TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING
PUBLIC HEARING
2005 STATE OF TEXAS

Thursday, October 13, 2005
Waller Creek Office Building
507 Sabine Street, Room 437
Austin, Texas

BOARD MEMBERS:

BETH ANDERSON, Chair
VIDAL GONZALEZ
C. KENT CONINE
PATRICK GORDON
NORBERTO SALINAS
SHADRICK BOGANY

STAFF:

EDWINA CARRINGTON, Executive Director

I N D E X

P R O C E E D I N G S

MS. ANDERSON: Good morning. I want to welcome everyone here with us today to the October 13 meeting of the governing board of the Texas Department of Housing and Community Affairs. First thing we will do is call the roll.

Vice-Chairman Conine?

MR. CONINE: Here.

MS. ANDERSON: Mr. Bogany?

MR. BOGANY: Here.

MS. ANDERSON: Mr. Gonzalez?

(No response.)

MS. ANDERSON: Mr. Gordon?

MR. GORDON: Here.

MS. ANDERSON: Mayor Salinas?

MR. SALINAS: Here.

MS. ANDERSON: We have five members present. We do have a quorum. And as is our custom, of course, the first order of the business is to take public comment. We take public comment both at the beginning of the meeting as we will do right now.

And also, for those who prefer, as many of you all do, we take comment at each agenda item as we go through the agenda during the day also. But there are some people that would like to speak here at the beginning of the meeting. The first witness I have is Billie Jo Tennill.

MS. TENNILL: That is Tennill.

MS. ANDERSON: Oh, I am sorry.

MS. TENNILL: That is okay.

MS. ANDERSON: And if you would come up. This podium is for your use. And if you would speak into the microphone, we do keep a transcript of these proceedings.

MS. TENNILL: Good morning, ladies and gentlemen.

MS. ANDERSON: Yes. And we are going to have a three-minute time limit.

MS. TENNILL: Okay. Thank you, ma'am. Good morning again.

MR. CONINE: Good morning.

MS. TENNILL: I appreciate the privilege to be here with you. My name is Billie Joe Tennill, and I am with the City of Odom. I have been with my City some 50 years plus. And I have been the City Secretary there for 35 years. And I did the previous Secretary's work for about 18 of those. So I am very familiar with the general law cities and the ups and downs and the pros and the cons of it.

But I do appreciate the opportunity to come and speak before you and say our comments is in reference to the HOME program appeals that are on your agenda today. But first I would like to request, if I may, I would like to ask the other Government representatives that are here with me today in the same capacity with their cities and their counties, if they would, would they please stand. They also show the same things that we are about the appeals on the agenda.

As to the favor of these representatives that have traveled to Austin for dual purposes, we are here not only to be before you as a Board, but we are also here because we did the mandatory program for this program that is up and coming for HOME's implementation workshop here. We have been here since Tuesday and Wednesday on that. A very fruitful program and very educational.

Some of us left the day before to get here, and we are still staying over another day. And we would like to, if we could ask you to consider moving this agenda item up to the top, so that we could be heard and finish with you all in your decision making, and that we could be on the road going home to our respective counties and cities, if you would.

I would like to pass out some letters if I could, from the counties' and cities' representatives that are here today and that were not able to attend the board meeting, or those that are here. These letters address both the issues of the cash reserves and the matched to be discussed later today. And these letters clearly reconfirm our complaints and our commitments to cash reserves as required, and for the match included in these applications.

As for me, and I believe I speak for those that are present today here with me, that I believe along with the question of our integrity, that Mr. Traylor has put an insult to us and our communities and that we would request that the Board take action to change the scoring or the awarding of the 2005 HOME grants. And we thank you for your attention. If I may, I would like for the letters to be passed out, and I thank you.

MS. ANDERSON: Thank you. Are there questions for Ms. Tennill?

(No response.)

MS. ANDERSON: Thank you very much.

MS. TENNILL: Okay. Thank you.

MS. ANDERSON: Abigail Ortega?

MS. ORTEGA: Good morning. Thank you for allowing me to be here. My name is Abby Ortega. I am the

County Administrator for Hudspeth County. And we are also 2005 HOME grantee. And we have had several grants from the HOME program in the past years, and we are very grateful for that. Excuse me.

A lot of attention has been focused on the cash reserves. As I understand, we receive points for committing these reserves to use in an emergency, but we are not required to use them. And I know that the Agency has allowed us to require contractors to self-finance until we receive payment from TDHCA.

As you know, we are very small communities and very poor. And this has worked out fine for us. And we would just like to ask the Board to deny the appeal and uphold the TDHCA staff recommendations.

I would like to provide a handout from Grants Works, Inc., review. It addresses the cash reserves and match issues. As you know, our communities are again, they are very small and very rural, and I would like for you to consider us.

We are not used to this big city thing, and I am very nervous, as you can tell. I am not used to this big of a crowd and such important people that you are. But we would like for you to consider us, and consider our small communities. Thank you.

MS. ANDERSON: Thank you. Questions?

(No response.)

MS. ANDERSON: Thank you very much for being here. You did a great job representing your community. Mr. or Ms. Gonzalez from the City of El Cenizo.

MS. GONZALEZ: Good morning ladies and gentlemen. My name is Magdalena Gonzalez, and I am the City Secretary for the City of El Cenizo in Webb County. My comments also concerns HOME program complaints that are on the agenda today. Mayor Raul Reyes of the City -- I am sorry. Like the speaker today -- he attended the workshop, but he has to go back to his job. He is also a student, so he needs to go back.

I would like to echo Ms. Tennill's request that you consider moving this item up on the agenda, so the people who have been here for a few days -- I'm not, but they have, they can go home a little early. El Cenizo is very low-income, poor community of about 3,500 people. This grant means a lot to us.

It is the first HOME grant award to our town, and we never have received nothing like this. So we got real excited. And I cannot stand by while the complainer who doesn't know El Cenizo and the community, you know, for them to try to take it away.

I read the agency letters responding to this complaint and I believe that the agency responded correctly. I think the complaints are inappropriate and have no foundation, as the City has stated in its letter to you. I encourage you to consider the sources of these complaints and the manners in which these complaints have been leveled at our cities and counties, as well as the Agency.

I strongly urge the Board to deny the complainer's request to withdraw the awards and re-score the applications. Thank you for hearing me on behalf of the people of El Cenizo.

MS. ANDERSON: Thank you very much.

Mr. Larkin Tackett?

MR. TACKETT: Good morning, Travis and members. My name is Larkin Tackett. I am the legislative director for Senator Judith Zaffirini. And I am just going to read a brief letter into the record. I testified at the last meeting. And I think it is an issue that everyone is aware of.

But this is to again urge your consideration of the Bee County action agency grant application for the HOME program. The agency submitted timely in 2005 HOME program application, was notified by letter from TDHCA that the project was recommended for funding, and was informed subsequently that due to a scoring correction, the project would not be recommended for funding.

The appeal of the staff recommendation not to fund Bee County's application was discussed at length at the TDHCA board meeting on September 16, after a 2-2 tie vote of the Board in discussion regarding the appeal was postponed until this meeting. In light of the significant need for owner-occupied housing improvements in Bee County, especially for low-income and elderly persons, as well as Vice-Chairman Kent Conine's statement at that meeting regarding the appeal; that Bee County committed no discrepancies and had no fault of their own, your favorable consideration of identifying deobligated funds to support this important project would be appreciated greatly.

And in addition to that, with the exception of the Bee County appeal, Senator Zaffirini would urge you to not approve the other appeals and to support the existing staff recommendation which includes recommendations to fund about six communities in her district. Thank you.

MS. ANDERSON: Thank you. That is all the public comment that I have for the portion of public comment we take before we start the agenda.

And then those of you that have asked to speak at the agenda item, we will do that, of course. Proceeding to the agenda, the first item is presentation, discussion and possible approval of minutes of the September 16 board meeting.

MR. CONINE: So moved.

MR. BOGANY: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Item 2 on the agenda is action report items relating to Internal Audit.

Ms. Carrington?

MS. CARRINGTON: Thank you, Madam Chair. I am going to turn this item over to David Gaines, who is the Agency's internal auditor.

MR. GAINES: Good morning Chair, members. Ms. Carrington. The first item behind Tab 2A is discussion of the annual Internal Audit plan that is being proposed to you for the fiscal year '06.

Texas Internal Auditing Act requires that this plan be developed on an annual basis using risk assessment, an annual risk assessment to do so. And in doing that, we accumulate and solicit information from executive, the management, external auditors, solicit information from the Board as well. And based on our knowledge of the Agency we developed a proposal, that we sat down with Ms. Carrington and Mr. Dally to go over.

As a result of that meeting, we solicited their input and made some adjustments to the plan. As a result of that meeting, the plan you see in front of you is what is being proposed. The plan includes five subrecipient monitoring audits that build on two recent audits completed in that area. It also, of these audits, these five audits, three of them include reviews from PMC; Portfolio Management and Compliance.

That would be their draw process, and their onsite monitoring process. Excuse me, that was two. Two from OCI, which would be contract oversight and management and the draws, their draw process. And one in the energy assistance program, their monitoring function.

The plan also includes a review of the

Homeowners' Recovery Trust Fund of the Manufactured Housing Division, to assess whether that division is administering that fund in accordance with relevant laws and regulations. The other projects include our continued participation in the Department's risk management program, and the central database. Ongoing and repeating activities include coordination of external auditors.

And this usually consists of working with KPMG in connection with their single audit, and as the State auditors have projects, we work closely with them. I would like to point out on the coordination of external audits, beyond our typical coordination, we are allocating three months of one of our employees to assist the external audits to the extent that they are willing and able to do that, and use our assistance as a strategy, not only to reduce fees to the Department but to also enhance the Internal Audit shop's knowledge of the accounting systems and financial-reporting process.

Internal Audit Division is due for a quality assurance review this year. And that is also planned. That is scheduled late in the year, and it will probably extend over into early next year. Okay, if you have any questions regarding the plan, I will be glad to speak to those. Otherwise, I am requesting the Board's approval of the plan.

MR. SALINAS: I move that we go ahead and approve the plan.

MR. BOGANY: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. GAINES: And I may have been a little premature on that request for approval. Because I would like to point out the risk not being addressed by the plan. And there is a number of risks that have been identified by staff in connection with their assessments of mission-critical processes over the last year.

The staff has assessed substantially all of the 53 mission-critical processes that they have identified. And in connection with those assessments, there is a number of risks they have identified they don't believe are adequately controlled.

While Internal Audit doesn't have the resources to specifically assess each of those, we do plan on working with the executive level team that Ms. Carrington has put together to lead that initiative. We are going to work with that team and that team has established as a goal for the year to look at those risks to agree or not that yes, those are significant uncontrolled risks. And then consciously, their developed action plan is to control those risks or to consciously accept the risk.

MS. ANDERSON: Mr. Gaines, is this part of the Governor's Executive Order on waste fraud to prevent waste, fraud and abuse?

MR. GAINES: Yes, ma'am.

MS. ANDERSON: Okay.

MR. GAINES: There is also considerable risk associated with the implementation of the Peoplesoft new version of the Department's accounting system. In this respect, Ms. Carrington, I believe, the best strategy may be is to provide periodic status updates to the Board. And to the extent that there are issues relating to that, those can be addressed at that time.

And another significant risk relates to the construction inspection. This is not incorporated or anticipated within the data plan. In this case, Ms.

Carrington intends to establish a task force designed to identify the issues related to construction inspection and to ensure ourselves we have got our goals in place, objectives and strategies to address these issues.

One last consideration not within the plan that is a point of interest I wanted to highlight, was Ms. Carrington has volunteered the Department to undergo a communications assessment by a professor and several of his graduate students from the University of Texas School of Communications. The purpose of this assessment is to identify communications problems internal to the Department, especially as they related to between divisions, between sections, between areas.

They are currently accumulating information regarding that assessment, and is entering its report in February of '06. So I think that is a testament to management's attitude towards control and effective communications. Since the plan is approved, we will move to the next item.

MS. ANDERSON: You are taking quite a chance there, David.

MR. GAINES: I just overlooked those three pages of notes, that is all. Tab 2B, this is a recent review completed by Internal Audit of the Department's move plan. As I am sure you are aware, the Department is intending to move to a new location.

There will be -- the plans are to be in place and operating out of that new location on December 5. The office space is being reduced by -- from just over 37,000 square feet to less than 38,000 [sic], so a 43 percent reduction approximately in square feet. It is anticipated that there will be an annual savings associated with the move of a $1.7 million, so that will certainly help, considering some of the costs involved in making the move.

The objectives of this review were to determine if whether the Department has adequate project management tools in place to provide reasonable assurance that the plans, the tools and the strategies for conducting the move are successful in achieving the goals for the move. It did not include assessing whether the plans were adequate or if the plans sufficiently addressed all significant risks and issues.

You will note that the report is fairly lengthy and this is due to me spending considerable time discussing in the background overview section of what the Department is doing to ensure success of the move. This goes on. I wanted to really try to put the Board at comfort in this respect.

And as we went through it, there were also issues we noted that pose a risk to the Department. I would like to, and that I will be discussing momentarily but I would like to just concentrate first on several pages of the report, which is background and overall results of completions.

Before I get into that, a key element to this of course is the new team. Several of them are here today, but I am going to go through the move team. Maybe as I do that, if you are here, you might just wave or something.

But Patricia Rendow is our manager of facilities and space management. She is the overall project manager on the move. John Gonzales, director of admin support is the alternate backup PM. Chad Hartman, the Department's network administrator is the information systems project manager.

And Curtis Howe, the director of information systems is the alternate backup project manager for information systems. Michael Taylor, the Department's unit administrator -- I don't know if Michael is here or not. He is serving as -- he is our local resident subject matter expert on the network and server.

The team has considerable experience relating to this sort of activity and project. That is described further in Appendix 1 and works closely with Ms. Carrington and Mr. Dally on significant issues and decisions. Integral members of the team include the Texas Building and Procurement Commission and the Department of Information Resources.

TBPC or Texas Building and Procurement, pursuant to an interagency agreement is providing project management, design and construction services for the Department's new building space, and for its information systems server room, computer room and work room as well as related cabling. The Department of Information Resources or DIR is providing wiring and fiber optics between the Annex Building and the server room and installing the wiring for computers and telephones, considering capacity considerations; again, integral team members on this project.

Overall in summary, and I will touch on some of the finer details. But in summary, the Department has placed considerable reliance on the experience and qualifications of the move team, as well as TBC and DIR to make ensure that the move is successful, and that the goals of the move are achieved, and that all significant risks are being adequately addressed and controlled.

The team's leadership and direction are instrumental to the success of the Department's move. And again, I would just like to refer you to their experiences in Appendix 1 and in fact the TBPC and DIR do this on a regular basis. Review did identify several risks associated with the move plan, and resulted in several audit recommendations.

In instances management has implemented these recommendations and in other instances, management has consciously accepted the risk associated with them and has chosen not to. And the risks that were identified relate more to the risk associated with the planning process tools and methodology to ensure a successful move as opposed to the actual risk of the move.

And I guess it should be probably noted at this point, it shouldn't be management's goal to necessarily control all risk. The goals should be for management to recognize the risk, the significance of the risk and the impact of those risks, and based on a cost benefit considerations or based on all cost benefit considerations either develop strategies to control those risks or to consciously accept the risks, being fully aware of the potential impact of the risk on the Agency if they were to occur.

And I am going to limit my discussions to some of the more significant risks noted during the review. While the plans are generally adequate for a high quality, high-performance team to deliver a successful move, and for the designated team members to carry other tasks, or to coordinate with others to do so, they are not in sufficient detail to allow someone not involved with the move to assess the adequacy of the plan or to assume the tasks and responsibilities associated with the move in the event the team members are not able to perform, due to whatever unforeseen circumstance there may be.

Management has agreed to take certain steps to provide additional help, additional detail to help minimize these risks. The move team recently met with the Department's move coordinators. These are the individuals that serve as liaisons between the divisions and the move team. They have recently met with them to further elaborate on the plans and discuss the plans.

The meeting clarified roles and responsibilities. The goals of the project move were distributed to those in attendance. The directors of the Division were also invited to that meeting. As we were going through the plans, they weren't really in sufficient detail to assess whether the task necessary to complete the move can reasonably be performed within the time frames allowed for the move, or that there are adequate resources assigned to the move, since time estimates to complete the tasks have not been developed.

And of course, this information is necessary just to assess the reasonableness of the estimated target dates in comparison to the time required to do the tasks, and the calendar, and the resources allocated to the project. While the move team has believe all along that it does have the resources to successfully complete the move, they have recently documented their time estimates of the task, compared them to the resources, and have documented to confirm that understanding or their belief that the resources are adequate. So that certainly helps minimize that particular concern.

The move team used multiple strategies to consider risk associated with the move, to prioritize them and to ensure that the plans addressed those risks. However, as we reviewed the supporting documentation, it was not necessarily real clear how particular risks were factored into the plan, and to what extent the strategies being applied, to what extent reduced the probability of those risks to an acceptable level.

And while Internal Audit recommended

documenting these considerations, management in this case is accepting the risk of not further documenting these concerns as it believes as it has adequately considered the risks associated with the move, and it does have the strategies in place to control these risks to an acceptable level. The move team evaluates its progress against the plan on a weekly basis to allow for corrective actions when necessary to discuss issues, to bring concerns to the table.

However, as we reviewed it, it was not real obvious that the progress on the plan, the oversight of the plan was periodically reviewed by people independent of the operation to ensure perfect controls had been established, that issues were being adequately addressed. And we recommended that the Executive Director establish an oversight team or steering committee to provide this kind of support to the team.

In this case, management believes that the interaction of the move team has had with the Executive Director and the deputy Executive Director or acting deputy suffices for those purposes and believes that their relationship has been beneficial and is working. To complement that, management has recently decided to, in connection with their weekly status meetings that the move team has, to start involving the Department of Information Resources and TBPC in those meetings.

That group, the move team, TBPC and DIR met Monday of this week, and it is the move team's intention to continue doing that on an ongoing basis throughout the remainder of the period. That is pretty much a bird's eye view of our results and conclusions.

I will be glad to elaborate, if there is any questions you might have. The leaders of the move team have advised me that they will also be glad to field any questions you might have. It is your pleasure at this point.

MR. CONINE: Mr. Gaines, I want to thank you for taking this task on, and taking a hard look at it. I know there is probably nothing more irritating to management to have to deal with an auditor coming through when they are trying to focus on getting a move done. And I appreciate the move team going through the hard work that they have gone through to this point.

And I am sure just the process in and of itself has highlighted some things and made people aware of some things they may or may not have thought about and will help eventually help this move be a lot more smooth than it could possible have been.

In that respect, just out of my own curiosity, if I were to go over to the new office space on December 1, before we move into the facility over the weekend and open for business on December 5 -- is it going to be a situation where everything is going to be in place and everything in nice, neat order, or are we going to be still scrambling and running to the last minute? What is your assessment at this point?

