TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

PROGRAMS COMMITTEE

MEETING

Wednesday,
February 15, 2006

Waller Creek Office Building
Room 437
507 Sabine Street
Austin, Texas

MEMBERS PRESENT:

C. KENT CONINE, Chair
VIDAL GONZALEZ

STAFF:

EDWINA CARRINGTON, Executive Director

INDEX

P R O C E E D I N G S

MR. CONINE: Okay. We will call the Programs Committee meeting to order, of the Texas Department of Housing and Community Affairs, Wednesday February 15, 9:38 a.m. The first thing I will do is to call the roll -- when I find out where that little sheet went to, to call the roll. There you go.

Beth Anderson?

MS. ANDERSON: Here.

MR. CONINE: Kent Conine is here. Vidal Gonzales, not here yet. We have got two; that certifies a quorum. Public comment period. Normally we allow either at the beginning of the meeting, which is going to be now, or when the item happens to be presented.

I have several witness affirmation forms. Anybody else who would like to comment to the Programs Committee can fill out a witness affirmation form and get it down here to Penny so she can get it up here to us. I currently have a couple that have checked that they would like to present their public comment at this time.

Mary Kay Thomas, would you like to go now?

MS. THOMAS: That is fine. I will just wait.

MR. CONINE: You want to wait. Okay.

Miranda White Harris?

MS. WHITE: I would rather wait.

MR. CONINE: Wait until the time comes. I think the rest of them I have checked when the item is presented, so everybody will wait until the big Item 4.

First item of business is the presentation, discussion and possible approval on Board policy on intergenerational multifamily housing.

Ms. Carrington.

MS. CARRINGTON: Thank you, Mr. Conine. The Board looked at this draft policy in December of last year and asked the staff to have some public forums and to gather some public input on this particular item. What this policy does is outlaw -- outline -- sorry, Robbye.

It outlines the requirements that the developers must follow if they are developing what is called intergenerational housing. And our definition and others' definition of intergenerational housing is a concept that means one development or one property is actually designed to house and foster and provide support services for both elderly and family populations.

When the Board approved the 2006 QAP in November of '05, we did have a reference to intergenerational housing policy, so what you have in front of you today is a policy that is substantially the same as the one that the Board did look at in December. And the research that we did to put this policy together consisted of looking at national reports and articles that referenced intergenerational housing developments and organizations.

And this is a concept that has been used in other states around the country for quite some time. It is fairly new to Texas. And we have a need to develop this policy, because we are seeing developers propose applications for financing that do serve both populations.

We did have two forums in January. They were not real well attended, but we had them, and we did take what input was given to us. And we are recommending that the policy you have attached is a policy that this Committee makes a recommendation to the Board to approve.

MR. CONINE: Okay. I have several questions. So do you want to try to answer them, or do you want to get staff up here to?

MS. CARRINGTON: I would imagine that Robbye Meyer, between Robbye and myself, perhaps we can answer them for you, Mr. Conine.

MR. CONINE: Okay. I want to I guess, focus on the introductory paragraph, which says that our particular policy fosters and encourages as opposed to mandate, I guess, is kind of the road I would like to go down, because I see both an urban use for intergenerational housing and I see a rural use. And I don't think the physical characteristics of those two structures are going to be identical.

So to me, I want to make sure that we are thinking about a policy that has a flexibility to work for both, unless you want to do a rural and an urban policy, and I don't think we are to that point. In the third paragraph under definitions, number two, where you have to have separate and specific leasing offices and leasing personnel, exclusive for the age-restricted units, can you enlighten me on why we need that?

MS. MEYER: Do you want me to do it? Robbye Meyer, Multifamily Finance manager. The reason why we have that definition is so that we don't violate Fair Housing.

And we don't want the development to get into a situation where it could be questionable. And that is actually how, when this first started, how the developer that actually first started this part was advised by his attorney under Fair Housing to make sure that you had separate facilities, separate leasing offices, so that you don't get into a Fair Housing issues.

MR. CONINE: Somebody needs to explain that to me. So if you are -- let's just presume you have got a 100 unit project and 40 units are for the elderly and 60 are for everybody else. Obviously you are going to have one leasing office, if it is a garden style community. How does that violate Fair Housing?

MS. MEYER: Because under an elderly development, you have to have at least 80 percent of the units have to be set aside for elderly. So if you have one leasing office with 100 units and 60 percent of them are elderly, you have got a Fair Housing issue under that, because you only have 60 percent of the units.

MR. CONINE: Well, but what we are talking about is intergenerational housing, which would not be elderly housing. It would be both.

MS. MEYER: It would be both. And let me kind of explain --

MR. CONINE: What you are trying to do is to create an elderly project within an overall project. And I am asking why.

MS. MEYER: Well, on the intergenerational, the really thing that makes the two actually intergenerational is the services and everything that are provided to interact the two generations.

MR. CONINE: Right.

MS. MEYER: Now, to keep from violating Fair Housing under an elderly development, where you have to have at least 80 percent of the units, elderly, you have got to have separate leasing offices, because if you have a family that comes in, and they want to rent a unit that is set aside for elderly, and you say no, you have got a problem.

MR. CONINE: Well, of course, I mean, I would agree with that. But that doesn't necessarily mean that you have to have two separate, does it?

MS. MEYER: Well, that is the way that we were advised. And that is the way that we moved forward.

