underwriting report is probably not at the top of your list, but I mean it is sort of approving it, you know, because it's in the fine print in the underwriting report.

So I would ask -- hopefully, we'll never have to do this again, because we're never going to have to do another workout situation, but I would have preferred to have an updated underwriting report that had a cleaner opinion on it, than be relying on the strength of an acceptance condition. So that's just sort of out there for future reference kind of thing, just a point of personal privilege.

MS. CARRINGTON: In looking at our recommendations, at a minimum, what we should have done was tie our recommendations into the conditions on the underwriting report because those are the conditions that should the board decide to move forward, those conditions would have to be met before we would move forward with the transaction. So we will certainly --

CHAIRMAN ANDERSON: Those conditions will be reflected in the documents that get signed as the result of a refunding, should the board approve this, and those things are reflected as appropriate in those documents?

MS. CARRINGTON: Yes.

CHAIRMAN ANDERSON: Okay.

MS. CARRINGTON: Yes, they are.

CHAIRMAN ANDERSON: Thank you.

MS. CARRINGTON: Thank you.

CHAIRMAN ANDERSON: Any other questions?

(No response.)

CHAIRMAN ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say, Aye.

(A chorus of ayes.)

CHAIRMAN ANDERSON: Opposed, no.

(No response.)

CHAIRMAN ANDERSON: Motion carries.

Item 5, which is the report from the audit committee. Mr. Bogany?

MR. BOGANY: Okay. We had an audit committee report this morning, very detailed. Mr. Gaines did a great job and it's really good to see that we're moving in the right direction. We're slowly getting a lot more positives on our side, based on where it was a year, a year and a half ago.

At this time, I'd like to bring Mr. Gaines up to give us a brief report and take us to the next level.

MR. GAINES: David Gaines, Director of Internal Audit. Good afternoon everybody.

Yes, we had a real productive meeting this morning. We discussed the status of prior audit issues, the status of the central database, the status of internal/external audits. We had a brief discussion on the management discussion and analysis, which is an extract from the department's financial statements that were presented to the board in Dallas at the last board meeting.

Just a couple of highlights I wanted to point out was under prior audit issues, you may all be familiar with the HUD report on the HOME report that was issued November 2001. HUD has issued a letter clearing all the issues relating to that. That's hats off to portfolio management division and staff. The deputy in that area is Ruth Cedillo, cooperation from the TSAHC staff. That is now history for the department and I know we're all glad to hear that.

Ms. Carrington also pointed out a reference in the letter. Did you want to speak about that real quick?

MS. CARRINGTON: No.

MR. GAINES: When the reorg was in its visionary stage and very shortly thereafter, HUD had expressed great concerns about integrating the HOME Program into a functional organization rather than staying intact. They have done an absolute turnaround on it.

I'll just read this sentence into the record. They conclude their letter clearing these issues with, "The office has acknowledged the positive changes made by TDHCA through the reorganization and restructuring of its policy and procedures, which are designed to improve and streamline the operations of its HOME Program. Based on these changes that have been made and implemented to date, and the proposed changes that are to be implemented, it is evident that the state is working steadily to achieve its goal of delivering quality affordable housing programs at a reasonable cost to recipients of assistance."

So we're real glad that HUD is recognizing the value of this, as well as the rest of us. Again, that's old history at this point.

On the more current issues, under the status of internal/external audit, we touched on a planned audit by the State Auditor's Office. This is an audit that is scheduled to begin early to midsummer.

The objectives of the audit are to deliver, if the HOME and Housing Trust Fund program, and in general, the housing programs -- does the department have processes in place to deliver housing services to the neediest parts of the state? Does the department have processes to objectively award its contracts, effectively monitor its contracts, ensure funds are disbursed in a timely manner, and whether the department's use of the appropriations for the HOME and Housing Trust Fund programs is in accordance with limitations and directions posed by federal law, state law, and including the General Appropriations Act and department policy.

The SAO informed the department they'd like to begin the audit in the early summer, like I said, and have the report released by the next legislative session. In meeting with the executive staff, it was decided to ask the auditors if it was possible to delay the start of this audit until the beginning of August due to the awards we make between now and the end of July, which is substantially the year's performance measures for the department.

In consideration of this request, the department has offered to the state auditors to put together the documentation to facilitate their understanding of these programs. With any audit, a large portion of the time relating to that audit is going to be developing a sufficient understanding to plan the audit.

In doing so, the auditors identify the risk factors that they want to pay particular attention to and they'll assess whether the department has controls in place to mitigate those risks. They'll determine operating effectiveness of those controls. And so, by suggesting to the auditors, we're hoping they're going to be receptive to this suggestion, whereby they wouldn't have to start their field work until August 1, which would allow us to get through that awards cycle.