MR. GAINES: That is a very big weekend. A lot will be happening that weekend. It is the strategy of the department to work up to the Thursday before that Monday in this location.

And come close of business Thursday, we will be packed, boxed, waiting for the movers to begin. Information systems plans on having the connections for each work station in place and ready to go Monday morning. I am not exactly sure what time frame they are expecting that to be completed. Is that --

MR. HARTMAN: A.M.

MR. GAINES: I am sorry?

MR. HARTMAN: It will be up by 8:00 a.m. Monday morning.

MR. GAINES: Oh, by 8:00 a.m. So it sounds like they have got a big weekend that weekend as well.

MR. CONINE: I guess I was asking again, more in the line of all the walls and interior finish-out being done, carpet being on the floor. I know you know, when you physically move file cabinets and furniture and desks and so forth from here to there, I understand the nuances and difficulties associated with that.

What I am trying to understand is, the physical aspects of where we are moving. What condition will they be in, you know, six or eight days ahead of the move?

MR. GAINES: I believe physically, it will be ready to go with the qualification that it sounds like the IAS chain will continue to be making the connections to the desk: each individual computer setup. But the physical cubicles, the fax machines, printers, those should be in place. Oh, I am sorry.

MS. RENDOW: We are expecting all the leasehold improvements to be done by the 15th of November. Therein, furniture installation, the remaining furniture installations, which is pretty minor, will take place that week.

Then files will start moving on November 30. And so that really gives us a good long weekend to get everyone settled. And our goal is to have computers running and telephones working and boxes under desks on

Monday morning, December 5.

MR. CONINE: Great. So from where you sit, the physical plan, the finish-out, whatever has to be done on that -- everything that has to be done to that facility, that isn't in this building today or going to be moved from this building today will be done way ahead of time, in order to give you enough time to facilitate it.

MS. RENDOW: Yes, sir.

MR. CONINE: Okay. Well, that is great.

MS. RENDOW: That is the goals and we expect to meet those goals with TBPC and DIR's assistance.

MR. CONINE: Could we get an update possibly from you at our November board meeting, just so that we can kind of hear how progress is being made over the next 30 days?

MS. RENDOW: I would be more than happy to.

MR. CONINE: Great. Thank you.

MR. GAINES: I would especially like to thank Trish and the move team for working with Internal Audit throughout this, because as you were observing, Mr. Conine --

MR. CONINE: You were a pain in the rear. I know. Yes.

MR. GAINES: While we are here to help,

sometimes it is hard to appreciate.

MR. CONINE: We appreciate what you did.

MR. GAINES: But the move team has contributed considerably to the report. The information, made the time to get the information to me so that we could consider it, so we appreciate that. But it is too soon.

And this report, by the way, pursuant to the Internal Auditing Act, is distributed to the Governors, the Department's Governing Board. Of course, we have done that. And then, the Governor's Office Budget and Planning, Legislative Budget Board, and Office of the State Auditor.

Tab 2C is an Internal Audit report on the single audit review process of the Department. The objectives of this audit were to review whether Portfolio Management and Compliance or PMCs single audit review process is in compliance with federal and state regulations. It considers the complete population of single audit reports or single audit requirements, has adequate internal control to provide reasonable assurance that the objectives were met, and disseminates the results of the single audit review process to appropriate parties.

Before I get into it too much, I would like to just recognize some initiatives that management has taken, and commend management on some initiatives that we have noted during our review. Since March of 2004, they have processed a backlog of 212 single audit reports. They have reduced that backlog by 136 reports. So that is significant progress made in that respect. I know they are continuing to work on that.

We have updated standard operating procedures for processing single audit reports. The SOPs have been updated to accurately reflect the review procedures, organizational structure, job titles, responsibilities and automated operating systems and procedures. The updated procedures are not yet formalized and finalized, but they are well underway. And we just encourage management to get those finalized and signed off on.

The team has established file documentation and indexing standards. Files are indexed and documented in accordance with the Standardized Desk Review Index which provides for consistency. And the file is reviewed by someone other than the preparer of the file to ensure its completeness. And those are all real positive steps in the right direction.

Overall, PMCs develop procedures to provide reasonable assurance that fulfills its single audit requirements relating to the department subrecipient single audit reports. We noted several areas where we made recommendations for improvement, and management is in agreement and has been receptive to those recommendations.

While PMC has heightened procedures in place to inform program-monitoring staff of the results of the single audit review so that they use that information for their monitoring and planning purposes or for other monitoring and planning purposes, these results are not forwarded to those responsible for forming risk assessments of the subrecipients for the purposes of identifying high-risk subs that warrant greater monitoring attention. And the other half of this recommendation recently showed up in a review of the risk assessment function.

And so these two groups, oftentimes overlapping groups will be working together to see that that happens going forward. PMC relies on the independent Certified Public Accountants that perform the subsequent year's audit to ensure issues identified in this year's audit are resolved. And while that may be adequate in circumstances, there is certainly findings and issues out there that warrant more immediate attention.

And we recommend that PMC establish formal policies and procedures to identify those issues to define what significant and material means, in the context of their business and develop procedures to again address those in a more immediate fashion, rather than waiting until the subsequent year's audit. Timely management decisions: If there is findings within a single audit report, the Departments responsibility is to issue management decisions within six months of receipt of that single audit.

While we selected 23 single audit files for testing, eight of those files actually included findings which would require a management decision within six months. Three of those management decisions were not issued within the six months' time period. Two of the letters were less than one month late. And the third letter was almost two months late.

And the delays in these letters are the result of a strategy that management has to try to work through the issues and get them cleared up within that six months' period. While that may be a positive strategy, once that clock -- as the clock is ticking, once that deadline approaches, a management decision needs to get out the door, and management has agreed to do that.

PMC uses a checklist to ensure completeness of its single audit reviews. It is a thorough checklist. It incorporates all the considerations necessary. It includes a signature block by someone other than the preparer to ensure that it is properly completed.

However, the 23 files we reviewed for testing, none of the checklists were not signed by the reviewer. One file did not include a checklist and other file couldn't be located. It was also noted that twelve of the 20 checklists signed by the reviewer were incomplete.

So while it is a good checklist, it is only as good as how it is used. And we have recommended PMC to continue using the checklist but management needs to emphasize the importance of the checklist and periodically select a sample file for review to ensure that the quality control procedures are being applied as intended. Management has again agreed to do this.

We noted several opportunities for improvement. I am not going to touch on each of these. But they related primarily to procedures being performed in excess of those required to fulfill the responsibilities of the Department.

And we just recommended that the single audit reviewers perform the minimum necessary to satisfy the single audit requirements, and that any time that is freed up as a result of that be independently assessed for its best use. Its best use may be more single audit work. But let's look at that separately.

Finally, we noted some opportunities to improve the management information system that management agrees with, with some relative simple fixes. It will make their work much easier, in that they will have the information they need to perform their job duties when they need it, in a manner that they can use it. And they have agreed to do that, and that is actually tying into some work we are doing on the second database.

Again, this report is being distributed to the Office of Budget and Planning of the Governor's Office, Legislative Budget Board, and the State Auditor's Office, as well as SUN [phonetic]. I will be glad to field any questions you might have.

(No response.)

MR. GAINES: Okay. No action items required here. Tab 2D; the final agenda item from our portion of the show here. This is a required report by the Texas Internal Auditing Act, in the format that is prescribed by the State Auditor's Office.

It is basically a summary of our activities over the last year in comparison with our plan for the year and discussion of the variances between the two. It includes audit reports released during the year, internal and external audit reports and findings that were included in this, summaries of those findings and the statuses of each of the findings, a brief discussion of the most recent quality assurance review, which has been some time now, as I mentioned in our audit plan.

We are scheduling planning on one later in the year. It includes an organizational track that depicts our position within the organization and how we are structurally organized and the perks of this is to see that I am in fact reporting to the Department's governing Board. And a discussion of external audit services procured during the year.

And this is due to recent legislation whereby the State Auditor's Office has to approve any state agency's procurement of external audit services. And I will be glad to go into any of this at the pleasure of the Department governing Board.

MS. ANDERSON: Questions?

MR. CONINE: Doing good.

MR. GAINES: Thank you very much. Thank you.

MS. ANDERSON: Item 3 is the discussion, presentation and possible approval of housing tax credit items.

Ms. Carrington?

MS. CARRINGTON: Thank you, Madam Chair.

MR. SALINAS: Madam Chairman. Is there any way we can go to Item 7, so those people can go?

MS. ANDERSON: I'll tell you what, Mr. Mayor. We don't have any public comment on any of the items on the agenda in front of it, so I think -- the reason I didn't do that, is I don't believe we will have any controversy on these.

MR. SALINAS: Oh. That is fine.

MS. ANDERSON: We will quickly move through the next few items on the agenda ahead of that one.

MR. SALINAS: Okay.

MS. ANDERSON: Thank you, sir.

MS. CARRINGTON: This one request is for an extension to close the construction loan on a 2004 tax credit development. This is the third request for an extension to close this loan. The reasons for the request are given in your Board write-up.

It is property located in Fredericksburg. It is elderly. Staff does feel with the experience of this developer, that they will have the ability to construct and get the development in service by the end of 2006. And we are recommending this extension of the close of the construction loan until December 15, 2005.

MR. BOGANY: So moved.

MR. SALINAS: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: Item 3B is a request for ratification of the 2005 housing tax credit award for the Cambridge Villas Apartments, which is to be located in Pflugerville. And that is Region 7, urban/exurban Region 7. The Department did have one development that received an allocation of credits at the end of July, and that was the Saddle Creek Apartments. And that development was not able to move forward.

So they have withdrawn their application. Those credits have been rescinded, and the amount of credits that came back was $862,795. As is our practice, we stay within the same region if there is another eligible development.

Cambridge Villas was on the waiting list. Because you will remember, we didn't allocate quite all of our credits in July. We had some -- a little bit of excess. We do have sufficient credits for the allocation of $1,160,295 of housing tax credits for Development 05080 to be located in Pflugerville.

And this will leave a remaining balance of credits of $102,810 in our credit ceiling for 2005. The development has been underwritten and staff is recommending an award of credits to this development.

MR. BOGANY: So moved.

MR. CONINE: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: Next item for the Board's consideration are two allocations of tax credits to private activity bond finance transactions with issuers other than TDHCA. The first one for your consideration is the Villas at Costa Tarragona.

And this is located in Corpus Christi. It is general; i.e., family. It is new construction. It is 250 units. There is one letter of support from U.S. Congressman Solomon Ortiz. There were no letters of opposition.

We do have the demographics of this area for you on your writeup. It is a Priority 2 application. And we are recommending an annual credit amount of $900,333. Also this application has applied for and is eligible for Housing Trust Fund dollars.

And so we are recommending also along with the tax credits, we are recommending a Housing Trust Fund award that would not exceed $170,000 as a 40-year loan with no payments for the first five years, and then fully amortizing over the last 35 years. So staff is recommending both the allocation of the credits and also the approval of the Housing Trust Fund loan.

MR. BOGANY: So moved.

MR. CONINE: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The second and last for the Board's consideration in this section is the Meadow Village Apartments. This is located in Temple. This is again a general or a family transaction. It is 200 units. This is a rehabilitation.

The property was actually built in 1971. It does have a housing assistance payment contract on 183 units. So 183 of the 200 units do have rental assistance through a contract on the units.

It is a Priority 1C application. The Department has received no letters of support or no letters of opposition for this transaction. It has been underwritten. And we are recommending a credit allocation in the amount of --

MR. CONINE: 300-something.

MS. ANDERSON: The agenda says $381,304.

MS. CARRINGTON: Let me see if I agree with that. $381,304. Yes.

MR. CONINE: Move for approval.

MR. BOGANY: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Agenda Item 4A of 4 is presentation, discussion and possible approval of rules for adoption to be published in the Texas Register.

MS. CARRINGTON: Thank you. This is the approval of the final qualified contract policy. In May of this year, the Board did approve a draft for the qualified contract policy. That draft was put out for public comment and posted in the Texas Register.

We did have a public hearing in Austin, and what you have before you today is staff is requesting approval of the final qualified contract policy. Just to refresh your memory, the reason the Department needs this qualified contract policy is because the federal law of the Internal Revenue Service Code allows that at the end of the 14th year of the compliance period for a tax credit development, that an owner can request to the Department to find a qualified buyer for their property.

The Department basically has a year to find that qualified buyer. If a qualified buyer is not found at a qualified contract price, then the affordability restrictions of that property are allowed to be extinguished.

And so what the Department has done, as other states around -- as other HFAs around the country have developed our policy for how we will process a preapplication for an owner who wants to apply for a qualified contract, and then also, the application process also. So what you have in front of you today is, I think, we had four comments.

We are recommending to the Board that the first comment provided by Mr. Kahn on the preliminary qualified contract request, that this comment be accepted, along with the comment on the top of the second page, which is right of first refusal. The federal law also requires right of first refusal. And so what we have done is to provide language of how this right of first refusal meshes with an owner's request for a qualified contract.

We have also accepted a recommendation on an amount for a processing fee. And what we have established is a nonrefundable processing fee in an amount equal to the lesser of $3,000 or one-fourth of 1 percent of the qualified contract price.

And then over on the last page on your writeup, on page 3 of 3, there was an administrative clarification, that owners who receive an allocation of credits after January 1 of 2002 are not eligible to request a qualified contract. And the reason for this is because our statute requires a minimum of a 30-year affordability period.

So what we are looking at is really the universe of tax credit developments in about 1991-92 up to 2002. And we have provided for you what our next steps will be. This is on page 3. We will actually be creating -- and we hope to have this up on our website within the next week.

A qualified contract application, along with the certification letter that CPAs would use. We had planned to publish an RFQ for experienced brokerage firms to market and sell the developments. And we are creating a right of first refusal policy to guide owners through the process. And we hope to have those forms and those policies developed within the next week. With that, we are requesting your all approval.

MR. CONINE: Would you clarify something for me on the ones after 2002 that are not eligible. I think you said earlier that the IRS allows the 14-year application. How do we get to trump what the IRS allows?

MS. CARRINGTON: Ms. Boston, do you want to come and address that, please?

MS. BOSTON: Brooke Boston, Director of Multifamily Finance. The language in Section 42 says either the federal requirement or if a state is more restrictive, then the state's requirement. And effective 2002, our State statute set a minimum of 30 years. So we got a legal opinion which affirms that the state statute in this case trumps, but it obviously only trumps once that statute had gone into effect.

MR. CONINE: Okay. Thank you. Move for approval.

MR. BOGANY: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next item for the Board's consideration is the approval of draft rules for the migrant labor housing facilities. If the Board approves this draft today, then these will go out for public comment and be published in the Texas Register. And we are looking to have these rules effective January 1 of 2006.

On September 1 of this year, through House Bill 1099, which is sponsored by Representative Norma Chavez from El Paso, the Department took on the responsibility for licensing and supervising migrant labor housing facilities. We are operating currently under the rules that were developed by the Health and Human Services Commission.

So it has not stopped us from beginning to do our duties, perform our duties under the current rules. But the Department of course, wants to establish its own set of rules for the administration of its program. And so what we have provided for you is a copy of these draft rules, and have outlined the fee schedule that TDHCA will be charging.

The statute says, I believe, that TDHCA cannot charge more than $250. And we believe that as we said during the hearings, during the last legislative session that indeed, the Department can perform that function for that amount of money.

Tim Irvine, who is the Director of Manufactured Housing, Executive Director of Manufactured Housing, of course, has manufactured housing inspectors and offices around the state. And many of those offices are in the same areas where these migrant labor housing facilities are located. We have provided for you a copy.

We have provided a map in Board book that shows you the location of these 48 licensed facilities around the state. And with that, Mr. Irvine has stepped up. If you all have any questions you would like to ask him about these rules, or about these proposed rules.

MS. ANDERSON: I have just one question. Mr. Irvine, it is my understanding that you convened a round table, or met with some of the operators at these facilities as you went through your rulemaking development process? Is that right?

MR. IRVINE: Actually, we are planning to have public comment during the process, once the rules have been posted. We have met with John Henneberger, who was closely aligned with Representative Chavez's office in preparing the legislation.

We met with representatives of the migrant labor advocacy community, received their comments. What they really suggested was that we not make radical changes in the substantive requirements, and that we really place our primary focus on working with these people to help them achieve better compliance.

MR. SALINAS: And they have all agreed to some of these requirements that you are asking?

MR. IRVINE: Pardon?

MR. SALINAS: They have all agreed to these rules?

MR. IRVINE: Well, I don't think anyone has agreed to these rules. The rules that I have drafted and proposed here essentially -- to carry forward the requirements that the Department of State Health Services had in place already with no substantive changes and what we are anticipating, this will be an ongoing process where, as we find need to change those particular standards to address situations, we will bring them back to the Board.

MR. SALINAS: It says here on the drainage problem -- (perusing document.) Have we addressed the drainage issue on some of these sites?

MR. IRVINE: We have made some improvements to the language that the previous rules had. The previous rules simply said that sites could not have drainage issues that hadn't been addressed. We clarified that they had to be ongoing issues and that in addressing them, you could not create another hazardous situation, such as an unfenced pond or poisoned water that people could have access to, things like that.

We haven't encountered any of those problems in the properties we have inspected, though. We just wanted to make sure that the rules were tight, that they didn't permit hazardous conditions.

MR. SALINAS: No flood plains?

MR. IRVINE: I am not aware of --

MR. SALINAS: Is there any problem with you doing just the rule that says look, no such thing should be approved if they are in a flood plain area?

MR. IRVINE: Well, certainly anything that is in a flood plain area would be subject to the federal requirements on flood plains and the facilities would have to be appropriately elevated. And as long as they meet the federal requirements, I believe, they could construct in a flood plain.

MR. SALINAS: Well, some of those requirements are not very good. So the wording of just that accepted, and in fact, anybody living in a flood plain is the best thing to do. But it is up to this Board. I just don't think anybody should have anything in a flood plain area.

MR. GONZALEZ: Mayor, but normally if you are in a flood plain, you are allowed to get flood insurance. And there are houses and buildings that are built in flood zones, but you have to have flood insurance, is what the requirement.

Because Texas is normally dry, but there are occasional times when some areas will flood. But I think it is more a flood insurance issue sometimes.

MR. SALINAS: Well, you know that insurance doesn't anybody any good. You know, if you live in a flood plain and you have a little bit of rain, and you have water in your house, it is not going to happen, you know. I think that everybody should not have anything on a flood plain.

You know, and you avoid a lot of problems in getting insurance. It is going to cost you about $1,500 a year. But you know, especially these poor people, they are putting them in an area where the raise is not going to be very good.

MR. IRVINE: Sure.

MR. GONZALEZ: Let me give you an example for instance. Then you wouldn't be able to have a facility, let's say, in Del Rio, where at one time, they had 37 inches of rain. And it flooded, and it is by the San Felipes springs.

But there are houses there, and they are way above. And you know, that is a 30-year flood. And I am just thinking, we have got for instance, United Medical Centers has a facility that actually flooded, but --

MR. SALINAS: And I agree with you, Mr. Gonzalez. But I'll tell you one thing; people are going to have to start knowing that flood plains should not get anything built on them.