MR. CONINE: Again, I view that as an operational cost issue. And if you want an affordable housing project, the overall goal is to keep operational costs down to a minimum.

So I guess, I would want a little better legal counsel on that particular issue before I would say that these projects have to do that. Okay. I can move on to the next question.

MS. MEYER: Okay. That is the only reason why it is in there. So, and that was kind of the way that we were instructed. And that is the way we --

MR. CONINE: Same thing for the separate entrances, I guess?

MS. MEYER: Uh-huh.

MR. CONINE: I just can't understand what is going on here. Counselor is going to explain it to me. Mr. Hamby.

MR. HAMBY: Kevin Hamby, General Counsel for TDHCA. Mr. Conine, I am going to use the oldest trick in the book and say, because their lawyers say we have to.

MR. CONINE: Yes.

MR. HAMBY: It is a HUD requirement. And what you end up with, is it is a protection to make sure that the Fair Housing Act, as Robbye said, that it is a protection to make sure that there is no violation that can occur.

Under the Fair Housing Act, as you are well aware, it has to be made available to the populations, unless you have specific set-asides, or create the project in a specific manner. In this case, it has to be created as an elderly unit that is separated from the other units.

MR. CONINE: But the way I would counter that is, I have got one leasing office. I have one person on this side of the room that handles the family folks, and I have got another person on this side of the room that handles the elderly folks. And I haven't spent the money that this particular policy says I have to spend in order to accomplish this particular definition.

MR. HAMBY: And I understand that concern, and obviously, the expense. But because the elderly program is a carve-out, if you will, of the Fair Housing Act, that in order to make sure that it maintains its distinct separateness, HUD has advised that we have it as a separate, as two separate offices.

So you don't have the desire to have one person staffing it, and taking off their family hat and putting on their elderly hat, I guess. I mean, if I could explain all the rationales of HUD, I would make a lot of money somewhere.

MR. CONINE: Okay. Under the requirements section, under two where it says staff that is experienced. Can someone define experience?

MS. MEYER: Well, someone that is used to dealing with intergenerational services, to where they would know how to interact the two. As far as services in providing where elderly actually providing mentor or after-school care, not after-school care, but mentoring and tutoring and those kind of things, someone that is experienced in dealing with separate generations together.

MR. CONINE: Okay.

MS. MEYER: And actually, that was in several of the research articles and everything that we went through, that was a big thing that came out and just kind of we wanted --

MR. CONINE: So if you are a multifamily developer in Texas, where we have never had an intergenerational policy before and now we have one, where are you going to find experienced people to do that? In the multifamily business?

MS. MEYER: We have never had a policy, but there is a lot of intergenerational developments. And I don't want to say that they have negated this whole policy. But in the past, we have had a family deal come through in the 9 percent round, and in the next year come through and build an elderly development right next to it.

MR. CONINE: Right.

MS. MEYER: And actually, there is two or three developments in Dallas-Fort Worth that we researched, the very first time when we went through the first transaction that we did. And they intermingle their services, and they have done very well at it. So to say that it is -- it is not that it is not here. It is just that we have never had a policy on it.

MR. CONINE: Yes. And a two-faced thing. I can totally understand how we can have two totally separate issues going on. But if it is a one project deal, it is a different situation than what you are describing. And as far as experienced people, I just think we ought to define that a little better in our definitions.

MS. MEYER: Okay.

MR. CONINE: Because that leaves a lot of subjectivity, not only to staff, but even developers who read that. I wouldn't know what it meant, you know, other than somebody who has been used to putting Grandma together with grandchild, and running some sort of social hour, whether it is church programs or whatever the case might be.

MS. ANDERSON: Foster grandparent program.

MR. CONINE: Yes. But again, to attract them into the multifamily industry and to pay for them out of operations that don't cash flow a great deal when you have got 1-10 debt service coverage and 1-15 debt service coverage. It hinders the financial ability of the project to move forward.

And I want as a Board member, want to be very careful about you know, the development should include the following, or the development may include the following. It is a huge gap.

MS. MEYER: Okay.

MR. CONINE: Or we encourage the following. I want to be very careful with what we are mandating here, and as you can tell, I am little uncomfortable with what I am reading. Quarterly reporting results to TDHCA, instead of annual? Maybe we want to table this for another --

MS. BOSTON: I just wanted to clarify something.

MR. CONINE: Good morning, Brooke. How are you?

MS. BOSTON: Good morning. Thank you. Brooke Boston, Director of Multifamily Finance. This does not apply to everyone. So that the should versus the may. This only applies if someone elects intergenerational as their choice.

MR. CONINE: Of course.

MS. BOSTON: So if we are saying, if someone is picking as their population type, intergenerational, then it should be a should, because if it is a may, then there is no --

MR. CONINE: Okay.

MS. BOSTON: There is nothing that makes them different.

MR. CONINE: Okay. So then you have got to look at what is under the may, or under the should, to make sure that you are again, back to my opening statement, of being the difference between a high-rise in Dallas versus you know, a 100 unit deal in Maypearl or wherever. It is just going to be different.

And I think this actually applies more to rural than anything else, because you can gain so many more efficiencies in smaller rural communities by being able to offer units for both ends of the spectrum, in one project. But then to have to just basically cut them into two separate projects defeats the whole purpose for me, you know.