Regardless of the auditor's response, this is something we want to do anyway. We feel it will be of value to us and it will certainly be of value to the auditors when they come in the door.

I'll be glad to entertain any questions on any of the other agenda items.

CHAIRMAN ANDERSON: Any questions?

VICE-CHAIRMAN CONINE: Keep up the good work.

MR. GAINES: Thank you.

CHAIRMAN ANDERSON: Thank you, David.

Item 6, Ms. Carrington, I'll let you take this if you would.

MS. CARRINGTON: Yes. 6(a) is the issuance and determination of notice for a tax-exempt bond transaction with an issuer other than the Texas Department of Housing and Community Affairs. The first development to be considered is Hickory Manor Apartments, located in DeSoto. It's 188 units. It is also one of the first ones from the local issuers that is out of the 2004 private activity bond allocation.

We are recommending a credit amount on this transaction of $579,425. For the board's information, behind your summary sheet, you will remember on TDHCA's Chisholm Trail I mentioned that the priority they had chosen was priority 1-A. What we've done is outline for you is the various priorities in priority 1 and priority 2 and priority 3. Again, these are legislatively mandated in legislation.

In this particular transaction, they are choosing priority 1-B, which has a requirement that 15 percent of the units have rent caps at 30 percent, and income caps at 30 percent also, and then, 85 percent of the units would be at 60 percent, both rents and income.

You'll also notice in the right, and you may remember it as part of our legislation, that if there are areas around the state that have more than twice the state average of units per capita, then to move forward with the transaction, there has to be a resolution from the city council saying that there's indeed a need for the development and the city council is supporting it.

Well, of course, when I read that, the first question that comes to mind is what is the average per state capita and how many communities around the state are there? And so, the state average per capita, according to my staff, is .0058 and there are 178 cities around the state that would exceed this state average per capita, along with eight counties.

So there is such a resolution included in our information for this development and staff is recommending the allocation of credits in this particular transaction of $579,425.

MR. BOGANY: So moved.

VICE-CHAIRMAN CONINE: Second.

CHAIRMAN ANDERSON: Discussion or questions on the motion?

(No response.)

CHAIRMAN ANDERSON: Hearing none, I assume we're ready to vote. All in favor, please say, Aye.

(A chorus of ayes.)

CHAIRMAN ANDERSON: Opposed, no.

(No response.)

CHAIRMAN ANDERSON: Motion carries.

We're at the second item in 6(a), Ms. Carrington, the Vista Apartments in Marble Falls.

MS. CARRINGTON: Vista Apartments in Marble Falls, with the Capital Area Housing Finance Corporation as the issuer on this transaction, it's also a partnership with the Marble Falls Housing Authority. You'll note this on your summary page. They are choosing priority 2 for this particular development, which that requirement is to set aside 100 percent of the units with rents and incomes that are capped at 60 percent of area median income.

This also is a community that has more than twice the state average of units per capita. There is also a resolution from the city council that does support this transaction and acknowledges and supports an application of tax credits. The amount is $287,187.

MR. BOGANY: So moved.

VICE-CHAIRMAN CONINE: Second.

CHAIRMAN ANDERSON: Any questions or discussion on the motion?

(No response.)

CHAIRMAN ANDERSON: Hearing none, I assume we're ready to vote. All in favor, please say, Aye.

(A chorus of ayes.)

CHAIRMAN ANDERSON: Opposed, no.

(No response.)

CHAIRMAN ANDERSON: Motion carries.

Item 6(b), and Ms. Carrington, I do have a witness affirmation form for an individual with regard to Castle Gardens after you make your presentation.

MS. CARRINGTON: Castle Gardens is the first of three proposed amendments to housing tax credit allocations. Castle Gardens is an '02 allocation and is part of the Century Pacific transactions. In this case, this one is located in Lubbock. The requirement was the 50 percent of the units be at 50 percent of area median family income and that 50 percent of them be at 60 percent.

What they are requesting is that those 50 percent of the units that they have the ability to go up to the 60 percent rents and incomes on the transaction, this in a rehabilitation that has cost considerably more than was originally anticipated, and to have a loan sized appropriately from FHA that does provide them the money to finish out the rehabilitation. They do need the ability to go up to 60 percent of rents and incomes for 57 of these units. Staff is recommending that their request be granted.

MR. BOGANY: So moved.

MR. GORDON: Second.