You know, when you have a ten-year rain, when you have a hundred-year rain. And it might take 20 years, or maybe 100 years, like in New Orleans, but it happened. But I am just telling you, I still --

MR. GONZALEZ: Well, another example would be in 1954, Eagle Pass downtown flooded. It hadn't flooded since then. But it was placed in the flood zone.

MR. SALINAS: I understand that. But those are people that have money. I am looking after the people that don't have very much.

MR. IRVINE: If I might just explain in a little bit more detail --

MR. SALINAS: If you want to put a $500,000 home in a flood plain and then buy insurance, that is fine. You can take the heat, that is fine. But some of these poor people should not be allowed to build, or should not be able to buy anything that is in the flood plain. That is the way I feel about it. But you know, it is up to you guys.

MR. IRVINE: That is a very significant point, and it is well taken. These are 86 facilities that are owned and operated primarily by the businesses that operate adjacent farms. And they provide this housing to the migrant laborers that come to their area to perform work.

For example, in a couple of weeks, everybody will be migrating to the Panhandle for cotton season. And to the extent that there is a prod, a facility that is in an area that is impacted by flood or any other natural disaster, we would promptly dispatch one of our inspectors to that facility. And if there had been damage to the facility that made it no longer habitable, no longer desirable as a place to live, we would work with the management to make other arrangements, make rapid repairs or corrections.

And if those couldn't be made, to close down the facility on a temporary basis until it could be restored to habitability. So we are not really talking about the individual occupants having a financial risk here. We are just talking about the owner operators having that financial risk.

MS. ANDERSON: Is there a lot of new construction in this type of housing, or were they talking about existing housing?

MR. IRVINE: This is primarily -- so far, exclusively -- existing housing, most of it being quite old.

MR. GONZALEZ: One other point. A lot of the migrants work in irrigated areas, crop lands. And they normally live close to that area. And you are basically irrigating, whether it is pumped water or gravity water from the river, Rio Grande or whatever. So they are going to be housed close to areas that are actually being irrigated and are flood areas.

So I mean, there is a balance there that you have got to find. If you limit anybody from living there, they may have to commute, you know, 15 to 20 miles to get to the area that they are actually working.

MR. IRVINE: I mean, the real alternative to these 86 facilities is if, if they aren't there, then people will be living in their cars. It is pretty inadequate.

MR. CONINE: Move for approval.

MR. BOGANY: Second.

MS. ANDERSON: Any other discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Agenda Item 5 is presentation, discussion and possible approval of financial items.

Ms. Carrington.

MS. CARRINGTON: I'll ask Mr. Dally to present the fourth-quarter investment report to the Board.

MR. DALLY: Good morning, Madam Chair, Board members, Ms. Carrington. Under Tab 5A, you will find the fourth quarter investment report. That will be the report that ends August 31 of our fiscal year. Overall, the portfolio decreased by $83.3 million, so it is at a total now of $1.39 billion.

During the quarter, there was six new multifamily issues, during the fourth quarter for a total of $72.9 million. The large reduction in the portfolio was a result of we sold some investments and paid off the 2004 bonds, about $88 million. The portfolio is now a mix of about 55 percent of mortgage-backed securities, 32 percent are the guaranteed investment contracts or investment agreements. 6 percent repurchase agreements and 7 percent others.

So far as the activity this quarter, we had about a 10 percent increase in our mortgage-backed security purchases. We have gone up to $56.5 million. That is from 51.8 in the third quarter.

We had a slight decline in our prepayments. Prepayments this quarter were $21.7 million, as compared to 23.1 in the third quarter. Overall, the market value decreased $3.8 million, and that is in large part due to the decrease in the mortgages, 30-year mortgages went from 5.87 in May to 6 percent at the end of August. And that concludes my report. Any questions?

MR. GONZALEZ: Do we anticipate that trend to continue?

MR. DALLY: Well, guessing on interest rates, the Fed is signaling that they are going to keep moving up, it appears, the short-term rates. And it seems like the ten-year is beginning to respond a little to those. Maybe not.

So if I had to guess, yes, I think that mortgage rates are going to go up. They are going to follow the ten-year. Thanks.

MS. CARRINGTON: Okay. The next item for the Board's consideration is selection of the guaranteed investment broker, reinvestment agent. The Board in May of 2005 approved the issuance of a request for qualifications for firms interested in providing reinvestment services to the Department.

The current pool of providers consists of five firms, and were actually selected by the Board in 1999. The Department received seven responses to the RFQ, and we are recommending three to the Board for their approval that will be in a pool and we will use them on a rotational basis. And these three scored the highest in the matrix that was submitted to us.

The first one is PackerKiss Securities, and they are located in DelRay Beach, Florida; CDR Financial

Products, Inc., in Beverly Hills, California; and Grant Street Group, Inc., who is located in Pittsburgh. And staff is requesting approval for these three firms to become our GIC providers, to provide reinvestment services for our single-family mortgage revenue bond issues.

MR. CONINE: Move for approval.

MR. BOGANY: Second.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next item for your consideration is to approve an interest rate swap advisor consultant for TDHCA. This is a professional service that, as an independent service, the agency had not had, or has not had. You approved the issuance of the RFP on May 16 of this year.

And the primary purpose of this service will be for monitoring and managing the risk that is associated with our three interest rate swaps that we have out there right now, with three different swap providers. We did receive three responses to the RFQ. And we are recommending SWAP Financial Group, LLC, in Orange, New Jersey to be the consultant that would provide this monitoring and advisory services on the three swaps that we have out there now.

MR. CONINE: Could I ask our financial advisor a question?

MS. CARRINGTON: You certainly may.

MR. CONINE: Good morning, Mr. Machak.

MR. MACHAK: Good morning.

MR. CONINE: I just wondered, in your role as financial advisor, your thoughts on hiring this new consultant and maybe just a brief description of your experience with this firm and maybe with other agencies in and around the business?

MR. MACHAK: I know -- thank you and good morning, Board members and Edwina. I have worked with Peter Shapiro at Schwab Financial Group a long time, even before he formed his SWAP Financial Group, he was with your broker, a GIC broker and advisory service.

So they can provide the Department a great level of monitoring advice on your existing swaps. We as financial advisor can complement and add to their services and I think they can also do the same with ours.

MR. CONINE: So good experience?

MR. MACHAK: And I think the other agencies that you have seen that have worked with them have also had a good experience with this firm.

MR. CONINE: Are you fairly well pleased with our selection process and methodologies as you saw it?

MR. MACHAK: Over the last, I guess it is going on three years now, that we have tried to develop swaps for use in your bond issues. I have been very happy and comfortable with the processes that have been taking place.

The pricing, we always do a check on that. We make sure that there is transparency in the pricing, and it is related to all the parties involved. And so I think yes, I am comfortable with the way things have been going.

MR. CONINE: Okay. Thank you.

MR. MACHAK: Thank you.

MR. CONINE: Move for approval.

MR. BOGANY: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next item for the Board's consideration is to approve resolution numbers 05-075. It would authorize the extension of the certificate purchase period for our residential mortgage revenue bond series 2003A, which is program 59A. So one of our single-family programs. All the loans on this program are actually in the pipeline.

Right now, the certificate purchase period is scheduled to terminate on December 1 of 2005. To be able to have all of those loans processed and closed, we believe we need a little bit of time. And so, we are requesting to May 1 of 2006 for the close of the certificate purchase period for Program 59A.

MR. BOGANY: So moved.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. CONINE: Did she mention the resolution number?

MS. ANDERSON: She did.

MR. CONINE: Doing her job.

MS. CARRINGTON: I thought that was your job, Mr. Conine.

MR. CONINE: My job is to check and make sure you did.

MS. CARRINGTON: Okay. The next item for the Board's consideration is to approve resolution 05-077 which authorizes an extension of the certificate purchase period for a single-family mortgage revenue bonds, 2004 series C and 2004 series D, otherwise known as Program 62. This program had $71 million in lendable proceeds.

We have closed -- our lenders have closed a little over $35 million. Right now, the purchase period actually terminates on January 1, 2006. We are asking for another year, January 1, 2007.

Much of the funds that you see, that are still available are funds that are in our targeted areas. And those are funds that, as you know, it usually takes our lenders a little bit longer to originate. And so, we are requesting this extension of the certificate purchase period to January 1, '07.

MR. CONINE: Move for approval.

MR. BOGANY: Second.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next item for the Board's consideration on the financial items is to approve a 2005 bond issue with several series. And we are accomplishing this by refunding some 1995 bonds, several series of 1995 bonds. This is actually a refunding. It does not create any additional new dollars.

What we do anticipate is that there would be an amount of this refunding, $5 million that would be used to create zero percent mortgages on either a zero percent mortgages allow us to buy down the rate in either a current program that we have, or a future program that we have. And the Department has about $167 million on an annual basis in single-family. That is our cap. That is the amount of our cap from the Bond Review Board on an annual basis.

We have actually allocated $120 million this year of that $167 million. And we did that through the issuance of mortgage credit certificates. We had a balance remaining of about $42 million in our single-family, or available to us for this year in our single-family mortgage revenue bonds. And my bond finance director tells me that this is basically an economic refunding.

And so with that, I am sort of at my limit of what I can explain to you all about this. And Mr. Johnson is on the front row and would be happy to answer any questions you all might have on this transaction.

MR. JOHNSON: Byron Johnson, Director of Bond Finance. Good morning Chairperson, Board members, Ms.

Carrington.

MR. CONINE: What are we doing?

MR. GONZALEZ: Economic refunding.

MR. CONINE: Can you define that term please?

MR. JOHNSON: Yes. What we are taking advantage of is, or trying to take advantage of is the lower interest rates. These bonds were issued back in '95 at a time of higher interest rates. So by transferring the mortgages into a new series of bonds, we can realize cash flow savings in the indenture, and also, savings above the allowable spread.

As you recall, we are only allowed to earn 1-1/8 above the bond yield. So we also earn additional savings above that threshold. We take that savings in the form of zero percent mortgages. So essentially, we are refinancing old bonds.

MR. CONINE: And it is not in violation of the old ten-year rule?

MR. JOHNSON: No, sir.

MR. CONINE: Or anything like that.

MR. SALINAS: So what was the old rate? And what are you getting now?

MR. JOHNSON: The rate on the old bonds, I believe, was in the upper sixes. And we are estimating that we will be in the upper fours, lower fives.

MR. SALINAS: It will be a substantial savings.

MR. JOHNSON: Yes, sir. We are projecting overall, we are refunding a taxable series and a tax-exempt series of bonds. Overall, we are predicting a 6 percent savings. And I think I can get you some more information.

MR. CONINE: If we are refunding old ones, what are we going to do with the other remaining bond cap that we have available in 2005?

MR. JOHNSON: What we did was we came to you in September, and we had included a convertible option bond.

MR. CONINE: Right.

MR. JOHNSON: We were really compressed on our schedule and we were attempting to capture the favorable market conditions. So we skimmed off the COB and decided to go forward with the straight refunding. Just the basic refunding.

So what we are contemplating doing is coming back to you in November to propose that we either preserve or manage the volume count through the use of commercial paper. If the Bond Review Board does not approve that idea, we will revert back to a COB. Is that is not approved, we would issue MCCs.

But we are on a very compressed time schedule. And just to answer the Mayor's question, the total gross benefit is about $3.8 million we would be saving.

MR. SALINAS: Are there bonds that you might be able to do the same thing?

MR. JOHNSON: Over time, yes. We have a series from 1996 and a series from 1997. But we can't really refund those yet, because they haven't entered into that optional call period.

MR. SALINAS: Because you are going to be running out of time with interest rates are probably going to be going up.

MR. JOHNSON: Yes. That is the game we play, I guess.

MR. SALINAS: I guess.

MR. JOHNSON: If the opportunity is there, we try to take advantage. We also tried something new this time. We typically go to the Bond Review Board through their meeting process.

This time, we tried to get an approval through one of their exemptions: 181.9(e), which states that in lieu of action by the Board, the Executive Director is authorized to approve refunding or refinancing transactions that have a net present value savings of at least 3 percent or they are removing restrictive bond covenants and to approve self-supporting revenue bond issues that have no general revenue impact to the State. When we submitted our application, we included the preliminary approval from the September board meeting here.

We noted in that preliminary approval that we were going to issue a Series E of convertible option bonds. Well, the Bond Review Board didn't understand what happened to the convertible option bonds, so they are requiring that we come to their meeting in November. So we were scheduled to price the beginning of November.

But now that we do not receive the exemption and approval and we have to go to their meeting, our price will get pushed back to the end of November or the beginning of December. So there is a possibility, who knows what rates will be in 45 days? But there is a possibility that we may miss the refunding opportunity.

MR. BOGANY: Why did they request that?

MR. JOHNSON: They --

MR. BOGANY: Weren't they at the last board meeting that we had.

MR. JOHNSON: Yes.

MR. BOGANY: They were sitting right here, and listening to everything that we did, then they go back and request that?

MR. JOHNSON: Yes. And I explained to them that the Series E was not part of this application. That we will be coming back as Mr. Conine inquired, to lay out our plans for the remainder of the volume count. But they want to hear that in person.

MS. ANDERSON: Excuse me.

MR. BOGANY: Is there anything we can do about that, Ms. Carrington? Because it seems like we are the ones losing money.

MS. CARRINGTON: I spoke with one of the members of the Bond Review Board, and they are very firm in that they want to see this transaction, even though it is a refund and though it meets all of the requirements of being exempt. They were very clear that they wanted to see this transaction in November. We have worked with them.

MR. CONINE: And if you ever accomplish this, you are taking 5 million of zeros and using them to divide our growth span?

MR. JOHNSON: What we will come back to the Board for approval, we may propose Program 61. But we are just leaving that open right now. And that is one item I would like to bring to your attention.

On page 7 of the resolution, Section 1.190, Creation of zero percent funds. We need to revise the last sentence to state that the mortgage rate under the Department Program 61 is hereby authorized. We merely need to designate a program technically for technical legal reasons.

But we can always come back and change that. And it can be used, the zeros can be used for existing programs or programs we will issue in the future.

MS. CARRINGTON: I am sorry, Mr. Johnson. Would you give me that reference.

MR. JOHNSON: Section 1.19

MS. CARRINGTON: Okay.

MR. CONINE: Give me the words again?

MR. JOHNSON: The mortgage rate under the Department's program number 61 is hereby authorized.

MR. CONINE: I move that as an amendment to Resolution 05-084.

MR. BOGANY: Second.

MS. ANDERSON: Other question? Thank you, Mr. Johnson.

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. CONINE: Now we need to move, I guess the whole thing. Because I just amended.

MS. ANDERSON: Oh, that was the amendment. So this vote on the main motion. All in favor of the main motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. JOHNSON: Thank you.

MR. CONINE: Thank you.

MS. ANDERSON: Thank you, Mr. Johnson.

I want to welcome to our meeting this morning Mr. Mike Gerber from the Governor's Office and Mr. Scott Sims from the Speakers' office. We appreciate your attendances, and as always your close collaboration and coordination and cooperation with the Department.

Item 6 is an item related to an inducement resolution for the multifamily private activity bond program.

Ms. Carrington?

MS. CARRINGTON: Thank you, Madam Chair. There are actually two developments for the Board's consideration today. And this would be approving the inducement resolution 05-081 for two applications that would then be submitted to the Bond Review Board for the 2005 private activity cap.

There was as in September, there was about $700 million still available at the Bond Review Board for all issuances, all types of activities that are eligible to be financed with private activity bonds. This is, as far as I know, certainly the most that I can ever remember.

MR. CONINE: The market is a little soft for new construction of multifamily.

MS. CARRINGTON: Now you know, Mr. Conine, some of those owners have been filling up those units pretty quickly over the last month. You know their vacancies have decreased to about 2 and 3 percent. But with that said, there is ample volume cap at the Bond Review Board.

So we have two applications. We are requesting approval, requesting inducement to submit. Remember, this is just the very early-on stage, that you all will see the full application along with the underwriting.

The first one is Coral Hills Apartments, and this is to be located in Houston. We have provided you the demographic information about the census tract that this would be located in. It is 173 units. It is for the general population. And this is a rehabilitation.

The second one is the Sphinx at Alsbury Villas. This one is located in Burleson. It is 186 units. It is new construction, and staff is recommending the inducement of both of these transactions.

MR. BOGANY: Is the one in Houston a rehabilitation? Did I hear you say?

MS. CARRINGTON: Yes. The Coral Hills is a rehabilitation. Yes, sir.

MR. CONINE: Move for approval.

MR. BOGANY: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. At this point, we are going to take the Board into executive session to cover the agenda items on the executive session agenda as posted on the board meeting agenda. And as is our custom, I will read a required opening announcement. We expect this executive session to last about 45 minutes, and then we will come back into open session and proceed with agenda item 7 on the agenda.

On this day, October 13, 2005, at a regular meeting of the Governing Board of the Texas Department of Housing and Community Affairs held in Austin, Texas, the Board adjourned into a closed executive session as evidenced by the following. The Board will begin its executive session today, October 13, 2005 at 10:00 a.m.

The subject matter of this executive session deliberation is as follows.

(General conversation.)

MS. ANDERSON: If I can ask you all, we are still -- until we finish this announcement, we are still in session, so leave quietly. Thank you.

The Board may go into executive session and close this meeting to the public on any agenda item if appropriate and authorized by the Open Meetings Act, Texas Government Code Chapter 551. The Board may go into executive session pursuant to Texas Government Code 551.074 for the purposes of discussing personnel matters, including to deliberate the appointment, employment, evaluation and reassignment duties, discipline or dismissal of a public officer or employee or to hear a complaint or charge against an officer or employee of TDHCA.

Consultation with attorney pursuant to 551.071 of the Texas Government Code with respect to pending litigation styled Hyperion et al. v. TDHCA, filed in state court. With respect to pending litigation styled TO Seniors II Limited v. TDHCA, filed in state court, with respect to pending litigation styled Rick R. Sims v. TDHCA et al., filed pro se in federal court.

With respect to pending litigation styled Ballard v. TDHCA and the State of Texas, filed pro se in federal court. With respect to any other pending litigation filed since the last board meeting. Discussion of charges of discrimination filed with the U.S. Equal Employment Opportunity Commission. Legal developments related to the ongoing FBI investigations in Dallas. So we stand in recess until completion of the executive session.

(Whereupon, the Board adjourned into executive session.)

MS. ANDERSON: Okay. The Board has completed its executive session of the Texas Department of Housing and Community Affairs on October 13, 2005 at 10:50 a.m.

I hereby certify that this agenda of an executive session of the Governing Board of the Texas Department of Housing and Community Affairs was properly authorized pursuant to 551.103 of the Texas Government Code. The agenda was posted at the Secretary of State's office seven days prior to the meeting pursuant to 551.044 of the Texas Government Code, that all members of the Board were present, and that this is a true and correct record of the proceedings pursuant to the Texas Open Meetings Act, Chapter 551 Texas Government Code.