MS. BOSTON: And it may be helpful that when our cycle ends, and we have had our first competitive round that is based on intergenerational applications, that we can do more of a study. We have ten pre-apps right now that have been submitted indicating that they are gong to be intergenerational. And so it may be helpful to go back, as we go through the round to see exactly where they are, geographically.

MS. ANDERSON: Are they all -- yes. Do you have any sense? Are they all urban now, or are they urban and rural?

MS. BOSTON: I can actually check real quick. But I don't know right off the bat.

MS. CARRINGTON: And if I might, this first came up for us about a year or so ago. August of last year, with some applications to the Bond Review Board that were proposing intergenerational housing. So that is really how it came to us.

The Bond Review Board worked on putting a policy together on how they would address this kind of housing type. And then requested that TDHCA do so also. So I mean, we are responding to, what you see is really in response to some housing that we saw first with private activity bonds and 4 percent credits.

And then as Ms. Boston says, we evidently have a good number of applications in the 9 percent round that are proposing this housing type. And at least the first ones were all in Dallas, if I remember correctly.

MS. ANDERSON: That is the hotels, than --

MR. CONINE: Right. I understand. Or at least I remember that one specific project. I guess I am personally surprised that the development community didn't give any better of a response during the roundtable discussions, because -- and maybe I am the only one that has got a problem with it, but card key access again, that is another issue that I think bears a huge expense on --

MS. MEYER: Well, that -- the card key access is only to, if it has a main building. And that is really not a -- I don't think it is a major issue. It is not going into the individual units. It is only going into a main building. If they have an outside entrance into their development, they do not have card key access.

MR. CONINE: What would be -- back to my 100 unit description with one story fourplexes and a leasing office. What is the main building there?

MS. MEYER: You don't have one. You would have an outside access, and they would not be required to have a card key.

MR. CONINE: Okay. Again, then I think we have a -- I would have interpreted that they needed a card to get into the leasing office to come play shuffleboard or dominos or something.

MS. MEYER: Uh-huh.

MR. CONINE: And so I need some definitional clarity there.

MS. MEYER: Okay.

MR. CONINE: And I think the other thing, just to put on the record, the other thing that is bugging me is, the specific liability and the insurance that the developer would have to purchase in order to accomplish everything down in the social interactive programs. And again, I understand the need for wanting to mandate or forced the two generations to get together. But I also want to have the knowledge of what the insurance issues are dealing with that, before I approve a policy that would mandate again, a huge liability insurance cost on an affordable housing project that barely works to begin with.

MS. MEYER: Just to clarify, on the social and interactive programs, it is just an idea. I mean, those are examples of what could be used. Those aren't mandatory that they do all of those things.

That is just kind of a list, the way we have in the QAP now, that they can pick from certain social services. And if there is something different, we --

MR. CONINE: Well, once again, that is not clear.

MS. MEYER: Okay.

MR. CONINE: Because I am still looking at the top of the page and it says developments should include the following. Boom.

MS. ANDERSON: Yes. There is no clarifying language right under roman number vi.

MS. MEYER: Okay.

MS. ANDERSON: Why, may I ask a question?

MR. CONINE: You may.

MS. ANDERSON: Because you have -- now I am awake and focused on this. In roman number iii, where we have a definition and we have seven items and the first three are about the separate buildings, separate leasing offices, specific entrances, appropriate security measures, why -- I mean, and then number seven says, meet the requirements of the federal Fair Housing Act.

I mean, why is the Department taking the burden of trying to define what meets those requirements, rather than having the definition fundamentally being about meeting the requirements of the federal Fair Housing Act. And it is up to the developer to get counsel and determine those requirements, rather than putting the Department in that position?

MS. MEYER: We were, when this started back with Mockingbird, one of the things that we agreed on with the Bond Review Board is to meet their definition. And we had the developers working on it at that time.

We had Senator West's staff that was working and several of the TDHCA staff that were working on that definition. And that was the definition that was arrived at, part of that under Senator West's direction.

And to go back to the quarterly reporting, the quarterly reporting is kind of under Senator West's direction also. To be able to get him information back quicker.

And then we could always change it to an annual after a little bit of reporting and seeing how it well it works. He has requested that we get back with him as soon as possible to tell us how the intergenerational policies are working. But that definition --

MS. ANDERSON: Do you mean this draft?

MS. MEYER: Yes, ma'am.

MS. ANDERSON: Okay.

MR. CONINE: Again, I think quarterly is burdensome, and I would defer to visit with the Senator about that, and we can maybe go quarterly the first year, but annual after that.

MS. MEYER: That was kind of the expectation.

MR. CONINE: There is some -- when you are talking 15- or 30-year terms on some of these programs, a quarterly report to TDHCA is onerous. I don't care what it is, almost. Just too much.

MS. MEYER: That was just for the first little bit, just so we could get information back to him as quick as possible. And then we can change it to an annual basis. That is not a problem.

MS. ANDERSON: Quarterly on requirements under five.

MS. MEYER: It is under four. The requirements.

MR. CONINE: If you could, I am going to move to table, or you can move to table.

MS. ANDERSON: Second.

MR. CONINE: Somebody can move to table this thing until next month, or whenever we can get some answers back to some of the questions that both of us have raised. But specifically, I would like to have a lawyer, a Fair Housing attorney give us some clarity on the separate leasing offices and people and all that sort of stuff, especially related to rural development.

And I think this program will work great in rural Texas, and I would like to create a consciousness of the cost burden that we are imposing on the community, knowing how tight underwriting, or in today's world, just for the regular elderly deal, or the regular family deal, I think to create undue burdens is not appropriate, but some is.