VICE-CHAIRMAN CONINE: Can we get some clarification on the --

CHAIRMAN ANDERSON: Maybe we ought to see if we're going to have a second --

VICE-CHAIRMAN CONINE: He seconded it.

CHAIRMAN ANDERSON: -- but we do have someone here that would like to make public comment.

VICE-CHAIRMAN CONINE: Oh, okay.

CHAIRMAN ANDERSON: He did?

VICE-CHAIRMAN CONINE: Yes.

CHAIRMAN ANDERSON: Oh, okay. Do we want to hear the public comment?

VICE-CHAIRMAN CONINE: Yes.

CHAIRMAN ANDERSON: Ms. Ava Goldman, please. Thanks.

MS. GOLDMAN: Good afternoon. My name is Ava Goldman and I'm a senior vice president with Michael Speld and Company [phonetic]. Thank you for the opportunity to be here today. We appreciate all the help of the staff that we've received to date.

We respectfully request this increase and I'm here to answer any questions that you might have about it.

VICE-CHAIRMAN CONINE: Ava, my concern is, of course, not serving I guess between the under 50 percent income bracket and taking some of those units out of circulation. I understand that there's been cost overruns. Can you kind of give us the layman's description of what happened here --

MS. GOLDMAN: Sure.

VICE-CHAIRMAN CONINE: -- so I can get a little bit better understanding? I mean, you guys are a big company, and generally know your stuff, and then got into this deal with your eyes open, and got a surprise or two. Can you just describe what happened in general?

MS. GOLDMAN: Sure. As you know, we took over the property. I think it's fair to say that we have different property standards than the previous owner. We took a serious look at what the needs of this property were and we realized that the former scope of services just wasn't doing what we needed in order to meet the basic needs of the people who live in the development.

We took a new look. We created a new scope. We realized that we needed some more money in order to cover that scope.

The people who live in the development now, there are 152 units. Everyone who lives in this development right now is under 50 percent of median income. Moreover, everyone who lives in this development now is either living in a unit that's a Section 8 unit or has a Section 8 housing voucher. So it is an affordable housing development and it will remain an affordable housing development.

We needed to increase the income coming in on 57 units. HUD, at the time, required that we have proportionality. In other words, you can't just impose a rent increase on Section 8 units. So what we said was, Okay, proportionally, we will ask for a rent increase from HUD for -- of the 57 units, 50 of them will be Section 8 units.

Now, what that means is the people that live there will never see that rent increase. They won't feel the increase because they pay and will continue to pay, and new people moving into those units will continue to pay, what they can afford. The federal rules are you pay 30 percent of your income toward housing expenses. The federal government pays the increase. So for those 50 units, that's covered.

The seven units that we asked for, those seven units are presently unoccupied. So that there is no impact in terms of the current residents. Now, one of the things that the staff -- and I thought it was a great recommendation -- said, Well, gee, can't you just eliminate the problem with the seven units so that even people that are moving in can be at the 50 percent level and you can charge 50 percent rent?

We said, We'll go to HUD and we'll see if they're willing to do that. We have their verbal okay. We have the verbal okay of HUD that they are willing to drop their proportionality rule. In other words, we can say that all 57 of these units will be Section 8 units, which means, again, there's absolutely no impact on the residents that are living or who will be living in the development. They will continue to pay an affordable rent.

VICE-CHAIRMAN CONINE: What happens when those Section 8 people move someplace else?

MS. GOLDMAN: They're Section 8 units. In other words, the subsidy stays with the unit.

VICE-CHAIRMAN CONINE: Okay.

MS. GOLDMAN: So another person moving in has to meet the eligibility rule and they will also pay an affordable rent.

VICE-CHAIRMAN CONINE: Okay.

MS. GOLDMAN: There was a condition placed on the recommendation. Let me put this in context. We are grateful to be here and we know that the board has gone out of its way recognizing that we're the new kids on the block. We know that the board has given us to the end of this month to close this deal and we are fully prepared to do that. I'm here today to make sure that we can do that.

The condition on the approval is a little problematic. What the staff had asked for -- and, again, at first blush, it seemed like a great idea -- let's go ahead and let's just make this increase on the Section 8 units. So the 57 units will be Section 8 units. Again, that's a great idea. The first part of it is great.

The second part of the condition is a little problematic. The second part of the condition was if that happens that the board would rescind its approval of all of the units. In other words, we have to go back to 50 percent rent. If HUD says, Yes, that all units are half units, then we would go back and say that, All right, your income has to be at the 50 percent level and you can't charge more than 50 percent rent for any of these units.