Now we will proceed to agenda item 7, presentation, discussion and possible approval of programmatic items.

Ms. Carrington?

MS. CARRINGTON: Thank you, Madam Chair. Item 7A is to consider and approve the award of $50,000 in an operating expense to a community housing development organization award. The Board made this award in September of 2005. It is for 22 units in Luling, Texas. A rental development funds, and it is to the Center for

Housing and Economic Opportunities Corporation.

When they placed their application with us, they failed to properly submit their request for CHDO operating dollars. It was discovered later, they did submit the necessary documentation. So you have already made this award.

So they already have the CHDO award. But this is $50,000 in operating expense dollars that would have been eligible to accompany this award, and staff is recommending that this $50,000 in CHDO operating expense be awarded.

MR. BOGANY: So moved.

MR. CONINE: Second.

MS. ANDERSON: I have one individual.

Mr. Mike Harms?

MR. HARMS: I was just here to answer questions.

MS. ANDERSON: Thank you, sir. Any discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next item for the Board's consideration is discussion and approval of the Housing Trust Fund's 2006 funding plan. As the Board is aware, the Housing Trust Fund dollars are the most flexible dollars that this Department has to allocate.

These are the funds that actually come from general revenue through the State. And what we have outlined for you, or how we would propose to utilize the dollars for 2006; what activities we would be using for the Housing Trust Fund. We anticipate having approximately having approximately $6.3 million for 2006, and our estimates have not been finalized for 2007.

On the writeup, on the proposed funding plan, we tell you where these dollars are coming from. There is approximately $3.2 million that comes from general revenue, and approximately $3.1 million that comes from local revenue. And the local revenue is dollars that had been paid back or it is interest earnings.

And we have several activities that we propose to be included as a part of this funding plan, so these would be eligible activities. The first one is the Texas Bootstrap Program. We do by mandate administer this program. And we provide $3 million per year to the Texas Bootstrap Assistance Program. So we would be proposing to meet that $3 million obligation through the Housing Trust Fund.

We have identified up to $1.8 million in funds that could be used for disaster relief if the Board so determined.

Mr. Bogany?

MR. BOGANY: If we, say, allocated money for disaster relief like the hurricane Katrina and we didn't use those funds, they have gotten all these people out of convention centers and everything, would the money just go back in, or can we pull that money back, or once we allocate it, it is gone?

MS. CARRINGTON: This is really a plan of what you would like to see in these categories. Are they set in stone? Is that your question?

MR. BOGANY: Uh-huh.

MS. CARRINGTON: I think it would depend on whether there were ample applications for utilization of the funds, and then whether the Board chose to fund applications that came in for those specific kinds of activities.

MR. BOGANY: Okay. So would this money be requested from the counties that were helping with the evacuees. Or would it come from HUD or any other agency or cities?

MS. CARRINGTON: Well, the $1.8 million that we have identified is actually Housing Trust Fund dollars. So those are from the State out of our general revenue, but also it would be local revenue again, which is payback of the trust fund dollars. These are not federal funds.

These are truly TDHCA state funds. And one of the things that I think it is important as we lay out -- really what these are, are the eligible activities. Some of these are the ways we have programmed trust funds in the past. This disaster relief is a new kind of proposal for the Housing Trust Fund, but certainly there is no obligation or requirement that these dollars be spent in this way.

MR. BOGANY: Okay. Now the people that are having issues with Rita in Port Arthur, Jasper, all through that area there, would these funds be allocated quickly enough to help those particular people there?

MS. CARRINGTON: Well, I think it depends on what kind of activities you all chose to fund. If you funded something like rental assistance, rental vouchers, then certainly that is something that could be administered very quickly. If it was used for construction or rehabilitation, and obviously that is something that would come on line more quickly.

MR. BOGANY: So would the request come from the public asking us for these funds here?

MS. CARRINGTON: And we have, we did put a survey up on our website, Mr. Bogany, where we ask ten questions of the public on should the Department have funds available that we make available for disaster relief kinds of activities? How would you all like to see -- how would you recommend that we spend these dollars?

And we did receive 130 responses. And we do have some information related to what the public is suggesting to us, that maybe we might want to program these dollars.

MR. BOGANY: Okay. Thank you.

MS. CARRINGTON: The predevelopment loan program, in the past we have set aside an amount, or we have allocated an amount for predevelopment. This would allocate $500,000. We are proposing that we would not use a third party administrator in the administration of those predevelopment funds.

We have done that in the past. We believe that we have the capability to do that ourselves, and we were actually providing that additional layer of oversight, even though there was a third party administrator.

Capacity building; we have programmed typically about $500,000 for capacity building. And we would propose to still have an amount for capacity building. And then staff just did some brainstorming on special initiatives. And we have $500,000 left over from this proposed funding plan, and said, Well, if we did have some dollars left over, what would be some of the activities we might like to see, or we might like to fund that would be different than what we had done in the past?

And so we do outline some of those loan guaranties and buy downs, special needs, a preservation incentive program. Rental development with 4 percent credits. And then we say of course, any of that $500,000 could be rolled into any of the other activities. So with that, I will finish my presentation.

MS. ANDERSON: And I do have several items of public comment, if the Board would like to hear those first?

MR. CONINE: Love to.

MS. ANDERSON: Okay. Ms. Diane McIver?

MS. MCIVER: And I don't even have any time to yield. It is Wednesday, I am pleased to say. My name is

Diana McIver. I am pleased to be here as president of the Texas Affiliation of Affordable Housing Providers.

And our comments relate to the fact that we are concerned about the recommendation of staff to eliminate any funding under the Housing Trust Fund for the 9 percent tax credit transactions. This resource has been particularly effective in the past years, particularly in rural areas and smaller communities where you cannot achieve financial feasibility without some kind of outside source.

And these are communities that don't have HOME funds. They don't have any other kinds of ways to supplement projects. So we have used, and our members have used, the trust fund for those 9 percent deals.

And so we would respectfully ask that it be restored for the 9 percent deals. If you don't believe that there is enough funds to restore it for all 9 percent deals, then we would ask that you at least allow the rural and the small communities that don't have other resources to have access to trust funds in conjunction with tax credits.

The other thing that we would ask is that we are pleased to see capacity building in the program again this year. But we would request that consideration be given to using these funds to develop the capacity of historically underutilized businesses, to allow HUBs to achieve greater participation as developers of housing tax credits.

And that has been a conversation that we have had with you all during the QAP discussions, and we think that it is appropriate that some of the capacity building go to developing capacity of HUBs. And we appreciate your work on the trust. We are really excited that we have one sources of funds in Texas that is committed to housing and appreciate what you have done in the past. Thank you.

MS. ANDERSON: Mandy De Mayo.

MS. DE MAYO: Hi. My name is Mandy De Mayo and I work for United Cerebral Palsy of Texas. And I am here today to speak to the benefits of TDHCA's Housing Trust Fund capacity building program. In August 2003, UCP Texas was awarded $43,500 to expand its capacity to develop affordable, accessible and integrated housing in Austin.

UCP Texas planned to use HUD's Section 811 funding for an innovative concept, which was integrated housing. Traditionally, nonprofits have used 8-11 funding to develop small apartment complexes and group homes and for persons with disabilities. And what UCP Texas envisioned was individual homes, apartments or complexes that would be scattered site, thereby increasing the independence of the residents in facilitating their full inclusion into the community at large.

While UCP had a significant amount of experience administering a first-time homebuyer program, the organization did not have multifamily development experience. And that is where the capacity-building program came in.

As a result of the capacity-building funds, UCP Texas hired new staff, did a significant amount of research, developed strong local partnerships, conducted market studies and needs analysis, developed a supportive service plan, and ultimately submitted two applications to HUD for Section 8-11 funding in the spring of 2004. One proposal was for acquiring six condominiums in Austin, and the other proposal was for acquiring ten single-family homes in El Paso.

In November 2004, UCP Texas learned that both projects had been awarded funds. We got $413,000 for the Austin project, and $969,700 for the El Paso project. And we are closing on the six condominiums in Austin in the next two weeks. We already have folks who are on wait lists and ready to move in. And the ten single-family homes in El Paso are currently under construction, and we hope to acquire them probably in the early part of 2006.

So for the past two years, TDHCA provided us, UCP Texas, with a total of $73,500 in capacity-building funds and we were able to turn that initial investment into more than $1.5 million in affordable housing for the State of Texas. In addition, UCP Texas has forged important partnerships with both the cities of El Paso and Austin.

Austin actually also awarded UCP Texas for our condominium acquisition almost $200,000 to help with the acquisition of those six units. And we also forged some important partnerships with developers such as Tacoma Partners, who is developing the condos that we are purchasing. And recently, UCP Texas entered into a partnership with Alpha Barnes Management, which is providing mentoring to our organization to enable us to effectively and efficiently manage our growing subsidized housing portfolio.

So UCP Texas is the six-unit condominium project in Austin has been featured in a variety of local media, and then we also received some national recognition. We were in HUDs most recent research works publication. And we are currently working with other organizations to develop their new capacity.

MS. ANDERSON: I need to ask you to wind up.

MS. DEMAYO: Okay. We are working with other UCP organizations to develop their capacity to develop affordable, accessible and integrated housing. So thank you for your past support of the capacity-building program, and we hope that it continues in the future.

MS. ANDERSON: Thank you.

Sandy Williams.

MS. WILLIAMS: Good morning. My name is Sandra Williams, and I am the Executive Director with Alamo Area Mutual Housing Association in San Antonio. And I am also the Board Vice-Chair at the Texas Association of Community Development Corporations. And it is in that capacity that I am here to speak to you today. I am commenting on the funding plan for the Housing Trust Fund.

I first of all would like to thank the staff for recommending the retention of $500,000 in capacity-building funds. Capacity-building program is used by nonprofits to strengthen their organizations to access additional funding programs and to more efficiently construct and rehab affordable housing units. One of this Board's concerns with the capacity-building program has been a lack of quantifiable data on how the funding has been spent, and identifiable outcomes as a result of this experience assistance.

Now we have that information and Matt Hull has just passed out to everybody a draft of a research study that TACDC has undertaken. And there are a couple of salient pieces of information I would to bring to the Board's attention. The survey shows that $1.69 million dollars that was invested by TDHCA through its capacity-building program from 2001 to 2003 has resulted in organizations being about to produce a minimum of 1,147 units of affordable housing, and that it has leveraged at least $25,849,981.

However those counts all fit in there. The point being that it has been a relatively modest investment that has yielded some significant results. We are talking about the at least numbers, because we didn't get complete numbers back from all of the organizations that were helped. And so this was all of them that we could verify, the units that have been produced.

And so we know that there is additional units that we weren't able to count. Capacity-building program participants initially had proposed the construction of only 604 units of housing, but they have all exceeded that, and the group of them has exceeded it by over 500 units. And there is an additional 697 units from just the groups that had been given the capacity-building assistance for the construction period of 2006 through 2007.

The capacity building isn't just production numbers. It is about strengthening the organizations and assisting them in becoming self-sufficient. Organizations helped by the Housing Trust Fund capacity-building grants have increased and diversified their funding sources, so that they have been able to increase services to their communities, and they have been able to improve the benefits they provide to their employees more than the groups that did not receive this assistance, so that they are stronger and more productive groups.

The capacity-building program is then an efficient means of building the nonprofit development communities to better serve the community needs. And we sincerely hope that the Board will review the capacity-building program report and that they will accept the staff recommendation for funding at $500,000. Thank you very much for your time.

MS. ANDERSON: Thank you. Mr. Hull.

MR. HULL: I'm available as a resource witness if anyone has questions about the spending. Fair enough.

MS. ANDERSON: Thank you. I also have a letter that, on this agenda item that Cathy Tyler with Motivation, Education and Training, Inc. has asked to be read into the record.

"Dear TDHCA Board members: Please preserve the goals of capacity building and predevelopment assistance within the Housing Trust Fund's funding plan. These are critically important in the State of Texas, particularly in rural areas where capacity often limits potential production and services to some of the State's most isolated and needy residents.

"While I understand and support the need for flexibility and ability to respond to natural disasters, I hope the Department can find mechanisms for flexibility without compromising capacity building and predevelopment financing programs.

"Motivation, Education and Training, Inc. works to improve the lives of Texas farm workers through training, employment, career development and housing, and other related assistance. Please call on us if we can be of help. Sincerely, Cathy Tyler."

That concludes the public comment on this item.

MR. CONINE: Ms. Carrington, can you comment on the -- I guess the elimination of the 9 percent rule transaction, especially in my mind related to the potential uses for the Housing Trust Fund?

MS. CARRINGTON: Yes, sir, I can. Our thought behind that was that we do have a source of funds that can be used to provide that secondary financing, and that is our HOME funds. And since the Housing Trust Fund dollars are really the most flexible dollars we have, and we do have HOME funds that we can program for the rural area, for tax credit developments in the rural areas, I mean, that was our thought.

MR. CONINE: Are we doing that with the other HOME funds that we have? And aren't the rules of the game a little different when it comes to the projects that are built under HOME regs, versus projects that would be built under the Housing Trust Fund regs?

MS. CARRINGTON: When we make our allocations of tax credits, what you see is both Housing Trust Fund dollars, not all the same developments, but you would see Housing Trust Fund, second lien loan. You could also see a HOME-fund-funded second-lien loan. So right now we are using both of those sources for second liens on 9 percent tax credit developments.

MR. CONINE: But my question was, aren't the rules different if you are using HOME funds, versus the Housing Trust Fund?

MS. CARRINGTON: Yes, sir. Yes, they are.

MR. CONINE: And would you characterize the rule differences as maybe making that project a little more expensive to build?

MS. CARRINGTON: Using the HOME dollars?

MR. CONINE: Yes.

MS. CARRINGTON: Mr. Gouris? Where is Mr. Gouris when I need him?

MR. CONINE: There's the all-knowing soothsayer.

MS. CARRINGTON: And the answer is --

MR. GOURIS: Tom Gouris, Director of Real Estate Analysis. Are you thinking of like, Davis-Bacon requirements and other restrictions?

MS. ANDERSON: Davis-Bacon, I am sure.

MR. CONINE: One of the thoughts I might have had.

MR. GOURIS: That would be my understanding as well. That the HOME rules would be a little more complicated, but --

MR. CONINE: I guess my point would be, I don't know why we would eliminate it as a potential when we don't necessarily have to award it. But if we kept it on the list of potentials, what is the damage, or what is the danger of doing that?

MS. BOSTON: Brooke Boston. This year, the situation is a little different, as we were going into the funding plan. Because of the Bootstrap requirements and the preapproval of 1.8 million for disaster relief, if you presume that we would back out $500,000 each for predevelopment and capacity, it only leaves us $500,000.

So if you were to say, let's do that with rental, whether it is 4 percent or 9 percent, you are talking about $500,000 divided by the regional allocation formula, which is tiny. Based on even the NOFA we have produced last year and the year prior, we have been undersubscribed on our HTF rental funds, including from our 9 percent tax credit applicants every year, primarily because it is hard for the numbers to work with the regional allocation formula applied.

I don't think it is that there truly is no demand. I think it is just that the amounts that we have available are too little. And so, if you were to divide up $500,000, or even $1.5 million, you are talking about a very small amount of funds.

So, it wasn't that we didn't believe there was a need. It is just that with the small amount of money we were trying to hit as many activities as we could. Also to address your question about the HOME program, probably one of the biggest differences is that the HOME funds would only go into nonparticipating jurisdictions. And while Ms. McIver mentioned rural areas, obviously, we do have recipients in the past who are not in non-PJs or who are in PJs.

MR. CONINE: Right.

MS. ANDERSON: I think it is a matter of looking to where we allocate the scarce resources.

MR. CONINE: How much do we typically, or have we typically allocated out of HOME funds for 9 percent deals or non-PJS?

MS. ANDERSON: $2-1/2 million.

MS. BOSTON: It is hard for me to answer exactly, as it relates to overlap. We release about $2 million a year for preservation. And then we have $13 million for CHDO. Anywhere from maybe a third to half of those end up layered with either 4 percent or 9 percent deals.

MR. CONINE: Okay. Thank you. You answered my question. You and Tom. I didn't forget Tom.

MS. CARRINGTON: I would -- while the Board is thinking, my General Counsel has reminded me that last month at the board meeting, the Board did give the

Executive Director permission to spend or expend the $1.8 million in Housing Trust Fund dollars that we identified last month.

And that was one of the reasons that we went ahead and did that survey. So indeed, if we decide to move forward, that we know what the needs of the community are, based on what the community is saying.

MR. BOGANY: So that money has pretty much been allocated to go the other direction, based on the needs survey.

MS. CARRINGTON: If indeed we decide that there is a sufficient need to go that way.

MS. ANDERSON: If we get applicants.

MS. CARRINGTON: Right.

MS. ANDERSON: I mean, I think our first preference would be that the disaster relief housing needs be legitimately funded by HUD and FEMA and others that have first responsibility to help the hurricane areas rebuild. So that would be another consideration, you know. We need to be -- but there may be a chance there are things they are not going to do that need to be done. And this would give the Department the ability to fund deserving applicants.

MR. CONINE: I was under the impression though, that what we did last month was under the existing resources of the Housing Trust Fund. Not necessarily the '06 funding cycle. Am I mistaken in that?

MS. CARRINGTON: Ms. Boston, do you --

MR. CONINE: Do we have two 1.8s or just one 1.8?

MS. BOSTON: The $6.3 million that we showing is available for '06 is all funds we have, some which were in existence from, you may recall, from our HTF audit. We had some funds unexpended, carryovers from local funds. We actually ended up using some bond funds for our Bootstrap. So that freed up some money. This is all of our money.

MS. ANDERSON: From various fiscal --

MR. CONINE: If we spent it all -- if we spent every penny the way you are showing it here today, we would end up at the end of the year with no money in the Housing Trust Fund.

MS. BOSTON: Correct.

MR. CONINE: Okay. Thanks.

MR. BOGANY: So do we need a motion? I move that we approve the Housing Trust Fund's allocations.

MR. CONINE: Second.

MS. ANDERSON: I would ask the Board to

entertain an amendment to the motion that would involve proceeding with the staff recommendation on the Bootstrap and the existing disaster relief portion, in that we defer action on predevelopment loan, capacity building, and the special initiatives for 90 days, until January 15. I think the staff should proceed with planning, for those other activities.

But I think we still have too much uncertainty about the assessment of damage to our own Texas families in deep East Texas. There is still a lot of uncertainty on what FEMA is going to pay for. And I know it is only $1.5 million.

But I think by January 15, we are going to have, I hope, a much better -- a sense of the damage, assessment of the damage; what needs to be rebuilt. And one would hope, a much better sense of additional legislation from Congress and what FEMA and HUD are going to fund. It would be our preference that we not have to take our state funds and use it for disaster relief.

But I just feel like we owe to those people in those counties to take at least 90 days and reserve that money, so should we determine that we need it for additional disaster relief, based on the flow of applicants to the Department, or whatever, we would have that money.