And I don't know where that fine balance is. And I would like to explore that a little better. And also if you could get an insurance consultant to give us some liability insurance comments back on either this policy or whatever we end up seeing the next time, I would appreciate it.

MS. MEYER: Okay.

MS. ANDERSON: Table it in the main thing.

MR. CONINE: I guess there is a motion to recommend to the Board to table.

MS. ANDERSON: Second.

MR. CONINE: All those in favor, say aye.

(Chorus of ayes.)

MR. CONINE: Mr. Hamby.

MR. HAMBY: Mr. Conine, Ken Hamby again. Can I get clarification on your second point. Were you asking us to do some sort of cost breakout based on experience of the two units. I mean are we looking for --

MR. CONINE: No, I --

MR. HAMBY: You said the FHA attorney, and then you added on something on costs. Is that a separate issue that you want us to pursue?

MR. CONINE: No, I know what the costs are to build two separate leasing offices.

MR. HAMBY: Okay. I just wanted to clarify that was --

MR. CONINE: No. What I want is somebody to tell me that we have got to do it.

MR. HAMBY: So, the FHA attorney concept, and then the insurance?

MR. CONINE: Correct. I think a liability insurance specialist would be able to look at what you are trying to do in the social interactive programs, and give you some feeling of how much a policy would cost over and above a quote, normal policy.

MR. HAMBY: And for clarification, you want us to have a definition or at least discuss a definition of the experience factor?

MR. CONINE: Yes.

MR. HAMBY: Yes. And also to determine if we can or the language on the separate key entry, the card key entry into the main building. Do you want us to clarify that? How are you --

MR. CONINE: Yes. I think it is confusing.

MR. HAMBY: Okay. I'm just trying to make sure we get it all.

MS. ANDERSON: And I would do -- on the quarterly reports, to think about going ahead and codifying that it is quarterly for the first year and annually thereafter.

MS. MEYER: Okay.

MR. CONINE: Anything else we might think of between now and next meeting.

MR. HAMBY: I want to make sure we can answer those.

MR. CONINE: I guess, good.

MR. HAMBY: Great.

MR. CONINE: I had a late minute entry on the witness affirmation form.

Michael Hunter, would you like to step un and address Agenda Item 1 now that we have tabled it?

MR. HUNTER: Thank you. I am Michael Hunter, with Hunter and Hunter Consultants. One of the clients we represent is Affordable Housing in Parker County. Affordable Housing in Parker County has been doing exactly what you are talking about in terms of taking projects, putting them together and ending up with an intergenerational project out in rural Texas.

There is a couple of things that I want to reinforce what you have already said. One is, the idea of having two leasing offices, two different staffs in a town that has a total of 50 units is not going to be very cost-effective. And I would ask that anything that you can do to try to get HUD off of that mark would be a great thing for rural Texas.

Second, the insurance is a big issue. It is a major cost factor for these smaller units. And it is something that needs to be looked at. And the interesting thing on federal Fair Housing, we just went through an issue with that.

In fact, there is something coming to you down the pike to finish out a project we are doing at Bridgeport, in which we ran afoul of federal Fair Housing a little bit. Actually, we ran afoul of the fear of it, okay.

And one of the things that I have noticed in dealing with HUD is that there is a lot of decisions that are made based upon a fear of something happening in the future rather than reality. And so when we go, and we ask HUD, what do you think about doing this or doing that, they are going to give us something which protects them to the nth degree in any type of a situation, as opposed to something that is really steeped in reality.

And we probably need to bring them back to that if we can. We really want to see these intergenerational things work in rural Texas. We think that is the way to go. I don't think the rules right now is really going to be favorable for them being successful. And that is basically what I wanted to say on that.

Quarterly reports I think, are burdensome. We do other reports on other projects, that we send to IRS and other folk, they are annual and they seem to work. So I like the idea of making the quarterly on a first year basis only. I think that is a great idea. And that is what I wanted to say.

MR. CONINE: Did you happen to get the notice of the roundtable meeting that the Department had on this issue in January?

MR. HUNTER: No. I think I missed that one.

MR. CONINE: Okay. Thank you.

MR. HUNTER: You are welcome.

MR. CONINE: Item 2: Request to amend loan terms to an award of 170,000 in the Housing Trust Fund rental development program funds awarded in July 2005. Ms. Carrington.

MS. CARRINGTON: Thank you, Mr. Conine. This is a request for an amendment to an award that was previously made. It is $170,000. It was for Costa Tarragona, the Village of Costa Tarragona Apartments. It is located in Corpus Christi.

The financing on this particular development includes an allocation of private activity bonds and 4 percent housing tax credits. When the award was made, when the $170,000 Housing Trust Fund award was made, it was structured with a 40-year term. The first five years were to be basically -- the payments started in year six.

So you had actually 35 years on the terms, and it was going to be a fixed amount of the payment of $404.76 for the remaining 35 years. And the applicant has now come to us, and is requesting that instead of the loan being paid in a fixed amount for 35 years, that the loan be repaid basically out of cash flow.

And the reasons they gave for that are listed on your board summary. They are saying that their primary lender requires that all subordinated debt be paid out of surplus cash flow. They are saying that requiring debt to be amortized and fully repayable will drop the debt coverage below 1.11, and that if their debt coverage falls below 1.11, the primary lender won't convert to debt to permanent.