That puts us back to square one, only because one of the things we didn't realize at the time, and now we realize, is that under HUD's rules, the way they set the half rent is they set the half rent on the basis of the lower of the market rent, in other words, what properties per unit area, or the tax credit range. So they're looking for direction from this agency as to what the tax credit is. You can appreciate there's sort of a catch-22 here?

VICE-CHAIRMAN CONINE: Yes. You're never going to get out of that circle.

MS. GOLDMAN: Right. So actually we can get out of the cycle if the board is kind enough to approve this without the condition. Without the condition, then we can go ahead, again, we increase those rents of those 57 units up to the 60 percent level, but the tenants are completely protected.

If the board would like to make it a condition that we're required to ask HUD to make sure that they're all half units, so that the seven we left out are also half units, that's fine. That's not a problem and we think we can get that approval.

That condition that it be rescinded is problematic for us. I don't want to suggest that we're not grateful and that we don't need your approval today, but it would be a little simpler without the condition.

VICE-CHAIRMAN CONINE: Ms. Carrington, do you agree with her assessment of the half units?

MS. CARRINGTON: I think the answer is yes. Since the board book went up, staff has continued to have discussions and has gotten a better understanding of the ramifications, and the request, and what HUD is and is not willing to do. And so, yes, staff is comfortable with having that portion of this recommendation be withdrawn.

VICE-CHAIRMAN CONINE: Move to amend the motion that we remove that condition.

MR. BOGANY: Second.

CHAIRMAN ANDERSON: Any other question for the witness?

(No response.)

CHAIRMAN ANDERSON: Thank you.

MS. GOLDMAN: Thank you very much.

CHAIRMAN ANDERSON: Discussion on the motion or questions?

(No response.)

CHAIRMAN ANDERSON: Sorry, discussion or questions on the motion?

VICE-CHAIRMAN CONINE: Amendment.

CHAIRMAN ANDERSON: Amendment.

(No response.)

CHAIRMAN ANDERSON: Hearing none, I assume we're ready to vote on the amendment removing the condition. All in favor, say, Aye.

(A chorus of ayes.)

CHAIRMAN ANDERSON: Opposed, no.

(No response.)

CHAIRMAN ANDERSON: The amendment carries. Now, we'll vote on the main motion; discussion or questions on the main motion?

(No response.)

CHAIRMAN ANDERSON: Hearing none, I assume we're ready to vote. All in favor, please say, Aye.

(A chorus of ayes.)

CHAIRMAN ANDERSON: Opposed, no.

(No response.)

CHAIRMAN ANDERSON: Motion carries.

Okay. We're still on 6(b), Creekside Townhomes?

MS. CARRINGTON: Correct.

CHAIRMAN ANDERSON: Thank you.

MS. CARRINGTON: The second item for your consideration on a proposed amendment to a housing tax credit allocation is a 2002 allocation that came out of the rural set-aside. It's located in Burnet, Texas. It's 60 units. What they are requesting of the department is to increase the size of the site from 7.21 acres to 7.45 acres and also to increase the size of the units from 750 to 825 square feet for the one-bedroom units, from 900 square feet to 918 square feet for the two-bedroom units, and also increase the size on the three-bedroom units from 1,064 to 1,232 square feet.

Staff is recommending that these requests be approved and this application would have received an allocation because it was out of the rural set-aside. So we are recommending that these design changes and site changes be approved.

MR. BOGANY: So moved.

VICE-CHAIRMAN CONINE: Second.

CHAIRMAN ANDERSON: Any questions or discussion on motion?

(No response.)

CHAIRMAN ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say, Aye.

(A chorus of ayes.)

CHAIRMAN ANDERSON: Opposed, no.

(No response.)

CHAIRMAN ANDERSON: Motion carries.

Now, Caney Run in Victoria?

MS. CARRINGTON: Caney Run in Victoria is a 2003 allocation of tax credits and the applicant is requesting to change the site plan and the unit plan. We have described to you in the first three lines what the original plan called for and what they are requesting.

Staff is recommending that this request, or that these changes, be approved. It is located in Victoria. It's 116 units. The new proposed design changes would not have affected the scoring of an application. We don't consider it a negative change. It does meet all the threshold requirements and staff is recommending that these changes be approved.

MR. BOGANY: So moved.

VICE-CHAIRMAN CONINE: Second.

CHAIRMAN ANDERSON: Any discussion?

(No response.)

CHAIRMAN ANDERSON: Hearing none, I assume we're ready to vote. All in favor of the motion, please say, Aye.

(A chorus of ayes.)

CHAIRMAN ANDERSON: Opposed, no.

(No response.)

CHAIRMAN ANDERSON: Motion carries.