And then the Board could revisit this in January, and you know, make a determination about allocating back to the staff. You know, approving the staff recommendation for those three items at that time.

MR. CONINE: I will second it.

MS. ANDERSON: Discussion on the amendment?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the amendment, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Discussion on the main motion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next item for the Board's consideration is requesting approval for two 2005 HOME partnership program award recommendations in the total amount of $299,778. These were two recommendations for owner-occupied housing assistance that should have been included on the list that the Board approved in August of this year, awarding the HOME funds. Both of them scored high enough.

They were applications that should have been funded on the day that the Board approved the funding, but due to a staff error, they were inadvertently left off of the list of recommendations. And the two applications, the two cities are the City of Primera, which is Region 11, and the City of Los Indios which is also Region 11.

And they are combined, requesting a total of $288,248 in program funds. And in administrative funds, $11,530. And so staff is recommending that the deobligated funds be utilized to fund these two applications that we inadvertently left off the list.

MR. BOGANY: So moved.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next item for the Board's consideration is to approve nine 2005 HOME partnership application awards for contract-for-deed conversions. The total amount of funds being requested, being recommended is $3,650,000. You may remember that we have had an open NOFA where we have taken applications for contract-for-deed conversions.

The Board previously awarded five contract-for-deed conversions in August. Those totaled $2,490,000. The closing deadline for these applications was August 31. And we are recommending the applications that are listed on the list; everyone except Edinburg Housing Opportunity Corporation. We are not recommending that one.

While it did come in on the day, on the last day, we had a couple that came in on the last day, and so we went by the highest scoring application. And so we are recommending these applications for a total of $3,510,000. And then $140,400 that would be in administrative funds.

And then that did close out that cycle, close those dollars available. And then we anticipate having another open cycle for the contract-for-deed probably beginning early 2006.

MR. GONZALEZ: So moved.

MR. CONINE: I'll second it to get the discussion started.

MS. ANDERSON: Mr. Bogany.

MR. BOGANY: I have a question. Units received; are those the number of units that they are anticipating taking care of with these?

MS. ANDERSON: Correct.

MR. BOGANY: I am just curious. In the City of Socorro, if I pronounce that right, one unit, $60,000? They are just building one house for $60,000, or converting one deed?

MS. CARRINGTON: They are converting one contract-for-deed. And basically what we allow is up to $40,000 for a contract-for-deed conversion. And then any amount above that is for rehabilitation. And typically, the amount we allow for rehabilitation is up to $15,000.

But because of the depressed condition of this particular unit in Soccoro, and my staff also tells me that I think it is a family of like I think nine children.

So it is a very large family. And so that is why we had exceeded the $55,000 which is pretty much the max that you see here.

MR. BOGANY: Well, it just seem like to me you could knock the house over and build a brand new house for $60,000.

MR. SALINAS: But I think they don't own it. I think they want to convert the whole property.

MR. BOGANY: Okay. They probably should have never bought it a long time ago. Yes. Okay. All right.

MR. SALINAS: Well, I agree with all these conversions, but have they done anything about -- on buying, by not buying out any more lots from contract-for-deeds? The Attorney General has done anything about the law not allowing them to do that?

MS. CARRINGTON: I will ask.

MR. SALINAS: Well, the Attorney General has the right to.

MS. CARRINGTON: These are old ones. That is absolutely correct.

MR. SALINAS: They are old ones, but have they stopped doing them? Because we spend a lot of money on conversion of deeds.

MR. CABELLO: Homer Cabello with the Office of

Colonia Initiatives. We are finding less and less contract-for-deeds along the border region. A lot of developers are doing their own conversions to prevent us from going in there and doing the conversions, because the interest rate that they are charging, they can't reinvest that money back into the private sector and get that type of a return.

The one in Socorro, they probably will demolish that house and build a new one. The administrator will go out there and do an assessment of the house to see what it is going to take to bring it up to housing quality standards. If it makes more sense to demolish the house and build a new one, that is what they will do. But they are capped to $55,000 with the conversion and the rehabilitation.

MR. SALINAS: But the loan doesn't apply to anybody not doing that anymore?

MR. CABELLO: We don't see many contracts-for-deeds anymore. As a matter of fact, Representative Dutton passed a housing bill where the families can do their own conversions now.

MR. SALINAS: When they buy a piece of property, aren't they responsible to do a contract with a vendor's lien, and not do a contract-for-deed anymore?

MR. CABELLO: That is what we are seeing more now.

MR. SALINAS: I mean, isn't there a law that they are not supposed to do that anymore?

MR. GORDON: Yes. They cannot do that in El Paso County.

MR. SALINAS: Well, that is what I mean. Are they enforcing? I know the Attorney General has a lot of enforcement on that. And then there is -- they should stop doing anymore contract-for-deeds.

MR. CABELLO: We are not --

MR. SALINAS: I don't think -- I think the message needs to be sent to the county judges. I don't know anybody --

MR. CABELLO: That is one of the things that we are doing with the Attorney General is educating the elected officials in the counties. Because some of the new elected officials are not up to speed on a lot of the most recent laws that have passed.

MR. SALINAS: But everybody seems to be up to speed in the border, except El Paso, you know. I mean, I see this -- I see this, you know. And I mean, this is happening in El Paso. I know there are some in Eagle Pass. But I know that we had some big lawsuits against developers.

I mean, why is the law different from El Paso and the Rio Grande Valley? You cannot do anymore contract-for-deeds in the Rio Grande Valley, because if you do that, you get fined. And you go to the courthouse, and they will fine you big time.

MR. CABELLO: These are mainly old contract-for-deeds. A lot of them are negative amortization. They are never going to pay them off. But these are mainly old contract-for-deeds.

MR. SALINAS: Okay. Well, I think the Attorney General needs to send those people a letter and say, Well, no more contract-for-deeds. That is the law.

MR. CABELLO: Yes. And we refer a lot of people to the Attorney General's Office. And the County Attorney, and Texas Rural Legal Aid when we find abuses or issues with contract-for-deeds along the border.

MR. SALINAS: Because really, they don't own the land. It is just a contract that they are probably going to get a vendor's lien later on. They really don't own the land. And here we come every time. And I don't mind doing this, because I think we need to do it, but it has got to have a stop sign somewhere.

MR. CABELLO: I agree.

MS. ANDERSON: But your experience is there are no -- few to no new contract-for-deeds being done. So we are working out through a cycle, every year, as we have the money to help people get rid of the ones that are out there today.

MR. CABELLO: Correct.

MS. ANDERSON: We ought to be working against a declining total universe of contract-for-deeds out there.

MR. CABELLO: Correct. And also the holder of the contract-for-deeds are doing their own conversions and warranty deeds on their properties to avoid all the laws that are related with contract-for-deeds. And the penalties that are associated with that.

MR. CONINE: Homer, how is our pipeline, with the money we have allocated previously to the sub-recipients here doing? Is it used up, not used up? How much money have we got sitting out there that is currently un-obligated?

MR. CABELLO: This will obligate the remaining funds under the contract-for-deeds. Now we do have three existing contracts that we are implementing with the nonprofit organizations.

But we mainly deal in the colonias. We mainly deal with very grassroots organizations. So there is a lot of technical assistance that is involved. But in reference to available contract-for-deed dollars, this is committing the remaining dollars that are available.

MR. CONINE: There is not $10 million laying around that hasn't been used?

MR. CABELLO: No.

MR. CONINE: Contract-for-deed has been gobbled up, used?

MR. CABELLO: Right.

MR. CONINE: Okay.

MS. ANDERSON: And even though they are grassroots, with your technical assistance, they are able to utilize the funds as we would have envisioned. It just may take awhile, but they get it done.

MR. CABELLO: Through our field offices and through assistance, through other personnel such as Portfolio Management and Compliance we give them the technical assistance. How to fill out the forms. How to do everything that is necessary under the HOME program.

MR. CONINE: Is there a motion yet?

MS. ANDERSON: Any other discussion?

Thank you, Mr. Cabello.

Any other discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

Ms. Carrington.

MS. CARRINGTON: The next item for the Board's consideration is the appeal from Bee Community Action Agency, related to the 2005 allocation of HOME funds. The Board is being asked to consider their appeal. Their appeal; they were not funded in the round, and they are asking the Board to reconsider. Staff is recommending that this appeal be denied.

You may remember that the Board did consider this appeal at your board meeting in September. You may also remember that at that board meeting, that is was a 2-2 vote. So it was a tie vote on the part of the Board as to whether this appeal should be granted or appeal should be denied. Our General Counsel then reminded us that a 2-2 vote did not resolve this issue, and did not provide the final administrative decision on this item.

To refresh the Board's memory, as staff

reported to you in August, initially, when we were making the HOME awards, there was a list that went up that was a list that had failed to consider a scoring item. And so that list went up one afternoon. And we discovered our mistake very quickly.

That list was pulled off of our website that afternoon. Notices were also given to all the applicants. And the next day, which was seven days prior to the board meeting there was the revised list that was posted. There were actually 18 applications that were impacted or affected by that original list that went up.

Thirteen of those did ultimately -- did receive an allocation anyway because they were the highest scoring 13 applications. There were five of them that did not receive a recommendation for an award. Bee County was one of those.

Bee County's score was not changed. But what happened was, when that scoring error was found, there were other applications that scored higher than what the accounting did. Of the five that were not recommended, that were originally recommended, Bee County was the only one that did appeal that decision.

And staff has reviewed all of the information that was presented. And staff is recommending that the appeal by Bee Community Action not be approved by the Board.

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

Ms. Carrington, based on the other four that did not come in and ask for approval, and I can see next month they are coming up here saying we didn't know we could ask for an approval when we were denied and it seems as though we followed the rules, and the rules were followed. Does this open the door for those other four to come back and ask us to approve them?

MS. CARRINGTON: It is important to note, I think, that Bee County or Bee Community Action did appeal within the time frame that is allowed in the HOME rules. So they did make a timely appeal. Anyone else, that appeal would not be timely. That period for appealing has passed.

MR. BOGANY: Okay. Thank you.

MR. CONINE: My position on this hasn't changed since the last meeting. And you know, we can correct it -- another staff error that occurred a few minutes ago, with two more HOME awards.

And I think this is very important to those citizens of Bee County. If they were notified that their house was going to get fixed up and then to take that away just seems to be a little punishable for me. So I am going to move that we grant the appeal from Bee County -- Bee Community Action Agency.

MR. GONZALEZ: Second.

MS. ANDERSON: I have public comment on this item. The first item is a letter that State Representative -- I am going to mess -- I am going to foul this up, but Yvonne Gonzalez Toureilles.

MR. GONZALEZ: Just keep Gonzalez. Really, that is her maiden name.

MS. ANDERSON: Mayor, how do you pronounce it?

MR. GONZALEZ: No, I don't know how to pronounce it.

MR. CONINE: You have to.

MR. GONZALEZ: I used to see her billboards when I was driving back. Toureilles. I don't know.

MS. ANDERSON: Okay. Anyway, the Representative has written to us. This is in her district and she has written: "I write to express my continued support for reconsideration of Bee Community Action Agency grant application under the owner-occupied housing assistance program for the HOME 2005 Cycle.

"The appeal for the application was taken under consideration during the September 2005 meeting of the TDHCA Board. However, it is my understanding that the item was tabled until the October 2005 meeting.

"The application made by Bee Community Action Agency, if approved, will help provide five needy families a new home. It is my hope that you will weigh this in your decision-making process. I would also like to note that the initial assessment of the application was approved and then rescinded because of error on the behalf of TDHCA.

"I petition you to reconsider the application and ask that you please contact me if there are any questions you may have. I thank you in advance for your help in this matter, especially for your service to the great State of Texas. Sincerely, Ms. Yvonne Gonzalez Toureilles."

Thank you, Mr. Gonzalez.

And then I also have a witness affirmation form for Mr. J. J. Perez.

MR. PEREZ: Good morning.

MR. GONZALEZ: Good morning.

MR. PEREZ: Once again, we appeal to you to reconsider your recommendation for the HOME program application that we submitted in a timely fashion. The main concern that we have is the fact that once we receive a letter indicating that we were going to be recommended for approval, the word got out so quickly, that we started getting inundated with various telephone calls.

Telephone calls from elderly, disabled, and very low-income individuals that could not understand the entire process and the selection that you all go through. One thing that they perceive is the fact, and they believe that the Government has lent them money. And they are asking us why can we not get at least five homes within Bee County reconstructed? And so therefore, we appeal to you. Thank you.

MS. ANDERSON: Thank you, sir. I also want to note for the record that Representative Gonzalez's chief of staff, Nelson Salinas, was here this morning and had to go. That is why I read the letter into the record. But we appreciate Mr. Salinas being here for the morning part of the meeting.

MR. CONINE: Any kin?

MR. SALINAS: No, he is not. But he is familiar with the area. He is from Mission, Texas, but no relation.

MR. CONINE: Sure?

MR. SALINAS: I am sure.

MR. CONINE: Okay.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next item for the Board's consideration is to consider the appeal of 2005 single-family HOME program applications and it is an appeal that is submitted by Gary R. Traylor and Associates. The Board did hear -- there was a discussion of this appeal at the board meeting last month.

And the Board did table the item and provided an opportunity for Mr. Traylor to -- actually, the Board granted an extension, and invited him to file another appeal, and indicated to him that we wanted as much information as possible, but there were not going to be any new rights that were created as a result of the Board's action. The two appeals that were actually filed, one was filed on August 26, 2005. And then the other one that was filed, the second appeal was dated on September 30, 2005.

And there were basically four points that were detailed in Mr. Traylor's appeal to the Agency. And it did involve 13 affected cities that Mr. Traylor was the consultant on. And these are outlined. Their appeal points are outlined for you in the writeup.

I will say initially as we begin going through these, that there is one item under our HOME rules that is actually an appealable item, under the items that have been identified. Our HOME rules identify which kinds of items are appealable and which ones are not. In this particular instance, except for item 4, which was inadequate notice, it is the Department's opinion and interpretation that indeed these were not appealable items.

Mr. Traylor was basically appealing how other applications are treated and scored. The first one is a cash reserve issue. And the appeal or the challenge was the sufficiency of the decision, and was not a valid appeal under our HOME rules. Basically, it was a procedural process with the Department in determining that we believed that the way the cities were indicating through resolution that there was a commitment of cash reserves, that that did indeed meet that requirement.

On appeal point 2, on the match, the valuation of donated services, again this is an appeal that challenges the sufficiency of the staff's decision. Not a valid appeal point under our rules.

There were three points in your second paragraph that they seemed to bring forward. They question the value of the companies that are donating services for demolition and site preparation. They question the services being donated by the attorney. They question the services being donated by the architect.

Again, I will state that staff, as they reviewed all of these applications, considered any of these kinds of items, and did do due diligence in doing our research to determine that what we had received did indeed meet all of the requirements of our rules. The third appeal point, questionable application authorization, again, it is a challenge to the sufficiency of the decision that was made by the staff, and not a valid appeal point.

The fourth item as I mentioned to you on inadequate notice, it says that Applicants will be notified of their score in writing no later than seven days after all applicants received have been scored. And they contend --

MS. ANDERSON: Time.

MS. CARRINGTON: I will wrap up now, Ms. Anderson.

MR. GONZALEZ: I will cede my time.

MS. CARRINGTON: Thank you, Mr. Gonzalez. The notifications were received seven days prior. We notified all of our applicants by e-mail.

And we actually had three separate e-mails that had gone out. And what Mr. Traylor contends is that they did not receive the third e-mail. And what staff contends is that we sent all of those e-mails to everyone, all three times. And we do indeed believe that that third e-mail was sent, as the other two had been.

We have proposed one change. And I think this is very important to note on the bottom of page 3, moving over to page 4. As you all know, our HOME rules have been out for public comment for the last 30 days. And the public comment period on those HOME rules did close on Friday of last week.

We did not receive any recommendations or any suggestions to our HOME rules that would have addressed any of these issues in 2006. However, the Department had already proposed, and is proposing a new section K that would be incorporated into the HOME rules.

And that section reads: an applicant shall provide certification that no person or entity that would benefit from the award of HOME funds has provided a source of match or has satisfied the applicant's cash reserve obligation or made promises in connection therewith. So we believe that by putting this language in the 2006 HOME rules, that it will address some of these concerns that have been raised by Traylor and Associates.

For the Board's information, we did provide you a time line of correspondence related to these allegations, beginning actually in April of this year. So conversations, e-mails and letters that have gone back and forth between the Department and Mr. Traylor. The Board does have the full appeal in your board book.

MS. ANDERSON: I have significant public comment on this item. Are we going to hear it before or after the motion? Whatever your pleasure is.

MR. CONINE: We're going to hear it now.

MS. ANDERSON: Okay. Then we will hear public comment. We do have a three-minute time limit in effect. The first witness will be Gary Traylor, and a number of people, a significant number of people have yielded time to Mr. Traylor. And so, if my count is right, enough people have yielded to him that he has 39 minutes. Yes, sir.

MR. TRAYLOR: Good morning. I am Gary Traylor, President of Traylor and Associates, a consulting firm that works with communities participating in the HOME program. And I will promise you that we will give back to you most of that 39 minutes. I don't expect my comments to take more than just a brief five or six minutes here.

First I would like to thank the Board for agreeing to hear this appeal regarding the 2005 HOME program. The appeal of course concerns the grant awards in the owner-occupied assistance category. Although we strongly disagree with the staff's recommendation today to the Board, we certainly do appreciate the staff's professionalism as we have worked through these issues. And I certainly would like to say that.

I would also like to say that the problems we are raising with the HOME competition were not created by the staff, but by the actions of another consultant; Grant Works Incorporated, which we contend, for its own financial gain, manipulated the scoring process, gaining an unfair competitive advantage over other applicants for HOME funds, including our clients. And that is what this appeal is really all about. Our appeal contains numerous examples of this.

I am not going to rehash them point-by-point. Instead, I will cite the most direct example of scoring manipulation by Grant Works. And that is, that they encouraged their clients to appear to pledge to use local cash reserves to pay HOME expenses in advance of reimbursement from TDHCA, a pledge that would get those clients maximum points in that category, while simultaneously assuring them that they intended to avoid the use of reserves entirely by requiring contractors to wait to be paid only after the receipt of HOME funds from TDHCA.

Grant Works was further able to convince its clients to make these paper pledges by promising them in writing that Grant Works itself would provide any and all funds necessary to cover payments drawn from cash reserves. And I would state that these behind-the-scenes communications were not provided to the Department to our knowledge until we did, until we provided them.

The commitment of cash reserves by any applicant while giving and receiving letters and promises behind the scenes that demonstrate a contrary intent was simply deceptive, and was made even worse by the knowledge that for purposes of scoring, the Department would exclusively rely upon the applicant's official authorizing resolutions committing the cash reserves as good faith attestations of the local governing body. The evidence that this scheme occurred is extensively documented in the appeal, but it is highlighted the most clearly in the September 15 letter from the City of Kemp, which states that the City did not have the cash reserves to commit.