Staff is recommending that the Programs Committee recommend to the Board denial of this request. And if you look at page 2, you find staff's reasons for the recommendation.

Our review of the financial information provided the applicant doesn't support the assumption that their debt coverage will fall below 1.11. And the deferral of the loan payments until year six allows them to close on and convert their construction loan into permanent without falling below 1.11.

MR. CONINE: Any questions?

MS. ANDERSON: No. I understand the staff's recommendation and am inclined to support it.

MR. CONINE: I would also be inclined to support it. So would you like to move that we recommend to the Board that we take staff's recommendation?

MS. ANDERSON: I so move.

MR. CONINE: And I will second that. All in favor, say aye.

(Chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: No opposition. Moving on to the next one.

MS. CARRINGTON: Item 3 for the Programs Committee is to request a waiver of a section of our 2005 HOME program rules. It is Section 53.58(b)(2)(B), relating to the processing of a HOME application that is in an open cycle. And this particular transaction is Ennis Senior Estates.

And the reference to the 65 days is a reference to how long you can stay in a -- how long an applicant can stay in a particular phase as they move through an open cycle application, or the open cycle process. And the reason we put time frames, within all of those spaces, was because we didn't want the application to languish in one, and perhaps be holding up a space for another application that was actually ready to move along.

In this particular transaction with Ennis Senior Estates, they have had a variety of things happen to them that basically caused them to stay in Phase Two longer than what our rule allows. Initially, they in 2005, in August, there was some issues with the demand in the Waxahachie area, about whether there was sufficient demand for this particular development. It is financed with tax-exempt bonds and credits.

The Applicant withdrew their reservation with the Bond Review Board. However, they didn't withdraw their HOME application. And then when they came back, we terminated it, because we didn't believe that the Applicant met the requirements of being a community housing development organization.

We did run that by our legal staff. And then our legal staff determined that yes, they believe they did meet the requirements of a CHDO. So they have come back.

And they have gotten a new reservation, but basically didn't reapply in the HOME open cycle NOFA. So we are recommending that the Programs Committee recommend to the Board that this 65-day requirement be waived to allow Ennis Senior Estates to move forward.

MR. CONINE: We have some public comment on this particular item. Judy Langford?

MS. LANGFORD: Mr. Chairman, I needed to -- that is supposed to be for Item 4.

MR. CONINE: Okay. I am sorry.

MS. LANGFORD: Thank you.

MR. CONINE: Even though you put three. I am sorry. Sorry about that. Okay. Ms. Anderson.

MS. ANDERSON: Okay. I would, you know, hearing staff's presentation, be inclined to follow staff's recommendation to waive the 65-day rule. And I do not do so lightly, because I don't -- you know, when we waive rules, we set precedents.

But in this case, the Department at least partially part of the delay, because we had you know, first we said they weren't eligible to be a CHDO, and then we said that they were. And so I think because of the time that it took us to clarify our position, it makes sense to waive the 65-day HOME rule. And I would move that we recommend that to the full Board.

MR. CONINE: I am going to hold off and ask a question first. Ms. Carrington, I support the waiving of the 65-day. But I would support it to a time certain, rather than an unlimited. Would staff have an opinion as to how long we need here?

MS. CARRINGTON: Yes, we would. And I would think that would be tied to the expiration of their reservation with the Bond Review Board.

MR. CONINE: Which would be how many days?

MS. CARRINGTON: I think we are coming up with an answer.

MR. CONINE: Okay.

MS. BOSTON: Brooke Boston, director of Multifamily Finance. The 65-day requirement is when it would need to move into the next phase, which is underwriting. And it now is already there. So it has already met and moved into the next phase.

MR. CONINE: So it is a moot point, then.

MS. BOSTON: Well, had the waiver been denied, they would have had to stop.

MR. CONINE: It wouldn't have gotten to that point.

MS. BOSTON: Yes. But adding an extra amount of time is unnecessary.

MR. CONINE: All right. I just didn't want it to just languish out there forever.

MS. BOSTON: Yes.

MR. CONINE: Okay. I will second the motion. All those in favor, aye.

(Chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries. Item 4, I guess, is where we are at next.

MS. CARRINGTON: Yes, sir. And this is a two-part item. To consider the repeal of existing HOME rules, which are Title X, Texas Administrative Code Part 1, Chapter 53. And then publication in the Texas Register of the final 2006 HOME rules. As you will remember, the Board in November of last year did approve the 2006 HOME rules.

However, at that Board meeting, you all expressed a desire to reconsider a portion of those HOME rules. And that portion of the HOME rules related to the allocation of the dollars, the activities that we fund under the single-family program.

And there were basically four objectives that came from the Board at that discussion. And that was, you all are interested in greater dispersion of the dollars, an emphasis on applications, and applicants that had never been funded, restrictions on excessive or inflated costs per match, and an emphasis on need.

At the December Board meeting, we did propose to you some changes in the allocation of funds for the single-family activities under our HOME rules. And we then published those in the Texas Register. We did have two public hearings during the month of December, the month of January, excuse me. Actually two roundtables to solicit public comment.

We have provided for you the responses we usually do on rules, which is the comment that we received, and then the staff's response. And what we have in front of the Programs Committee today is an outline of basically two methodologies.