Item 6© is extensions for commencement of substantial construction for Meadows of Oakhaven.

MS. CARRINGTON: This is a 2002 allocation of tax credits. As you will see in your write-up, this is a development that has had several extensions that the board has granted. They are requesting another extension for the commencement of substantial construction. When the construction loan was closed late, then obviously it pushes back the other kinds of milestones that the department has for the developments.

We do note for you all, on the second page, on the recommendation, that a section of our QAP does require that applicants submit an extension request at least ten business days prior to the deadline for which the extension is being requested. This applicant did file their request late. However, at the December board meeting did grant extensions to Holly Park Apartments and Heatherwilde Estates, which were also filed late.

So based on that December action, and to be consistent, the department does recommend that this extension for the commencement of substantial construction be granted to Pleasanton Apartments.

MR. BOGANY: So moved.

MR. GORDON: Second.

CHAIRMAN ANDERSON: We have a motion on the floor. It was finally seconded. Is there discussion or questions about this?

VICE-CHAIRMAN CONINE: Yes. I need some help with this project. I don't know if there's anybody here to speak to it. I guess not since there's no witness affirmation form, but I get real upset when 2002 credits aren't acted upon by March 2004. When the write-up that I'm looking at says, you know, we've got people busy at other places, and they're going to be finished by the end of November, and here it is March, and we still hadn't commenced construction. So can you clarify that for me, Ms. Carrington, any more than what's in our packet?

MS. CARRINGTON: We have provided you the explanation that was provided us. Putting these milestones in here, as the board did a couple of years ago, that's what they're for, is to make sure that these developments are moving along. Obviously, with this being an '02 allocation, they only have until December of this year for placement in service, for construction of all the units and placement in service or these credits will be returned.

I think from a staff standpoint, it certainly makes us nervous when we see a development that has gone this long, and has had this many extensions, and has not been able now to meet, really, this last milestone we have for them, prior to placing in service, which, of course, is a federal requirement.

VICE-CHAIRMAN CONINE: Have we got anyone here from the developer?

MS. CARRINGTON: I do not see Mike Gilbert or Lacy Gilbert here, no. I do know both of them.

VICE-CHAIRMAN CONINE: So what we have here is a piece of raw land that has permits received on it or not, building permits? Do we know whether they have building permit approvals, Brooke? Step up to the bar.

MS. CARRINGTON: I thought she was going to get a day and not have to be up there.

VICE-CHAIRMAN CONINE: No, we wouldn't want to do that.

MS. BOSTON: I'm Brooke Boston. Yes, they do have their necessary building permits already.

VICE-CHAIRMAN CONINE: Let's see. We took action on this back in November. Is that right?

MS. CARRINGTON: Yes, you've taken several actions.

VICE-CHAIRMAN CONINE: I see that. When I get to the last action, it says November.

MS. CARRINGTON: Okay.

VICE-CHAIRMAN CONINE: At the time, did they have their permits then?

MS. BOSTON: I don't know. To be honest, I don't know.

VICE-CHAIRMAN CONINE: Anyway, we've got a raw piece of dirt. Nothing's happened on it yet. They got the credits in the summer of 2002. They got a set of plans approved, obviously, and are ready to go. It's just that they've been busy from November until March doing something else.

MS. BOSTON: Yes.

VICE-CHAIRMAN CONINE: If we disapprove this, do the $407,000 worth of credits then just go into the '04 approval?

MS. CARRINGTON: Yes.

MS. BOSTON: Yes. They would roll into the ceiling. I am actually not sure if they would go back into their specific region --

MS. CARRINGTON: Region.

MS. BOSTON: -- because in '02, we did have regional allocation already. So I would imagine that we would put them back into the region, not into the total ceiling.

CHAIRMAN ANDERSON: Do we have the ability to specify that if we were to make that decision that we would specify that they would go back to the region?

MS. BOSTON: Correct.

MS. CARRINGTON: I think they go into the general pool.

MR. WITTMAYER: They go back into the general pool.

VICE-CHAIRMAN CONINE: We woke up the counselor.

MR. WITTMAYER: I'm Chris Wittmayer. Brooke and I were both confident that we'd draw a bye today, but I guess not. If that's the board's desire, I think that that is permissible. We can certainly make it happen if that's what the board wants.

MS. BOSTON: I think it is permissible.

VICE-CHAIRMAN CONINE: It goes back into that region --

CHAIRMAN ANDERSON: That's what I'm asking.

VICE-CHAIRMAN CONINE: -- for '04?

CHAIRMAN ANDERSON: If it's permissible -- well, I'll wait until there's a motion on the floor.