In this quote from the letter here, the letter said the City was not and is not in a position to set aside $125,000, and only pledged those cash reserves based upon an accompanying promise provided by Grant Works to provide the funds to cover the City's financial obligation. In its letter, Grant Works assures the City of Kemp that it will never be responsible for the cash reserves and that Grant Works will cover any costs associated with the cash reserves.

This Board adopted cash reserves as a scoring factor to encourage more building contractors to bid on HOME projects, including historically underutilized businesses and other small contractors. The Board was concerned that capital is a problem for small businesses, having to wait for grant draws to come through. So the Board encouraged cities to use local cash reserves to pay contractors before the grant money is delivered.

Since its enactment as a scoring factor, the commitment of cash reserves has for all intents and purposes become a practical requirement to successfully compete for HOME owner-occupied assistance funds here in Texas. Today in its recommendation to the Board, staff argues that Grant Works' scheme is technically permissible. We could not disagree more.

First of all, that position makes a mockery of the public policy that underlies the awarding of points for cash reserves. If in fact the Department has abandoned the policy of using cash reserves to encourage small contractors to bid on these projects, that category should be eliminated from the scoring system entirely and no applicant should receive any points.

But an applicant should not be allowed to appear on paper to commit cash reserves, to appear to be encouraging small and minority contractor participation when they intend to put no cash reserves at risk at all, and in fact to limit their project to only contractors who are willing to wait for payment out of state grant funds. We also take issue with the Department's statement that it is permissible for a third party -- and presumably they mean Grant Works -- to pledge money for the cash reserves.

That may be technically correct, except in instances as here, where that pledge comes from someone who will directly benefit from the grant award, such as a consultant who will ultimately manage these funds, and who will himself be paid from them. That is a classic conflict of interest under state and HUD rules.

We urge the Board to reject staff's recommendation. We believe it creates a system that rewards those who are subverting the very purpose of the scoring factor in order to manipulate the points system. Equity demands that the appellants not be punished because one consultant has gamed the system, utilizing I might add, a staff that includes former employees of this Department.

The appellants are small communities with serious housing needs, each of which has sent a representative to this meeting today and we believe they deserve a fair shake. On August 19, the Board approved owner-occupied awards totaling $22.4 million. And approximately $13.3 million of that amount was awarded to small communities whose applications were prepared by Grant Works Incorporated, and were successful as a result of the manipulated 2005 competition.

And ladies and gentlemen, I would just say that the magnitude of this unjust reward calls for a commensurate remedy by the Board. While I can understand that the Board is reluctant to restore the HOME competition -- and let me emphasize that I can completely understand your reluctance to do that -- the Board can do other things to provide equity to the appellants. Like using currently unobligated funds, and by making commitments to the appellants from future funds. And I am requesting that the Board consider making an equitable remedy for the appellants listed in the appeal today.

As you can see, the appellants were very close to qualifying for these grants, would have qualified, we contend, if they had been given a level playing field. And would be busy right now preparing their projects to provide much needed housing for their constituents instead of dealing with this appeal. There was simply no way that the appellants could compete against the clients of Grant Works when Grant Works was obviously willing to do anything possible to manipulate the point-scoring process.

So we really need the Board to step in here and provide equity to restore confidence in the competitive process by which HOME funds are allocated. I believe it is essential that the Board act in the interest of fairness in making a commitment to these cities to prove to them that the system is not unfair, and also to prove to the rest of the cities in Texas that the application process for these types of grants is not about rewarding the consultant who is best at manipulating the system, but rather, rewarding applicants that best further this Department's policy goals and stated public interests.

And I would just say in conclusion again, thank you, and how much we appreciate being able to bring this appeal to you. And we would ask for your consideration. Thank you very much.

MS. ANDERSON: Thank you, sir. The next witness I have is David Studdert.

MR. STUDDERT: Hello, Madam Chair, members of the Board. I appreciate your time today. I am David Studdert, Mayor of the City of Nome in Jefferson County, Texas. We are one of the communities that was awarded a 2005 grant, and our representative is Grant Works. Our consultant is Grant Works.

I appreciate that you folks have an important decision to make here today. It seems pretty clear to me that the bottom line is that one of the consultants knows the program ins and outs better than the other. And certainly, I am happy that we are able to benefit from their ability to work within the guidelines of the program.

You know, unlike some larger cities, we don't have the luxury of writing a check for our match funds. And so there are some, I guess, several sources that we are drawing from in order to meet our match. And after going to the seminar for the last couple of days, I fully understand that our match is fully acceptable within the program.

Some of the things they outlined in that seminar are exactly what we are planning to do. And so you know, some of the contention that maybe our match funds are not adequate or our methods are not adequate, I don't feel are true.

Beyond this appeal, and I certainly appreciate the actions of the Board today in relationship to Hurricane Rita. Nome is in Jefferson County. Mr. Bogany mentioned Port Arthur, not far from me. We had 115-mile-an-hour winds for greater than eight hours. And that is a lot of devastation in the area.

And beyond today, I know the Board will have applications coming to you, folks seeking relief from this hurricane. And the unobligated funds that are available today, I hope those remain unobligated until such time when our folks who are in such dire need at this time have an opportunity to apply for those funds.

I trust that the Board will agree with TDHCA staff recommendation and disallow the appeals being made. And again, I do appreciate your time and efforts on our part, and look forward to working with you in the future. Thank you.

MS. ANDERSON: Mr. Gene Foerster.

MR. FOERSTER: Ladies and gentlemen of the Board, thank you. I am Gene Foerster. I am the City Administrator of the City of Bandera. And we are one of the '05 recipients of the HOME grantee.

And regarding the discussion about the complaints and so forth, I would like to say that I don't have any concerns as to the scoring and awarding of the grant. I feel everything was done properly. The Department staff did their due diligence.

And I will guarantee you, there were a lot of questions to answer during the application period. Much correspondence traveled back and forth, especially in our case, as it dealt with the match of the demolition and so forth. So I think it was done properly. This is our first experience. And it has been a good one.

And I will tell you that our responses were sincere. Our Mayor and Council takes its role seriously when they pass a resolution. And to be honest, I think that is true with all the small towns that are dealing with this.

As far as cash reserves are regarded, I just spent two days at your implementation workshop. The need or the use of cash reserves was never mentioned. We understand it is a reimbursable thing. Nor could I find any mention of cash reserves in the manual. It seems to me that cash reserves are only an application issue, and we complied with the rules.

I appreciate, in closing, to say on behalf of the grantees that are still here with us, and those that had to go back to their towns that there not be any change made in the scoring or in the awarding of these grants. Thank you.

MS. ANDERSON: Thank you, sir. Mr. Tres Davis?

MR. DAVIS: Good morning. My name is Tres Davis, Vice-President of Housing Services for Grant Works. I appreciate the opportunity to speak to the Board and Ms. Carrington about the allegations that have been made against our company.

The main few things I guess, that have been hit on are cash reserves and match. And first and foremost, cash reserves, this was back when I guess was when the people Gary was referring to used to work for the

Department, I was here when they were put in place. And the reason they were actually put in place was during the '95-'96 government shutdown, TDHCA wasn't able to get its funds from HUD.

So we wanted to put in a mechanism -- we being when I had this hat on -- wanted to put in a mechanism so that if something like that, a fiscal crisis occurred again and TDHCA couldn't get the money to reimburse the cities, the cities would have the ability to pay these contractors and not get a bunch of phone calls, which was what we were dealing with at the time. The contractors actually for the most part do self-finance these programs. And we have had a couple that wanted to do interim draws and draw from cash reserves.

But after going through the paperwork and seeing how quickly they can build the house, I can tell you that they have come back and said no. We just are going to wait. It is has not been some pressure we have put on them to do. It has been something that they have volunteered to do, as far as not having interim draws.

We did provide a letter similar to the unsigned letter that you saw in Kemp to a couple of our clients. It was only to a couple. It was not a form letter provided to every one of them. I think you could ask the

25 people back here with me. And I don't believe any of them received this letter.

The letter, we don't see any conflict in it. The commitments are still made by resolution. The letter states that we would offer to reimburse their cash reserves, not that we are providing their cash reserves. Simply that we would reimburse cash reserves if there was a delay in getting money back from the Department.

And this reinforces small communities' ability to make sure that those reserves are there in the future, because you are talking about a program that from when you make application to when you start going, it may be a year, and budget things happen. Like what we are seeing in the City of Kemp for example. And there is no indication that this type of extra guarantee is prohibited is the thing that staff has pointed out.

As far as the match documentation, the attorney and the architect who do this have been doing it for years. I think you have a letter from each of them that was handed out earlier. They understand the commitment and the time commitment that is involved in doing this, and they are willing to do it.

The architect is waiving his plan usage fees, $700 per use. If you would look up what architects charge builders, it is usually between 495 and 3 percent which would be 1,500. So 700 is certainly well within the ball park.

The attorney, believe me, he reviews these things. We go back and forth constantly, providing him documentation. And I know that in the letter Mr. Traylor wrote, he insinuated that the attorney might be related to an employee of Grant Works. He is not. The employee he was referring to is an ex-employee and it is his ex-wife from quite a few years prior to ever donating the services. But that is how he knew what we did and offered to do it.

In regard to the dollar amount of the demolition and site prep, this wasn't just a number pulled out of thin air, I guess a good term. It was based on RC means data. And there is actually the data that we used. It includes the location factors for all of Texas. And in order to be conservative, we used a small wood frame one-story house.

These guys that are offering to do the demolition are donating blind. They don't know the size of the house, the location of the house, what kind of access they are going to have or the materials the house is made of. These numbers in front of you are based on a one-story wood frame house. So we thought we had been very conservative with those numbers and what we based that one.

And in fact, I got a couple of calls from donors saying this is too low. I would never bid a job like this at this number. But we requested that they not go above that, because we frankly didn't want our cities to overcommit. And I am sure the State didn't love hearing that, because the more match the better. But we knew what they needed for the points, and we didn't want them to go beyond that, to be real honest.

That is really just short and sweet. I tried to stay within my three minutes to address the issues. And if you all have any questions for me, I would be happy to answer them. Otherwise, thank you very much for your time.

MS. ANDERSON: Mayor Salinas.

MR. SALINAS: Some of these debtors that we are getting here from, for example, City of Bandera on the architect, he is donating his services. You don't have to reimburse him for the services.

MR. DAVIS: That is correct. He is waiving his per plan usage fee.

MR. SALINAS: Once you get your money, you are not going to be paying him anything?

MR. DAVIS: That is correct.

MR. SALINAS: Okay. Because a lot of these letters said they donated work.

MR. DAVIS: Well, this is -- what he is donating is his usage fees that he would normally charge a bill.

MR. SALINAS: Exactly. But you are not going to be reimbursing him?

MR. DAVIS: We don't reimburse him a penny, no.

MR. SALINAS: A penny. He is really trying to help the community.

MR. DAVIS: That is it. That is all he was doing. The same thing with the attorney.

MR. SALINAS: Okay. Well, this is why we need to clear out that all this is not money that is going to be paid back.

MR. DAVIS: Oh, no. It is not paid.

MR. SALINAS: Okay, but that's --

MR. DAVIS: It is a donation. I mean, frankly, if we had to pay these guys what they are donating, we couldn't stay in business as a company.

MR. SALINAS: Okay well, City of Nome --

MR. DAVIS: That would be a big chunk of our fees.

MR. SALINAS: Okay.

MS. ANDERSON: Other questions?

MR. CONINE: The plan usage fee, would you define that for me? Because each one of these houses have their own unique characteristics, whether you rebuild them or remodel them, depending on what you do. Is this is separate fee from architectural services, which is the phrase that I normally use and am accustomed to hearing?

MR. DAVIS: It's a separate fee from architectural services. This when -- I am not sure this is going to answer your question, but I will try.

MR. CONINE: If it doesn't, I will let you know.

MR. DAVIS: Years ago, I worked for Brighton Homes, for example. A bulk builder. Whenever we built a plan drawn by, I think Davis and Davis here in town was their architect firm, we had to pay them.

Even though we had paid them to draw the plans initially, every time we built, we had to pay them 3 percent of hard construction costs to use that plan again, because it is their intellectual property. So it is just the bulk, it is the plan usage fee for bulk builders, which is obviously cheaper than if you had new plans drawn, but it is the right to build that house again and again.

MR. CONINE: But if the City is going to an owner who has a dilapidated house that needs to be rebuilt and in fact, you end up building a house that is individual and not a repetitive plan, then in the application process, you have used a match that doesn't exist, basically.

MR. DAVIS: That is true. And we would have to cover that out of soft cost and come up with another form of match. But I will tell you that we have not run into that. The plans, the stock plans that we have from the architect are -- there are a couple of different configurations. A couple of different elevations.

And so people can choose between those, and they seem to fit the population that we are serving. And 99 percent of what we do is reconstruct, so it is tearing down and building a new one. If we do a rehab, it is usually over and above the minimum requirement, so we are still meeting the match.

MR. CONINE: So the couple of plans you are talking about, that become standard or stock, will fit on most of the lots?

MR. DAVIS: Absolutely.

MR. CONINE: If it is a 40-foot-wide lot, do you have problems with the house plan fitting on that?

MR. DAVIS: There's plans -- bless you -- that are already drawn for that contingency, for narrow lots. We have a narrow lot plan. We have a ranch style. We have a cottage. You know, that sort of thing. There is more than one plan, I guess is my --

MR. CONINE: Okay. Thank you.

MS. ANDERSON: Other questions? Thank you, sir.

Mr. Eric Hartzell.

MR. HARTZELL: I waive my right to speak. Thank you.

MS. ANDERSON: Thank you. That is the end of public comment on this item.

MR. BOGANY: I move that we accept staff's recommendation.

MR. SALINAS: Second.

MS. ANDERSON: Discussion?

MR. CONINE: I guess I have been around the longest of any of the board meeting sitting up here. And this conversation sure is deja vu-ish for me, in that I think we have gone through a lot of these growing pains in the tax credit program, and now it seems to be raising its head here in the HOME program.

I have learned enough about what is going on in this particular arena over the last 30 days to know that I think that we as an agency need to take a hard look at the way we run this particular program. It is my understanding that the consultants feuding here in front of us tend to have total control of the dollars as they go through this process.

They go to the small city which has no money or no staff to do housing issues. And not only do they prepare the application on the front end, but they also administrate the application on the back end. So you have got one guy controlling everything as it comes through. And they get paid on both sides.

This administration fee that we are looking at here is not the only amount that these guys get. They get more than that on top of that. I know -- I understand that the public comment period, I think, has ended for this. Is that right, Ms. Carrington?

MS. CARRINGTON: Yes, sir.

MR. CONINE: And the rules for next year's round, I think, are coming forward next month. But I am terribly uncomfortable with tweaking the system, now that I know a little bit more about it than I did before.

And I think we need to figure out a workshop or a session where board members could attend if they wanted to, and the two consultants could attend if they want to, along with our staff. We need some time to revamp and look at this program. Because I am very uncomfortable with where it is right now.

That being said, I am not sure. I would like to ask some questions. Mr. Traylor presented a couple of alternatives that he said the Board had discretion to do. And I am not so sure what to do. So maybe our General Counsel could come let me know what is within our purview or not.

If we -- from my understanding, the 13 appealed cities here have had applications -- it looks like the net applications, because some of them got some money, based on what I am looking at. But it looks like it is $3 million plus or minus in requested funds.

Am I right about that number? It says $3.8 million, but it also says project received, funds received. There has also been some granted. I am not sure.

MS. CARRINGTON: Right. Yes, sir. The $748,307.

MR. CONINE: So that was a partial, basically?

MS. CARRINGTON: Yes, sir.

MR. CONINE: And that was based on scoring after that?

MS. CARRINGTON: Yes, sir.

MR. CONINE: Okay. So we have got a net requested amount of something in excess of $3 million. Do we have the ability to, as a board, to grant deobligated funds, or -- I guess, two separate questions. Deobligated funds would be the first question. Answer it yes or -- do we have it as a board?

MR. HAMBY: Kevin Hamby, General Counsel. Yes, you would have the ability to grant deobligated funds.

MR. CONINE: Okay. And he also mentioned forward commitments. Similar to again, the tax credits.

MR. HAMBY: And no, you would not have the opportunity to commit forward.

MR. CONINE: Okay. That is what I thought. I just wanted to make sure. And I guess the next --

MR. HAMBY: And I just checked with the staff, and I guess the deobligateds, the most that would be available at this point are about $1.6 million, and that is not a hard number. But that is the biggest --

MR. CONINE: What was the 1.6 again?

MR. HAMBY: That would be the most that would be available under deobligated currently.

MR. CONINE: That would have been my next question. How long have we asked for -- how long have the cash reserves been a point-awarded scoring criteria?

MR. HAMBY: That is not me.

MS. CARRINGTON: Mr. Pike, would you come up and tag team with Mr. Hamby, please?

MR. PIKE: Good morning. Eric Pike, Director of Single-family. I really don't have an answer for you with that. It has been -- I know over the last three years, we have had cash reserves.

Prior to that time, I don't have history with the program to know. I can try to find out for you all. But it has been for the last three years. And obviously, based on what Mr. Davis said, with his history with the program, it appears it has been in existence since '96.

MR. CONINE: Okay. That gets all the questions I had. I mean, Ms. Carrington, you might want to comment on this request for a workshop or some time to get these groups together.

MS. ANDERSON: I would like to hear, even though we are supposed to vote on the HOME rules next month, what is the deadline or you know, can we -- what would be the fallout if we had this workshop. Determine that we ought to change -- that we wanted to republish rules for additional comment.

MR. PIKE: My understanding is that we do not have a hard deadline for adoption of our HOME rules.

MS. ANDERSON: Okay.

MR. SALINAS: We could probably have that workshop. I mean, get this done, whatever we got -- whoever gets approved, we can have a workshop for the next cycle. And change whatever we need to change the approval.

MS. CARRINGTON: And I know that my staff over the last two days, and I heard this mentioned by a couple of people from the audience, have been in a HOME workshop over the last couple of days. So would you all mind sharing with all of us up here, what has the workshop been?

MS. CEDILLO: I am Ruth Cedillo, Director of Portfolio Management and Compliance Division. It is an implementation workshop for the 2005 awardees.

MS. CARRINGTON: So 2005. Okay. Those who received awards in August.

MS. CEDILLO: Yes, ma'am.

MS. CARRINGTON: Thank you.

MS. ANDERSON: Mr. Bogany?

MR. BOGANY: I just have a quick question. In the -- I know the new rules are out for 2006. Have the issues that were addressed by Mr. Traylor, were those addressed in the new rules?

MR. HAMBY: Yes, they were, as Ms. Carrington identified in her presentation. We have added that subsection K. And I would point out that in the new rules of the HOME rules, they were part of our overall rules package. So we attended 13 different onsite locations. And I know that 11 of those had comments come in.

I believe, as I recall reading the package, six people commented on HOME rules, and the most common comment that we received is obviously we need more money in the program. But no one addressed any of the application process, the scoring issues or any of those things in the public comments, either in those public meetings that we had in all 13 regions or in any e-mails that we received.