One of them is allocating funds through a lottery method. The other one is allocating funds through a competitive methodology. And some other recommended rules changes, I will go right to staff recommendation, and then I would imagine that you would probably want Mr. Pike to come up. And the staff recommendation is on page 3 of 4.

And staff is recommending the use of the competitive methodology toward the single family 2006-2007 HOME funds. We believe that this methodology does achieve the four goals that the Board has identified that they are interested in having achieved through the '06 allocations. And with that, I will --

MR. CONINE: Okay. We have several public comments. Let's go ahead and do that before we get Eric up here. Mary Kay Thomas?

MS. THOMAS: Good morning.

MS. ANDERSON: Good morning.

MR. CONINE: Good morning.

MS. THOMAS: First of all, I want to thank you for the money contributed to the Chicken Fund for Big Sandy.

MR. CONINE: How did it work out for you?

MS. THOMAS: I went home with $220. We were able to pay off our chicken debt. And although we came up short at the State finals and lost 21 to 20 -- it was a sad day in Big Sandy -- we had enough money left over to buy a cake. In a small city, that is a big deal.

I want to thank the Board and the staff for the recommendations that they have proposed. And I think one way we can look at this that probably we are seeing the greatest change in the HOME funding to go in all areas is after I gave testimony at the last meeting, one of the other consultants who also gave testimony called the City of Big Sandy, as I was driving home to see if he could write their HOME grant. So I think we see that maybe some of the small cities may be competitive this time.

When I talk about the City of Big Sandy, I hope you understand that I am talking about all small cities, all over the state. And I don't represent those. But seeing how you want to do this, this time, I just want to -- I know that a lot of people want to speak.

The two-year funding, the $275,000 cap. The competitive method as opposed to the lottery. I think we will see a lot of new cities funded, and a lot more cities funded.

The lottery method, I believe would take us right back to where we were, that any kind of weighted to give that AHNS score. Or the amount of match would put us back where we were. That the heavy hitters with the nice score are going to go to the top again.

One recommendation or one request I made, some cities that had 2004 money may be through with their project 100 percent committed, 100 percent drawn down. There was no additional points put in for that. There is 11 points if you are 50 percent drawn down. These are on 2004. And a 2003 100 percent committed is 14. You might look at a couple of points to those 2004 cities as a bonus.

You know, we receive so many letters. If we are not on target, well, if you are ahead of target, maybe a couple of points would not hurt. Let's do something when the cities are ahead of the game. Maybe rewarding then with points that way. I think that is about everything I wanted to talk about.

I agree with the disability as a percentage. Thank you for considering taking this out of points. Again, it is wonderful, let's help -- it can be the priority to help the disabled, but I just do not want to see the points in there, because again, you are getting into an area of commitment just to get the points.

And I thank you for your time. If you have no questions, I am done.

MS. ANDERSON: I have one question.

MR. CONINE: One question.

MS. ANDERSON: The comment about additional points for people whose 2004 money is 100 percent committed. I follow you, but I think if one of our objectives is dispersion of funds, to new places that haven't had it, then it seems to me that adding points there sort of counteracts that.

MS. THOMAS: I understand, and I felt like that would be a question. That is why I was saying, between the 2003 at 14 points and the 2004 at only a 50 percent drawdown at 11, you have got a three point swing in there. So now, you know, the State always wants to get the money out.

MS. ANDERSON: Right.

MS. THOMAS: If we go to these smaller contracts, that it could be an incentive to finish these before we go back and ask for more money, it was just something I was looking at. That I thought, you know we are so pushed for time on these projects, they are so paper intensive, let's do something to, you know, if you are through, if you are 100 percent -- hey, way to go.

MS. ANDERSON: Okay. Thanks.

MR. CONINE: It sounds a little bit like my kids wanting more allowance money for doing the same thing.

MS. THOMAS: Yes, sir.

MR. CONINE: Okay.

MS. THOMAS: Except the kid that was really out there, you know, doing the weeding --

MR. COFFEY: Right. Okay. Thank you. Mirenda White-Harris?

MS. WHITE-HARRIS: Good morning.

MR. CONINE: Good morning.

MS. WHITE-HARRIS: None of you all know me, and I can be fairly objective. So I am pretty new to all of this, although I have had my three years' experience now, and I feel like I am wading through some mud at times.

So I want to thank you all for making the very difficult decisions that you have to make. And I know that you are in a tough situation. I would like to applaud for the recommendation for the competitive method at least this year, for the simple reason that I don't believe that there has been adequate research in the lottery method of award.

I think that over time, there is going to be a better way of looking at things. And maybe the lottery method might be really good. Being that I know that word has it on the street that there is some other programs throughout TDHCA that does use the lottery method, and I think that might be an option.

I would like to recommend considering a few of the following, as far as for the competitive method. In addition on our scoring, poverty level for certain counties or cities. Unemployment rate per capita income. And any other community distress factors that you could possibly include. I do appreciate the population size points that we incorporated over the last couple of years.

The match still remains a concern, using points there. And I understand that we have to have some method of scoring. But I do believe that possibly just making a flat rate across the board of a certain amount and not requiring points for that would be optional. I think that that is something that could be looked at; if you used other scoring criteria in there.

We do support the biennial funding. I think it removes stress from TDHCA. It removes stress from the cities. And I do believe that pushing these through and getting them done is something that really needs to happen. The applications, get those contracts done, get them over with. I think this will assist in that.

One thing I really want to touch on, and this is just from a completely objective point of view here. The deferred forgiven loan, for these homeowners, I have gone to these houses.