VICE-CHAIRMAN CONINE: There is one.

CHAIRMAN ANDERSON: There is one? Oh, yes, I guess there is. Sorry.

VICE-CHAIRMAN CONINE: It's my job this past chairman to keep you in line.

CHAIRMAN ANDERSON: That's right. Keep me in line.

MR. BOGANY: I have a question, just very simple. Where is the Meadows of Oakhaven and where is Pleasanton, Texas?

VICE-CHAIRMAN CONINE: That's a good question.

MS. CARRINGTON: You're asking the non-Texas native.

MS. BOSTON: Atascosa County.

MS. CARRINGTON: Gee, thanks.

MS. BOSTON: South of San Antonio.

MS. CARRINGTON: Thank you very much.

MR. BOGANY: I think I understand where Mr. Conine is going with this. I really kind of agree. With all these extensions that we have given, but I'd also like to think that we are trying to put affordable housing out. I don't know if this one will ever happen, but, you know, I'd just hate to cancel this deal when they need it down there and they, unfortunately, they didn't think it would be a problem. They're not here.

So they just thought we'd rubber-stamp it. I'm just concerned that we disapprove it and this is a community that might really need it. And so, I just have some concerns with that.

CHAIRMAN ANDERSON: I'll weigh in with my two cents. I think it's very unfortunate they're not here to defend their interests because there's a pattern of missed deadlines, including the most recent missed deadline which was the deadline to file this extension request timely. So, you know, the pattern continues.

I'm sympathetic to what Mr. Bogany says also. As long as I've been on the board, I don't remember us denying a request like this. Maybe we have, but I don't remember one. So I think we'd be setting a precedent and we'd be sending a signal. I think that's my two cents.

VICE-CHAIRMAN CONINE: What would be the result of a table of this particular item?

MS. CARRINGTON: They would continue to spend money.

VICE-CHAIRMAN CONINE: With what? They're not doing anything.

MS. CARRINGTON: Well, I don't know that we know that. I mean, the start of --

VICE-CHAIRMAN CONINE: Well, we should.

MS. CARRINGTON: Sir, you're right, we should.

VICE-CHAIRMAN CONINE: If we don't, we should, from either a staff perspective or something. This is ridiculous.

MS. CARRINGTON: Yes.

CHAIRMAN ANDERSON: This is really murky. I remember you answered a question a minute ago, Ms. Carrington, and I thought your answer was interesting. Mr. Conine, I think, said, What do we know about since they said the construction guy was supposed to finish his other job by the end of November? Did he? What has he been doing since then? I think your answer was, All we know is what we have written here. Is that accurate?

MS. CARRINGTON: Yes, ma'am. That's what I know and I apologize because I should know more.

CHAIRMAN ANDERSON: No, it's fine, but I think --

VICE-CHAIRMAN CONINE: It's not necessarily you. It's nobody involved with this program knows what's going on with this thing since November. It's just out there in la-la land.

MS. CARRINGTON: I know Mr. Gilbert, every other time that we've had an extension request, has absolutely been at our board meetings.

CHAIRMAN ANDERSON: Yes.

MS. CARRINGTON: He is not here today.

CHAIRMAN ANDERSON: Right.

MS. CARRINGTON: There may be that Ben Shepherd, who works for Brooke and takes these requests, may have answers to your questions. Be that as it may, I should have answers to your questions and I don't.

VICE-CHAIRMAN CONINE: Well, what's the result of a table? I think that was the question that didn't get answered.

MS. CARRINGTON: They continue to spend money, assuming that they will move forward, and if the credits are rescinded next month, then they are going to have spent more money than what they have spent now. I mean, it would be my supposition -- our start of substantial construction is that they have moved dirt, you know, they have laid forms, and they have poured concrete.

VICE-CHAIRMAN CONINE: Do we have a construction loan clause?

MS. CARRINGTON: Yes.

CHAIRMAN ANDERSON: Is it permissible to ask to see the letter that they wrote to staff on whenever they wrote it to you, ten days late, just this latest, whenever they made their request?

MS. BOSTON: I can go and find it. Ben Shepherd, who is the staff member who generally can just --

VICE-CHAIRMAN CONINE: January 3.

MS. BOSTON: -- regurgitate this stuff beautifully, is out for the afternoon. I can definitely go and try to track it down.

CHAIRMAN ANDERSON: I mean, it's very confusing to me that we have a developer that's not present, a letter that apparently doesn't tell you much.