MR. BOGANY: Okay. My second question and last one. So basically, based on the 2005 rules, staff followed the rules that we had already in place for 2005 in awarding these dollars?

MR. HAMBY: Yes. And that is where you get to that term "technical." And our rules are technical. And we are required to follow them by state law. Whenever we publish them that is the reason we have the public comment section.

That is the reason they are published in the Texas Register; so everybody knows what the rules are. So though somebody might call them technical, I believe that we are following them to the letter of the law.

MR. BOGANY: Okay. Thank you.

MS. ANDERSON: Other questions? Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

Ms. Carrington.

MS. CARRINGTON: Thank you. The next item for the Board's consideration is setting aside the remaining available --

MS. ANDERSON: We are in session, so if I could ask you to leave -- you may leave, ma'am. But just leave quietly. You are not trapped. Thank you for being here.

MS. CARRINGTON: Setting aside the remaining dollars we have in the below-market interest rate program, the BMIR program of $233,000 for preservation of existing priority 1 and Housing Trust Fund loans and awards. They have been monitored and are have been categorized, and have been recommended for asset management, the asset management committee.

Mr. Conine, this is something you have been asking for a very long time. And it is a very small amount of money. But basically what the Asset Management Committee has recommended, and that committee has probably been operational for maybe about nine months or so, I guess.

And they meet twice a month and basically look at the portfolio of properties in which the Department has the greatest risk. And those properties of course, are those properties that are financed with our HOME funds, where we are in first lien position. And also, with Housing Trust Fund dollars, where we are in first lien position.

So that have looked to prioritize those properties. Looked at what the various issues are related to them. And we have seen certainly over the last period of time since the Asset Management Committee has been active that we have had -- we have needed a source of dollars. That we could perhaps begin to do some workout, provide some workout dollars.

And when you look at page 3 of 5 of the staff writeup, some of the items that we have identified would be cost of foreclosure. It requires money. There is currently one property that has been recommended by the Asset Management Committee for foreclosure by the Department.

But action is pending on this, because we don't actually have any dollars to pay for the foreclosure, the existing property tax liens. Also payments of taxes, so that as the properties that these taxes are severely delinquent and we are in danger of losing them, then we would have some money to be able to pay taxes.

The same with the payment of insurance. Obviously when a development gets into difficulty, the first thing they stop doing perhaps is paying their taxes and paying their insurance. And those are certainly items that we want to keep current. Also possibly using some of the money for necessary rehabilitation to bring the property up to standard conditions.

And then also, procurement of basically third party studies, such as appraisals, surveys, CPAs and other kinds of expenses. You all may remember that this is a -- we have had quite a return on our $55,000 investment. That we have a little over $2 million that has been returned on this investment the old Texas Housing Agency made in 1988.

And we have used a lot of these funds to fund our preservation program. There is a requirement in the bond documents that requires that we have to make any funds available first to the owners of the existing BMIR properties to keep them affordable, to keep them into the portfolio. We have done that. We continue to do that. And they have not indicated that they have needs for additional dollars.

So we are recommending that this small amount that we hold, that we have right now that is current and available, the $233,000, that we use it for our most pressing needs, and those that create the greatest risk for the Department, that create the greatest liability to the Department. Certainly anything with HOME funds that was financed that was a first lien with HOME funds is a potential liability for those dollars; us having to pay back HUD.

And so we have prioritized according to what we believe are the greatest risks. We have provided you some information on pages 4 and 5, about this classification system in this portfolio. We have 20 properties that we would consider in our priority one list. And we have four different -- we have, I guess, five properties on our priority two watch list.

And what we have provided for you is the maximum potential exposure; the very worst case scenario. Exposure to HUD on HOME funded loans that are priority one is a little over $11 million. And on priority two is $1.6 million. And we note for you that this represents approximately 13 percent of the entire outstanding dollar amount of the HOME multifamily loan portfolio.

MR. CONINE: Question. These are multifamily loans. Is that correct?

MS. CARRINGTON: Yes, sir.

MR. CONINE: Don't we also have monies that come out of the Housing Trust Fund for, I guess, priority one homes. Well, let's talk about the Housing Trust Fund for a minute. Don't we also have some loans that are secured by single-family as well, in there? Or is this strictly multifamily?

MS. CARRINGTON: Well, and -- it is rental property. So the housing type could be single family. But it is rental. So the answer it's multifamily, is not right. But it is rental. And Mr. Gouris wants to correct me even further.

MR. GOURIS: Yes, ma'am.

MS. CARRINGTON: Okay.

MR. GOURIS: Tom Gouris, Director of Real Estate Analysis. There are actually a couple of single-family lot development loans in the portfolio as well.

MS. CARRINGTON: Home ownership?

MR. GOURIS: They were to be for home ownership that didn't materialize.

MS. CARRINGTON: Never happened. Right.

MR. GOURIS: Yes. We have got a couple.

MS. CARRINGTON: It was used for lot development.

MR. GOURIS: Yes, ma'am.

MR. CONINE: Well, of course $233,000 won't go a long way, but it will -- I think it is incumbent upon Asset Management to make sure that the criteria they are using to evaluate -- I think my comments in the past have been related to events that have occurred that are extraordinary and not ongoing events.

So that you could step in, help with the situation that occurred for whatever reason, and provide soft second zero interest, pay us back when you can sale or refinance. And my comments have also been having a pot of money available for single-family, either the mortgage revenue bond portfolio or the like, so that we can have some money to ultimately help families who suffer one time occurrences or the like.

So anyway, this is a great start. And I am glad to see us making a move in that direction. I think it is harder for Asset Management to evaluate a multifamily deal if it has got a future or not. Because I certainly don't want to get in the habit of throwing good money after bad.

And it is easier, I think, to do it on a single-family basis, which I would like for us to still strive finding money to be able to do this same sort of program. But I am appreciative of the fact that we are taking a shot at it. I move for approval.

MR. SALINAS: Second.

MS. ANDERSON: Mr. Conine's comments lead me to have a question then. In terms of the delegation to Ms. Carrington of the authority to reprogram these dollars. Was it the staff's intent that those dollars be provided to priority one projects in the forms of loans, zero interest loans or grants?

MR. GOURIS: I think the intent was to use them to actually take ownership of those properties in general. And so we would take ownership and then try to get those funds repaid from a new owner.

MS. ANDERSON: The Department would own the development? We would pay taxes and then that would -- by so doing, we would then own --

MR. GOURIS: We would pursue foreclosure in a number of cases. In some instances, we will use it as part of our workout arrangement to either get back taxes paid and keep the current owner.

And in some cases, in the important cases, our ability to actually pursue foreclosure. And the only way we would want to ever do that is if we could pay the taxes off, because we don't want to go through the process of foreclosure and then be foreclosed by the taxing authorities.

MS. ANDERSON: How many units of property like this does the Department own today?

MR. GOURIS: None.

MS. ANDERSON: How many have we owned in the past?

MR. GOURIS: In the recent past, none. I believe we own --

MS. ANDERSON: I mean, that -- I am not a real estate person like Mr. Bogany and Mr. Conine are, but I totally did not pick that up, either from my reading of this board discussion or from a conversation I had about this with Ms. Carrington. So I am -- I mean, to me, that is very different. That is a very -- maybe I just didn't read it carefully enough. I mean, where is it saying we are going to buy these properties -- that we are going to own, take ownership of these properties?

MR. GOURIS: In the costs of foreclosure. I mean, that was the discussion about the foreclosure. That we would be foreclosing on the properties. And the outcome of foreclosure is our taking ownership and reselling the property.

I think that in some cases, in a few cases, hopefully a few, we will need to be able to change ownership. And in order to effect that kind of change, we will need to step in. And that --

MS. ANDERSON: I mean, I just think that is a dramatic step. To get into the property management business, as an owner of a property, even with the intent to sell it.

And I am not saying I am opposed to it, I just would want to know a whole lot more about how that would work, and why we think we have the capacity to be in the ownership business. I mean -- so, I guess --

MR. CONINE: Well, we are taking that risk when we get into the Housing Trust Fund business, and making direct loans that aren't insured by anybody else. I mean, we ultimately have foreclosure rights when we do that.

And I think that if you determine that it is a bad egg that is running the show, versus not the market killing the deal, then you want to have the ability to exercise your foreclosure rights on first lien that we have, in addition to having now some money to bring it back current and get a new operator in there. I don't think we want to be long term owners of anything. But it is a useful tool in the arsenal to be able to have to use.

MR. GOURIS: In fact, we are prohibited from being long term owners. I mean, our statutes prohibit us from owning property for more than three years. Our goal is to move it forward, and only to foreclose on properties that we think we can actually get some --

MS. ANDERSON: Right. You all, I can just tell you all are just dying to talk to me. So come ahead.

MR. DALLY: These funds will help us get a bad actor and a property that is not performing and to pay expenses right away. It will be in the resale and when we find somebody else in there, we recapitalize it, that we may have an opportunity to get a loan or something in there where we can recapture the funds.

But right now, we just need to get control and pay some expenses. Because the alternative is we lose control, it goes to a tax sale. And then the HOME program says, we haven't done good faith, we haven't done enough efforts to rehabilitate it.

And ultimately, the ultimate thing, even repayment of the loan is not as important as getting the affordability out of our funds, because it could have been a grant. But we have to capture that affordability. Or if we have got the funds out and we did an acquisition and it is not performing, we need to get in and get that actor out of there, and put somebody else in place that will perform.

MR. SALINAS: And it is probably going to be your taxes.

MR. DALLY: Yes. It is ongoing. Every single year.

MR. SALINAS: When you repo some property, you are going to end up with a bunch of taxes. That is part of the deal, you know.

MR. DALLY: And then ultimately, if we can get it recapitalized, then that is when we can recapture and get some of those things back in.

MS. ANDERSON: Okay. I am worried about in the interim period. Mr. Irvine, maybe you can get me comfortable. Because I appreciate all the work you have done around Asset Management for this Department in the last many months. What have we done to get comfortable that we have the capacity to be an operator, an owner-operator of these properties on an interim basis.

MR. IRVINE: Thank you. For the record, I am Tim Irvine, Executive Director of Manufactured Housing. And I am here in my capacity as the Asset Management Committee.

As everybody has explained, what we are really dealing with is assets that were created through HOME dollars, primarily. And whether they are characterized as loans, grants or whatever, the relevant issues is that somebody is operating this property not in a way that will result in HOME affordability requirements being met.

And what we find is these kinds of properties are identified. Things are going in a spiral downward. Taxes aren't being paid. Insurance isn't being paid. Necessary repairs aren't being paid. And these are the kinds of things that could, if not addressed, basically take the property out of our control, and take away from us the ability to assure that they meet affordability.

So what these dollars would really be used for is I think, as Mr. Conine was intimating, is really the threat that we would take them over. And that we would then find other owners and operators.

Quite honestly, taking over properties is really not something we have got the capability to do. We have talked in the Asset Management Committee about putting out RFQs to find people that could manage such properties, were it to come to that. Realistically, we want to work with current owners, even if they are in trouble, and with their consent, their blessing, identify other prospective owner-operators who could step in and take these things over. That is your ideal resolution.

But in some situations, people won't give that consent. You really don't want to step in and negotiate the sale of someone else's property. You have got to be willing, ultimately, to pull that trigger and take ownership of the property so that you can then move very quickly to re-market the property.

MS. ANDERSON: So in other words, to make the threat real, you have to be willing to come in and assume it.

MR. DALLY: Exactly. You have got to have a bullet in the chamber.

MS. ANDERSON: There is a sentence of page 3 of 5 underneath the cost of foreclosure. A paragraph that talks, Currently one property that has been recommended by the Asset Management Committee for foreclosure by the Department, but action on it is pending this request or other identification of funding to pay for foreclosure and existing property tax liens.

In the case of this identified property, are we thinking we are just using this as our carrot to get them to -- or are we really going to talk about -- or is it really the plan to foreclose and take ownership of this? Or do we have somebody else in the wings that is going to?

MR. IRVINE: Quite honestly, I think that if you have got the money available, you can work much more easily with taxing authorities to get them from breathing down you neck so hard and threatening tax foreclosures. As long as they are comfortable that the taxes are going to be paid, they will work with you. But as these dollars build up, they have got to go forward with their remedies too.

MS. ANDERSON: Okay. And then my last question is for Mr. Gouris. You know, bad things happen. And you know, it just happens. But I guess my question is, does the Department currently have in the QAP the authority to deny continuing participation in Department programs for a developer that we do have to step in and either take ownership or otherwise remove that owner by finding another owner. So that we don't have a revolving door of them two years, three years later, you know they come back and ask for more HOME funds for a different deal.

MR. GOURIS: I believe the QAP does have debarment, prohibitions against folks who owe the Department money, who owe for delinquent payments to the Department. And that would prohibit us from being able to fund them in future tax credits requests.

MS. ANDERSON: I guess I shouldn't have asked the QAP question of Mr. Gouris, but he handled it rather well, didn't he?

MS. CARRINGTON: Yes.

MS. ANDERSON: Okay.

MS. CARRINGTON: And also, it would fall under the Portfolio Management and Compliance rules of material noncompliance also.

MS. ANDERSON: Well, would this be -- if we did this, in the case of these properties, if we come in and provide this assistance, does that by definition put them in material noncompliance?

MR. GOURIS: Yes. They for the most part, are already.

MS. ANDERSON: Okay. All right. So that doesn't create -- there is no loophole there. I mean, if they are in this situation. Okay.

MR. CONINE: Am I to infer that on the 20 or so projects that have been identified under this proposal, that if we are in a first lien position, that the majority of those guys are in material default already, and that we haven't exercised our first lien rights?

MR. GOURIS: That is correct. In some shape, they are in material default. We are working with them to either rework their note to restructure it, or to proceed with some other actions. In some cases, it is because the property taxes haven't been paid, and in some cases, it is because they haven't paid us. In some cases, we are exposed when a transaction is a grant transaction as well.

MR. CONINE: And the reason we haven't exercised our first lien rights is -- say, it is 90 days or greater past due. Is it because these are special needs projects, hard to do? Trying to hit lower incomes? We are just good guys? Or is it for some other reason?

MR. GOURIS: All of those reasons. But including the fact that we don't have a foreclosure -- we don't have the capacity to have the funds to foreclose and operate these properties.

MR. GORDON: How many are there like this?

MR. CONINE: Yes, 20.

MS. CARRINGTON: Twenty in priority one.

MR. GOURIS: There are 20 priority ones. I wouldn't characterize all 20 of them as being foreclosure candidates. I would characterize two currently as being good candidates.

MR. SALINAS: Are they over 90 days?

MR. GORDON: How much money for those two, do you estimate?

MR. GOURIS: It is hard to know. One would -- $80,000 is where we are at. But that is to cover past due taxes.

MR. GORDON: For one of them?

MR. GOURIS: For two of them.

MS. ANDERSON: That is not the loan amount.

MR. GOURIS: No.

MS. ANDERSON: Then we would then be out, that we would have to repay HUD.

MR. GOURIS: No. Our goal is not to have to repay HUD. As long as we can maintain the affordability.

MS. ANDERSON: I know. But I think you were asking about what was the loan amount. What is our exposure?

MR. GORDON: No. I was just asking how much to get the property back. They owe us, so we are --

MR. GOURIS: Between the taxes and the foreclosure costs, we are estimating those two would cost around $80,000.

MR. GORDON: To get it back in our hands?

MR. GOURIS: To get it back in our hands. To -- once we get there, you know operating costs, or what have you may cause that to be a higher number.

MR. GORDON: Are these in a concentrated area?

MR. GOURIS: No. Rural Texas.

MR. GORDON: Okay.

MR. GOURIS: Predominantly rural Texas.

MR. CONINE: Again, need I remind staff that this is not an avenue for good money to be chasing bad.

MR. GOURIS: Absolutely not, and --

MR. CONINE: We want to have a historical success story as a result of spending $233,000 that staff will be measured by when they come back and tell us what they did with the money.

MR. SALINAS: Are they more than 90 days past due?

MR. GOURIS: Yes, sir.

MR. SALINAS: How much? Six months? Seven months?

MR. GOURIS: It varies considerably. Some are considerably past due. Some are on a past due list because they started out past due, and they have been paying regular, but they have been behind for three or six months, so they have been on our list. And those we are working on another way to work those things out, so we can just get them back in good graces.

MS. ANDERSON: Right. Just give them an extra payment on the back end.

MR. SALINAS: You give them an extension?

MR. GOURIS: Yes. That is the process we are working on with some of this.

MR. GORDON: Stuff like that. I mean, this looks like you are not throwing good money after bad, but trying to make it not get worse.

MR. GOURIS: Yes. That is exactly right.

MR. CONINE: This also reminds me of Mr. Bogany's favorite subject, and that is escrow and escrowing of insurance and taxes. Not necessarily on the single-family side, but also the multifamily side. It is something we need to make sure we monitor in the future.

MR. GOURIS: Yes, sir.

MR. IRVINE: If I might just comment. This is Tim Irvine again for the record. This is a really anomalous beast. You questioned, Mayor, about whether they are 90 days or more past due. It is relevant when you are looking at it as a loan.

But recovery of the loan is really a secondary concern. And what we are really working hard on, in the Asset Management Committee right now, is to develop a reliable uniform scoring mechanism so that you can identify these problems early enough along that they are still fixable. And what we are really looking at is not the issue of whether they are in compliance or if they are a loan, but whether if they are in compliance under their LURA and are giving us the requisite years of affordability.

MR. CONINE: Again, I applaud the effort. It is something we should have done a long time ago, and I am glad we are getting there. So good luck.

MS. ANDERSON: We have a motion on the floor, and it has been seconded. Is there any more discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. CONINE: Eight years. It takes a while. That is how long I have been here.

MS. CARRINGTON: The next item is an item for the Board's information. As I mentioned earlier, we did have a survey that we put on our website. We encouraged those interested in the housing community and TDHCA and how we were going to serve Katrina and Rita evacuees.

So we put this survey up on our website. We did receive 130 responses. We have attached those raw survey responses for you. There were ten questions. And we have also provided, and we have provided it for the public also, those responses in chart form.

And as we work through what the Department's response will be, and as Ms. Anderson stated earlier, when we find extent of damage and really know where our resources need to be allocated, we will have this information basically from the communities who say this is the kind of assistance we would like to see you all providing. So I would be happy to answer any questions about this.

We also have Steve Schottman in the audience, I think, who had worked on this survey. And then we have got the nice colored one that looks like that.

MS. ANDERSON: I have one question, which is, the largest category of respondents is the category, that very highly descriptive category titled "other." And I was wondering if anybody could shed any light on it. Does other mean individual citizens or --

MS. CARRINGTON: I can answer that. It is advocacy groups, Council of Governments, property managers, housing consultants, transitional-housing providers and lenders. And I would think individuals also would fall into that category.

MR. BOGANY: I have a question.