The first house I ever walked in was in Marlin, Texas. I walked into this little lady's house -- she was 83 years old -- and I looked straight up at the sky. Her house smelled of rodent feces, but she had that house as clean as she possibly could. And because of what you all do, and what we do, she has a new house now.

She looked 80-something years old. But today, she doesn't look that old. She is a healthy person. And she has kids. And she has prided herself, in being able to provide for those kids. And every one of them have a college education. But she had a house like that.

And I can guarantee you, she probably would have gone for it, if it said deferred forgiven loan, as long there was a release at the end that should she die, her kids are not held liable. So I would really appreciate you all looking at possibly having something in there stating that this would not be carried on to heirs.

Although I understand that you all have constraints and you all have things that you have to look at to get money circulating back into this program. I think that is one of the issues. On a death, I don't believe that that is the way to look at it. If they out and out sell it, oh yes. I believe so. I don't believe we are out here just handing out free money.

So those are just some of my concerns. The other thing that I would like to say on match, we have a city that has 450 something people, the City of Hawk Cove. And I know the City of West Tawakoni is here, and they can vouch for what I am fixing to say.

This city has absolutely no sewer and no water. And they were fixing to condemn houses, because the sewer system, the septic systems were just running amok. So the City went and made a municipality here six or seven years ago. They incorporated, made their own little scenario.

They are in the process of going to the USDA, RD to get a loan for their new sewer system. They received nine homes in 2003. Folks, there are nine homes that this Agency assisted with. You benefitted nine people there. And as soon as their sewer goes in, that will assist. But their match was so constraining on them, because they didn't have -- they had building permit fees, they had demo fees.

But they didn't have water or sewer tap fees. They had nothing that they could waiver in that area. They developed tax abatement. And the people who received these houses, who were awarded this sweat equity and volunteer labor, among each other, to get those houses down. And it worked. And they did bake sales, and whatever else they could possibly do.

So the match is very constraining for many of them. And I understand that there will be caps on much of this. And that is fine. Just tell us what to work with. Thank you.

MR. CONINE: Could I ask you about your testimony again, regarding the loan issue and the death issue? It would seem to me that if mom passed away, the kids are going to sell the house anyway. What would be the difference in selling the house while she is still alive, versus selling the house after she passes away?

MS. WHITE-HARRIS: These people want something to send on. They are just like you and me.

MR. CONINE: Yes.

MS. WHITE-HARRIS: They have pride, just like you and me. Just because you and I, our children might sell our house, I can tell you that I won't, when my parents pass on. I won't sell their house. Of course, my land adjoins theirs.

MR. CONINE: Right.

MS. WHITE-HARRIS: You know, I have my own house.

MR. CONINE: Okay.

MS. WHITE-HARRIS: But these people have a lot of pride, and they want something to leave.

MR. CONINE: All right.

MS. WHITE-HARRIS: And who is going to track this? If TDHCA is going to track it, go right ahead. I am just saying that over the long term, I don't think that that is going to be a beneficial situation.

MR. CONINE: Okay. Thanks for your testimony. Bruce Spitzenger.

MR. SPITZENGER: Yes, sir. What I would like to do is request that Mr. Hertzell speak before I so. And if you would grant me that?

MR. CONINE: Yes. Okay. Send Mr. Hertzell on up, assuming that I have a witness affirmation form for Mr. Hertzell. It is has got to be in here somewhere, I am sure. There it is. Got a tag team match going on. Okay.

MR. HERTZELL: It doesn't seem to take as much of your time that way, I guess. My name is Eric Hertzell with Grantworks.

And my comments today are designed to give you some background relating to the history of the implementation of the HOME program and somewhat as it relates to these rules, particularly with contract periods, contract [inaudible] and, to some extent, the double funding question.

You may or may not be aware -- actually I need to probably pass something out real quick here. The Agency recently issued two separate mass mailings to about 300 HOME grantees, including TBRA home buyer owner-occupied grantees, that threaten termination of HOME awards for failure to achieve substantial progress.

Depending on when they received the letters, the Agency gave these grantees seven to nine calendar days to respond, to demonstrate progress by providing setups and draws to the Agency. This was the first time that these communities had had the term substantial progress defined for them by the Agency.

And I am not sure, I believe that the new rules have some definition in them. But that is probably open for debate as well. As to what that term means. The first time they get notification there is a problem, there is a termination threat from the Agency. This letter was sent to 90 percent of your 2004 HOME owner-occupied grantees.

90 percent received a threat of termination. Even though they all have eight months left on their contract periods, of their 24 month original contract period. Again, in every case, this letter was the first expression of any concern by the Agency regarding the

progress of these awards.

And in some cases, the only correspondence that these grantees have ever received from the Agency since they received their award 16 months ago. I can't speak for all the HOME grantees. But I can speak for about 30 that got letters, that we work with. The vast majority of those that we assist fully intend to be complete with their HOME activities within the 24 month contract period, despite the Agency's concerns.

I think we understand though, why the Agency had this response. And that is part of the history. The Agency has been struggling with the expenditure rate with HOME for many years. We all know, we all deal with that.

In the past, double funding was one of the remedies introduced to deal with that problem, and also recycling funding with de-obligated funds to try to get the money spent. Both of these methods are capable of improving expenditures, if they are properly executed. During the first double funding round in 2002 and 2003, 100 percent of the double funding monies were put out at one time.