MS. BOSTON: The only thing that I can add in addition, that I think Ben would probably contribute this -- I'm not saying that this is an excuse in any way -- but that Mike Gilbert and his wife basically operate their shop alone. There's just the two of them. And so, with multiple deals in the pipeline, it's my understanding that the capacity to do it all at the same time is hard on them.

MR. BOGANY: So are you saying that they have other deals in the pipeline?

MS. BOSTON: Yes. Actually, that's their reason for their extension in this case is they actually are using their resources on another property that type needs to get finished. And so, their comments is they need to wait until that's done and then move those resources to the other property.

MR. BOGANY: It's not a good reason.

MS. CARRINGTON: What is the board's pleasure?

MR. BOGANY: I would like to withdraw my motion for approval.

VICE-CHAIRMAN CONINE: I would move to table, out of the generosity of my heart.

CHAIRMAN ANDERSON: Does that need a second?

VICE-CHAIRMAN CONINE: It needs a second.

MR. BOGANY: Second.

CHAIRMAN ANDERSON: That's not debatable. So all in favor of the motion, please say, Aye.

(A chorus of ayes.)

CHAIRMAN ANDERSON: Opposed, no.

(No response.)

CHAIRMAN ANDERSON: We have tabled that topic.

VICE-CHAIRMAN CONINE: You need to pass the word along. He's got no aces, straights, or flushes here. He needs to show up at the next meeting with appropriate answers.

MS. BOSTON: Understood.

VICE-CHAIRMAN CONINE: Or information for answers, something.

CHAIRMAN ANDERSON: We are now ready for the report items. Ms. Carrington?

MS. CARRINGTON: Thank you. The first item from the executive director, the agency did respond with a brief by our general counsel to the attorney general's office. The response date was February 23. It was on the questions that were asked related to our qualified allocation plan. We do have those responses to the attorney general's office available, if anyone would like a copy of our response to the AG's office.

The second item, the board had directed us to request an attorney general opinion on whether letters of support and opposition from local elected officials could be scored. You may remember that our legislation, Senate Bill 264, specifically says the congressional delegation and the state delegation, but specifically does not mention local elected officials.

We did have Jeremy Mazur [phonetic] from Representative Callegari's office say he felt that they meant to include that. So you all directed us and we have written that request to the attorney general's office. We've also asked them for a May 31 response because that is the date that we have given for scoring of the other elected official's letters. So if the opinion comes in after that, then it basically is going to be, unfortunately, of no use to us.

We do have a staff person who has been reappointed to the Department of Energy's state energy advisory board, for a two-year term. This is Joe Guerrero. This is a national advisory board. It's a 19-member advisory board. Joe has been reappointed to that board so we congratulate all of our employees who do have this kind of recognition at the national level.

We have prepared and can provide to the board basically our interpretation of what our ex parte rule means. I guess, Ms. Anderson, I'd like to look to you to ask if this is something you would like to have on the board meeting for March for the board's consideration or how --

CHAIRMAN ANDERSON: April.

MS. CARRINGTON: April, thank you. Yes, we will have it on the agenda.

CHAIRMAN ANDERSON: Is that consistent with how you'd approach this, put it on a board agenda?

MS. CARRINGTON: Yes.

CHAIRMAN ANDERSON: Okay, great.

MS. CARRINGTON: We will do that. There was a question, Ms. Anderson, that you asked at the last board meeting, related to performance measures and the Office of Funding for Colonia Initiatives. It was about a $6.6 million figure. You had asked if that money at all went for technical assistance. What I have and can provide you is three different areas that we are using that 6.6 million for.

Bootstrap comprises about 3 million of that. Our contract per deed price is about 1.3 million. And then, 2.3 million is the CDBG money that goes to fund the self-help centers. We do have beneficiaries tied to each of those pots of money also.

So the answer to your question is, no, very little of it is actually technical assistance. Of the CDBG money, the 2.3 million, there's 18 percent of that that does go to admin, but the rest of it is funding that goes directly to assist beneficiaries in a variety of other programs that are operated out of the Office of Colonia Initiatives.

VICE-CHAIRMAN CONINE: So we get a hit from the CDBG fund for that particular activity?

MS. CARRINGTON: Yes, we do.

VICE-CHAIRMAN CONINE: Okay.

MS. CARRINGTON: It is in our --

VICE-CHAIRMAN CONINE: Is that an annual? We go over there annually and try to get that?

MS. CARRINGTON: Well, it's in our statute. So we don't try to get it, but it is an annual appropriation. It's 2.5 percent of the CDBG allocation on an annual basis. That amount is --

VICE-CHAIRMAN CONINE: A set-aside?