MS. CARRINGTON: And that was a very good question and as you noted, Ms. Anderson, on the phone earlier, it was the largest number. I mean it was the largest respondent category.

MS. ANDERSON: Right. Mr. Bogany?

MR. BOGANY: I had a quick question. With them still having 20,000-something people in convention centers and evacuees -- I know in Houston, we tried to line up as many tax credits as we could, apartments. What about these tax credits that are out in rural areas and out of the Houston area that we maybe could shift some of these people, that may have vacant units there?

MS. CARRINGTON: We certainly are providing that information, as we are on the ground in San Antonio, and our community action agencies are on the ground around the state -- they all know how to access our database.

MR. BOGANY: Okay.

MS. CARRINGTON: And so to the extent that we have vacant units in any of the properties that we have financed around the state, there is access to that information through our website, and through our database.

MS. ANDERSON: I think this was just a report. No action needed.

MS. CARRINGTON: It is a report item.

MS. ANDERSON: Any other questions on this item?

(No response.)

MS. ANDERSON: I guess we can go ahead.

MS. CARRINGTON: And my thought is that we will probably be pulling in some of this information as we look to provide any additional assistance or how we program funds.

The next item is an action item. This is Item

8(b). And we are requesting the Board to provide an extension of relevant Katrina waivers to those impacted by Hurricane Rita.

As you all know, we worked very closely with the Governor's Office in getting some necessary waivers at the state and federal levels for the Hurricane Katrina evacuees. And what we are asking for is that to the extent possible by TDHCA, that all relevant waivers that were granted to the Hurricane Katrina evacuees also be eligible and available to the Hurricane Rita evacuees.

MR. GONZALEZ: So moved.

MR. BOGANY: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. If everyone would indulge me just a minute, I want to go back to that survey and just ask. I had one question on page 3 of 7 where we have asked the respondents what type of assistance they would most like to have.

I am not surprised to see rental vouchers being one of the high items, or utility payments and deposits. I am surprised to see, and maybe this was a reflection, because the respondents were reacting more to Katrina than Rita, I don't know. But I am surprised at home buyer rehab. Sort of what we think of as owner occupied.

It is such a small portion of the pie, and so I don't know if that -- I would like the staff to do some analysis on why that is. Is it because the respondent base is dominated by people that our community action agencies have been doing a great job providing utility assistance and home setup. And you know, I would be interested in a little more insight behind that response, because I would have expected more interest in homebuyer rehab.

But that wouldn't have been an issue for us in Katrina, because we aren't going to rebuild homes in Louisiana, but it certainly is for Rita. So if we could just get a little more insight into that aspect.

MR. BOGANY: I would think, Madam Chair, that the reason that is is because the home ownership rate is so low in Texas. And that is probably why you have more people looking for rental vouchers versus owner rehab.

Just knowing that we are at the bottom of home ownership in this state, I can truly see even in Houston where a lot of people rent. And I can understand why you would not see any buyer rehabs.

MS. ANDERSON: Well, that is why I am asking the staff to give me -- because I draw a different conclusion. I say that of the 125 respondents, most of them aren't in the homeowner rehab business. They are community action agencies that provide direct services. They are housing developers that like to build.

And so that is why I have asked the staff to analyze, so that we can get a better sense of that, because I think in East Texas, in Jefferson County, there probably were a lot of homes that were owned by people, that were knocked down, that would need reconstruction. So -- but I think that your -- it could be that your point is the reason we got the answer we got. So if we could get some data-based analysis of that, it would be helpful.

MS. CARRINGTON: And we will do that, Ms. Anderson.

MS. ANDERSON: Great. Thank you.

MS. CARRINGTON: The next four items are report items for the Board's information. The first one is notifying the Board of the dates in 2006 for board meetings. And these are all, with the exception of June, July, I am sorry, where we have two meetings scheduled, all of these are scheduled for the second Thursday of the month, all through 2006.

We would like to ask you to mark your calendars now. July 13, I believe, is the second Thursday of the month, and then July 27 is the extra meeting related to the allocation of tax credits. The reason -- well, one of the reasons, of course this becomes even more important for the Board and for staff in being able to adhere to these dates as much as possible is we will have one more board meeting in this room. And then, that is it.

So we will be moving around the Capitol Complex, scheduling board meeting rooms and dates. And since we haven't experienced that yet, I don't know how quickly these rooms fill up. But I think we have all been in probably a couple of meeting rooms where we don't ever want to have a meeting there again. Susan knows about that place, and --

MS. ANDERSON: Well since we have Mr. Sims here, we assumed we would just get our pick of buildings in the Capitol itself, that have food service right there. We are not in session next year, we hope. Right?

MR. SIMS: Yes, ma'am.

MS. ANDERSON: Committed. He is on the record.

MS. CARRINGTON: Right. And he is sitting next to the Director of Public Policy Affairs who has that responsibility now. It is his responsibility to get those things set up.

MS. ANDERSON: I mean, I think meeting in the Capitol, you know, we all know how to do that. We don't need that big auditorium, but it is -- those hearing rooms, I think we have had good experience with them, and I mean, it is not a minor point to have the Capitol Grill right there, either. That is a major point. So I would think we would want to try to endeavor to be in the Capitol where possible.

MS. CARRINGTON: I think that is an excellent idea.

MR. CONINE: Ms. Carrington, I have four conflicts already with this particular schedule. So if we could talk about that later.

MS. ANDERSON: Yes. I mean, I appreciate, and I think it is very instructive that there is a document included here that shows how much lead time it takes the staff to prepare the board book. And as I discussed with Ms. Carrington, it is very helpful to know this. All that said, it doesn't mean that the board meeting is next year.

The Board has -- we have to work together on this, the staff and the Board to get the maximum. It is very important, I think to all of us, to have maximum Board participation at all the meetings. And you know, have the staff have the proper amount of time to fill the book.

So we will, as we have in the past, work together on setting this schedule. And it is probably not realistic to set it now. November meeting.

MS. CARRINGTON: Just giving it a try.

MR. BOGANY: So is this etched in stone?

MS. ANDERSON: No.

MS. CARRINGTON: No, sir. It is not.

MS. ANDERSON: I think if we have got it, if anybody I would just ask the Board members if anybody has a problem in the first quarter of next year, let's just take it that far, let's please make her, make Ms. Carrington aware of that as soon as possible, so that we can circulate alternate dates.

The other thing for you to know is that I have asked Ms. Carrington explicitly to schedule some meetings away from Austin next year. And based on what the agenda is, month-by-month, to pick the better months to have meetings out in Texas. But for a variety of reasons, we didn't do that this year, and I think it is important to the communities that we serve that we move our board meeting around. So we will be seeing some of that next year.

MR. CONINE: As a for instance, the first meeting, January 12 is in the middle of the Homebuilders Convention. So I won't be there.

MR. GONZALEZ: Where is the convention?

MR. CONINE: What?

MR. GONZALEZ: Where is the convention?

MR. CONINE: Orlando. It is not Vegas this time, it is Orlando. We'll talk about it later.

MS. CARRINGTON: Next item is a report item for the Board. And this is on our Lone Star mortgage program update. This is basically our market rate program, the program where we did not issue bonds. CitiMortgage is actually providing the dollars for these mortgages, and there is approximately 200 lenders around the state that can offer the product.

It was actually initially offered on September 20. We sent out some press releases. We have done some other kinds of media activities. To date we have had two loans that have been originated by our lenders. One is in San Antonio. One is in Wills Point.

And it is a new program for the Department. Of course, the advantage of the program is they don't have to be a first-time homebuyer. It doesn't have the same kind of income limits and requirements as our tax-exempt bond program does. With that said, staff has been spending quite a bit of time thinking about how we could get a bigger, how we could have a bigger splash related to this program.

This is a new product for TDHCA. We believe it is going to help fill a gap with what we have been able to offer in the way of dollars for home ownership. So we are working with Mr. Pike and the marketing department to see how we can get more excitement about this program, and how we can get the word out.

Mr. Bogany?

MR. BOGANY: Well, first of all, I think it would help if we knew about it. I am just sharing with you on my standpoint. I didn't even know the program was out. I have never seen any literature on it. Don't know how to use it. Don't know which lenders are participating in it, so we can start talking about it.

And I think that is the key. We are still running a secret agent program, and we need to get it out to the public. And it is not going to happen unless you guys are willing to spend a little money to market this program.

And you can take the freebies by calling and asking the realtor TAR to send e-mails out, put it up on their site, the new program. Have somebody from staff write an article that goes out to 25,000 of our members. Doing an article with the Texas Mortgage Bankers Association. I mean, the builders. Where is it going? I don't see any of it.

I have not seen one press release. Give you free advertising in Houston about it, because I don't know anything about the program. I know it is coming. I just didn't know any rules or regulations about it. And so that is where my concern would be; that we are running this program, but we are not -- we have got a car with no engine in it.

And so I am just wondering. Because I don't know anything about it, and I sit on the Board. And if somebody stopped me in the public and asked me about it, I couldn't tell you anything about this program. I couldn't even help you promote it.

MS. CARRINGTON: Points taken. Points well taken, Mr. Bogany.

MR. BOGANY: I sure would like some information before I leave. I can read it on the way home.

MS. ANDERSON: I think we need to see more than points well taken. Do you -- I mean, I sense a great deal of frustration in Mr. Bogany's voice. And man, we have been beating this drum for years, sitting here. About overall, single-family marketing. But to his specific point, where are the mailings? Where are the things that --

MS. CARRINGTON: Mr. Pike, would you like to address that?

I mean, we have done some, but it obviously is not adequate, and we have been talking about this over the last couple of days on how we could absolutely beef up these marketing activities.

But, Mr. Pike, why don't you address what has been done to date?

MR. PIKE: Sure. To date, we have put out an English press release, also a Spanish press release. There is information on our website about this?

MS. ANDERSON: Were there media calls made to try to -- any follow-up calls before the press release, made by Policy and Public Affairs to try to get some air time? No? Yes?

MR. ANDERSON: I did, but I was working in conjunction with TKO staff.

MR. PIKE: TKO is our advertising firm who was responsible for assisting with writing the press release and ensuring that the information gets out to different trade publications and to the mainstream media. We have also had some lender trainings around the state. We have done -- I believe there were five done, and we are working with CitiMortgage to schedule additional lender trainings, to try to get the information out there to the correspondent lenders.

Basically, let me give you all just a little recap of the program. It is a market rate program. And the nice thing about this program that makes it different from our bond program is that the borrower does not have to be a first time buyer. It offers a second lien repayable loan for the borrower, and it is up to 8 percent.

Basically, these are Fannie Mae conventional loans underwritten using Fannie Mae conventional guidelines. And they have a product called the My Community Mortgage Program. And basically what that does is it enables someone to get into a home for as little as $500.

We have flyers that CitiMortgage was

instrumental in creating with our oversight that we do mail out to borrowers who call our hotline. And I can certainly get Mr. Bogany or any of you all some of these flyers today. We also, CitiMortgage has set up a hotline of their own.

And the nice thing about their hotline is that when a borrower calls it, and borrowers are being instructed to call it in the mailings that we send out, CitiMortgage has the ability to track that borrower once they call that hotline. They are able to tell that borrower, well, ABC Mortgage Company in Houston is providing this product, and they refer them to that organization and then they have the ability to find out what product the loan officer there -- well, first of all, who the loan officer was, and what product they offered to that borrower.

So it gives us a real good ability to track this information. We haven't been able to do that in the past. As Ms. Carrington said, we are exploring ways to try to make a big splash for this program. We really struggled with, initially, we wanted the lender community to get on board with it, and to learn about the program, because it is from what CitiMortgage tells me, it is a new concept for the lenders here in Texas.

It allows 105 percent loan to value, and they are familiar with our bond program, but this is a little bit different animal for them. It has been extremely successful, they tell me, in California.

There has been over $7 billion in loans done under this type of program. Because I keep saying, we have only done two loans. We have only done two loans. And they are like, Eric, it will happen. It will happen. They also have a program in Florida as well.

And so Ms. Carrington and I have been talking about some things that we can do to really try to target the people that we need to target. And I have a conference call scheduled next week with the marketing department for CitiMortgage. And so we are going to be brainstorming some ideas on how we together can promote this to the lender as well as the consumer.

MS. ANDERSON: Did CitiBank do this thing in California and Florida in conjunction with an HFC, or did they --

MR. PIKE: Yes.

MS. ANDERSON: Have you talked to those HFCs about what drove demand in those states? Have you tried to learn it?

MR. PIKE: We haven't yet. We can certainly do that.

MS. ANDERSON: I think you should.

MR. PIKE: Okay.

MR. BOGANY: Eric.

MR. PIKE: Yes, sir.

MR. BOGANY: My thing is that, you know, we create this great mousetrap and nobody knows we have got it. And so my feeling is that I invite you onto my radio show next Tuesday to talk about it. Or someone from CitiMortgage.

I have not seen one ad in Houston on it. And I am just telling you that the public in Houston, I know, is looking for programs. I have not seen one builder talk about it. So I know the lenders are not doing it. And so, I am just encouraging you that to make this really work, we have got to spend some money on advertising. I don't care how good it is.

MS. ANDERSON: It sounds like CitiGroup has taken the position that this is you know, they push it to the correspondent network, that that is their strategy. And I think if I hear what Mr. Bogany is saying is, we also need in concert with that a full strategy where you get the realtors or something in the loop on this, so that they can get interested in it, and then they go to the correspondent lenders and they demand it in a pool fashion so that you get both kinds of marketing dynamics going.

MR. BOGANY: The lenders are not going to promote it, unless they see advantage. They look at our programs as being too much paperwork. So unless the public starts asking for it and demanding it, it is just not going to happen.

And so you have to -- and the difference between this market and California, that you can buy a house today and tomorrow make a profit. You can't do that in Texas. So I think that is why it is so popular there, but I do believe that the program will work if we know about it.

And I am telling you the realtors don't know about it. I sit on the Board and all I know, I voted on it, and I didn't even know it was out.

MR. PIKE: We can work with the realtor community. We have a partnership with them that you are aware of, and we can certainly try to get an article in the Texas Realtor magazine, and perhaps have them place some information on their website.

Their website does link over to our website. They have an affordable housing location, and it links directly over to us. So we can certainly work with them and try to have them help us promote this.

MR. BOGANY: And I think that the Houston Association of Realtors will give you a free article on it. All you do is write it, send it to me, and I will make sure it gets published.

MR. PIKE: Okay.

MR. BOGANY: But you just -- we have got to know what is going on. And I am just encouraging. I still don't know what our marketing team is doing, because I have never seen anything that looks like for anybody to send me some information. If anybody got something, I would get it. And I just haven't ever seen it.

MR. GONZALEZ: Eric, what are the income limits?

MR. SIMS: The income limits are 115 percent of the area median income under this program.

MR. BOGANY: It's a great program.

MR. PIKE: So that makes it real attractive as well.

MR. CONINE: You voted on it.

MS. CARRINGTON: And there is no negative arbitrage. And you are not going to get a request for extending the certificate purchase period.

MS. ANDERSON: Right. What is not to like.

MR. BOGANY: I just think we need to get it out there. Eric, I am not trying to fry you. I just think we need to get it out there. And I just don't want to see it fail, and I don't want to see us coming back here later, a year or two, wanting to redo something with the bonds. I think it will work, but we have got to get it to the public.

MR. PIKE: Okay. I will get a package together and get it out to you all first part of next week. Mail it out to you all.

MR. BOGANY: And if you have got brochures, I will take it with me.

MR. PIKE: Okay. I sure will.

MR. BOGANY: Okay. Thank you.

MS. ANDERSON: Do you have another question?

MR. SALINAS: No. Just send me some information about it also.

MR. PIKE: I will. I will send it to all you all.

MS. CARRINGTON: Two items, very quickly, for the Board's information. The third item in your Executive Director report is a quarterly report that we give to you all for changes of ownership in our multifamily properties, and it is in the format that you all are accustomed to seeing.

And then the last item on the Executive Director report is a report that was prepared by Portfolio Management and Compliance Division on how we assign risks in our monitoring of subrecipients through the Portfolio Management and Compliance area. We have outlined for you our methodology for assigning the risk. How we justify the weights that we provide to those various risks.

And Mr. Gaines said earlier today, there are multiple risks that we deal with on a daily basis at this agency. Some of them are acceptable risks. Some of them we mitigate. And the important thing is that we understand what the ultimate result of having that risk happen is.

And we have outlined the methodology for you. This is something that we have been doing in determining our onsite visits, our onsite monitoring visits since 2000. You know, obviously it is a part of the Department that you all really don't see. But it is something that we have been doing.

It came up as I think when we made an award, probably when the Board made an award maybe six or seven months ago that had several awards from the Department. And so there was a question of they have received several funds over a period of time, a short period of time. How do we monitor for that.

And we have provided for you on pages 3 and 4 the sample of the scoring factors that we do use and the weights of those. And if we have a contract or a contractor that is more of a high risk contractor, then we monitor them differently. We monitor them more frequently.

There are some that we go out and visit, because they are high risk. And we might go visit one that is next door that is low risk, just because we are out there, and we are trying to maximize our travel time, and the efficiency of staff.

Staff would be happy to answer any questions that the Board might have about this methodology, this process, how we do it. But with that, I will just say, if you want to take a look at it, and give me a call, I would be happy to talk to you about it.

MS. ANDERSON: I appreciate the staff putting this information together, and it looks very thorough. And the Board write-up is very explanatory and clear.

And I appreciate the addition of the element that I noticed in the actual scoring items to add. You have added that single audit report item and assigned some point value to that in response to recommendations from Internal Audit, and I think that was a wise thing to do and I appreciate that as well.

MR. BOGANY: Ms. Carrington.

MS. CARRINGTON: Yes, sir.

MR. BOGANY: This is something back to the mortgage thing.

MS. CARRINGTON: Yes.

MR. BOGANY: You have got to have a press conference on the Capitol steps. That is where I would start. Invite every media in town and ask them to come out there.

MS. CARRINGTON: And we have been talking about this over the past week or so, as we put this agenda item on. And we are going to attack this on many different fronts, because we have really touted this program. We brought it to you all several times selling it to you.

So we have sold it to you all, and now we need to be selling it to the realtor and the home-buying community out there, and we have not done as good a job as we can at that at this point.

MR. CONINE: Realtors sometime are kind of hard-headed and you have to work with them a little longer.

MS. CARRINGTON: And what about builders, Mr. Conine?

MR. CONINE: They are not as hard-headed.

MS. CARRINGTON: Oh, okay.

MS. ANDERSON: Is there any other business other than monkey business to come before this Board? If so, there would be a particular motion we would entertain.

MR. CONINE: Adjourn.

MS. ANDERSON: So adopted. We stand adjourned.

(Whereupon, at 1:15 p.m., the meeting was concluded.)

C E R T I F I C A T E

MEETING OF: TDHCA Board

LOCATION: Austin, Texas

DATE: October 13, 2005

I do hereby certify that the foregoing pages, numbers 1 through 186, 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.

10/17/2005
(Transcriber) (Date)

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