MS. CARRINGTON: Yes, sir. Through an interagency contract that we have with ORCA, it is specifically for the operation and the administration of the self-help centers. The dollar amount is about 2.3 million. That was something that Mr. Gaines had mentioned this morning in one of the audit findings, that we did have an audit issue related to that, that we have since cleared.

CHAIRMAN ANDERSON: So this 1.3 million in contract for deed, is this out of the same bucket of money that the 2 million contract for deed that was on the list of uses of HOME money this morning?

MS. CARRINGTON: We use some HOME funds for contract for deed. We also use some Housing Trust Fund money for contract for deed. So when you saw some HOME funds this morning related to that, yes, that's a part of what we use to fund the contract for deed. It's for acquisition and then also rehabilitation. So we're not only converting, but we're also doing some rehabilitation of those units. We can do any other kind of follow-up that the board might want, related to that.

And then, the last item, I thought as we move into our tax credit cycle, and we did receive on our 9 percent round, 184. 184 applications came in under a full application. We had about 260 something, I think, on the pre-apps.

VICE-CHAIRMAN CONINE: What was the dollar amount?

MS. CARRINGTON: The dollar amount is --

MS. BOSTON: Yet to be released.

VICE-CHAIRMAN CONINE: What?

MS. BOSTON: Yet to be released.

VICE-CHAIRMAN CONINE: You can't run an adding machine tape?

MS. BOSTON: We are data-entering all the applications right now. It will actually be up on the web tomorrow, but I don't have the figure right now.

VICE-CHAIRMAN CONINE: How many units?

MS. BOSTON: Yet to be released.

VICE-CHAIRMAN CONINE: You're stomping the band today.

MS. CARRINGTON: I would like to point out about four or five really substantive changes from last year so that the board kind of keeps this in their minds as we go forward with this year's allocation.

Input from neighborhood groups, you know, is a scoring item, if they are neighborhood groups that qualify. Those letters for support or opposition must be in by April 30. So they didn't have to be in with the applications, but they do have to be in by April 30. Appeals are permitted under this item.

Also, input from local, if it still happens, local and state elected officials is not due. They have until May 31 to submit those letters. Those letters are also for points, both positive points and negative points. Appeals are also permitted on those letters, on how we score those letters.

We also have 26 pots this year, because of the urban, ex-urban, and the rural.

The credit cap is still 1.2 million per transaction, but it did go up to 2 million per applicant. Last year, it was 1.6 million. It's now 2 million per applicant.

Ex parte in 264 changed a little bit. There's no written or oral communication to the board by the applicant, lobbyist, et cetera, unless in a public forum. There are some exemptions for staff to be able to have some of these discussions. As we look at that for next month, we will outline that for you.

We did extend the time period for curing deficiencies. It went to ten business days.

You're already heard about two times the state average for units per capita. You will be hearing and seeing about that as we look at the applications for this year.

And then, also, we have the one-mile three-year rule and we have the one-mile one-year rule. That one-mile three-year rule applies to Dallas, Harris, Bexar, and Tarrant County. No transactions of the same type, i.e., family-family, elderly-elderly, can be within one mile of any other existing development. This item has exceptions and waivers in case you have a HOPE VI, or a local government vote that specifically allowed that kind of construction within one mile.

There's the one-mile one-year rule again in Dallas, Harris, Bexar, and Tarrant County, no transactions within one mile of each other, regardless of the type, so you could have a family and an elderly if they were within a mile of one another in one year, and there are no exceptions to that. So it would just exclude them.

With that, I think, as we look at what are the major changes from last year's QAP, I think these are the things we're going to be looking at for this year. That's it.

CHAIRMAN ANDERSON: Any questions of Ms. Carrington?

(No response.)

CHAIRMAN ANDERSON: I believe that concludes the agenda of business that was planned to come before the board today.

VICE-CHAIRMAN CONINE: I move to adjourn.

CHAIRMAN ANDERSON: Do we have to vote on that?

VICE-CHAIRMAN CONINE: No, you can just strike it and say --

MR. GORDON: Second.

VICE-CHAIRMAN CONINE: -- be done.

CHAIRMAN ANDERSON: We are adjourned.

VICE-CHAIRMAN CONINE: Thank you.

CHAIRMAN ANDERSON: Thank you.

(Whereupon, at 3:25 p.m., the meeting was adjourned.)

C E R T I F I C A T E

MEETING OF: TDHCA Board Committee
LOCATION: Austin, Texas
DATE: March 11, 2004

I do hereby certify that the foregoing pages, numbers 1 through 102, 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.

03/19/04
(Transcriber) (Date)

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