It wasn't like the 2002 money was put out, and then the 2003 was put out a year later. It was all dumped out there at one time with identical contract periods.

And additional tens of millions in de-obligated funds were also released at the same time, during that double funding cycle.

Though the HOME assistance is needed and appreciated by the communities that you serve, this enormous glut of HOME funding tested the implementation capacity in the field for these programs. And as a consequence, the Agency ended up extending a lot of contracts beyond their 24 month period, of those 2002 and 2003 contracts. This one time, the bubble of funding is still reverberating across the program, across the state.

Most of the older contracts are now completed and closed. But they caused some delays in implementing the 2004 contracts, which is what these letters were relating to. There is still plenty of time for these contracts to be completed. But truncating the amount of time to implement by eight months, which is the effect of these letters, presented a pretty serious and widespread problem for the HOME grantees that you guys are serving.

MR. CONINE: Mr. Hertzell?

MR. HERTZELL: Yes?

MR. CONINE: What we are talking about here, is a new funding cycle. We are not here to address an old funding cycle, unless the old funding cycle has relevant issues to what we are doing in the new cycle.

MR. HERTZELL: Sure.

MR. CONINE: The fact that we are squeezing somebody to do eight months is not germane to this subject. So if you can stick with the subject matter, I would appreciate it.

MR. HERTZELL: Sure. Let's see if I am going to be able to do that with the rest of this speech.

MR. CONINE: Probably not.

MR. HERTZELL: Probably not. Let's see here. I guess what I will ask then, is that in implementing your future rules, that you would consider putting in place the flexibility to allow the grantees to, on a grantee by grantee basis to identify concerns earlier that the Agency might have with implementation.

To put in a method of tracking. There is no current method of tracking these grants. In fact, there is no reporting process that occurs at all with these grants in process. And that would be something that might need to be looked at for your rules for this next time. And thank you.

MR. CONINE: Okay.

MS. ANDERSON: I have a question.

MR. CONINE: All right.

MS. ANDERSON: So you do not believe that the rule in 53.62(g) which talks about the substantial performance in the proposed rule does not provide definition about the progress that needs to be made, and it broadcasts that to the applicant cities and counties.

MR. HERTZELL: Yes. I know that the rules as they just did previously were inadequate.

MS. ANDERSON: But what I am asking about, what the agenda item is, which is the proposed --

MR. HERTZELL: Sure.

MS. ANDERSON: The body of rules we are considering now.

MR. HERTZELL: Right. There are some definitions of substantial progress in the rules as they are now. I believe that those may be a bit tight, and are not necessarily based in the actual implementation schedule that the Agency has experienced, and that we in the field experience.

MS. ANDERSON: How so?

MR. HERTZELL: I think that there is not enough time given in the first six months. Actually, Bruce can you help me with this?

MR. SPITZENGER: You bet. May I come up?

MS. ANDERSON: Thank you, sir. And we will hear that testimony from that. And I will ask that question again. Thank you, Mr. Chair.

MR. HERTZELL: Let me finish and let Bruce. Thank you.

MR. CONINE: Bruce, come on up.

MR. SPITZENGER: Good morning.

MR. CONINE: Good morning.

MR. SPITZENGER: I appreciate you letting Mr. Hertzell speak. I would answer your question in just a minute, Ms. Anderson. But I would first like to state, what he was saying is very relevant to the rules that are being proposed today.

It is relevant based because those rules are being determined based on what has happened in the past. That is why we are talking about reducing the contract period from 24 to 18 months; because the program has not been getting implemented. The reason it hasn't been getting implemented is because a huge amount of funding was put out there.

Let's talk about what is going to happen in the future with these rules. I think what we are going to see is that there is going to be a lot of unhappy administrators out there, working with their consultants, and they will take, if it is implemented by your proposed rules, the 18 months, that they are going to go and they are going to talk to people that will listen to them. And that will be their legislators, and statewide elected folks.

Because what you have, you received a tremendous amount of public comment. It is not public comment. It is mostly public official comment. These are people at the grassroots that we are dealing with.

These are the people that are the mayors and county judges that implement your program and administrate it. And they are the ones that are asking that it be retained at 24 months. They are the ones that are saying that it should remain a grant program. They are the ones that are stating that there is a -- disaster relief assistance should remain a grant.

And just to talk about that for a moment, and I am going to be very brief in that regard. But under Hurricane Rita, this is the largest disaster in this state since the Galveston hurricane, or Hurricane Carla. We are telling these counties with a tremendous amount of problems that they are dealing with, very widespread, that they are going to be given twelve months to implement this program.

And if you are not doing 30 percenters of AMFI, it is going to be a repayable loan. We are going to try to help those with the greatest needs. Those people who lost their homes. They also lost their household goods. If somebody jumps up and they are 31 percent of AMFI, we are going to make it a forgivable loan. Now, I think that is a real concern.

And that does affect what we are talking about here. I have been working in this program, since this inception. And I have found that when you start talking about loans, and you are going out there you are doing face-to-face with the people out there and you say we are going to do a forgivable loan. We are from the government. We are here to help you. They are not going to buy it very well.

They are going to be very concerned. And you may sit there and say, well that is tough. They don't need the help, then, because that is essentially what you are saying. And I think that is an unfortunate way to proceed.

I think that the contracts should remain 24 months. And as Mr. Hertzell was saying, the reporting process is non-existent. And I agree with you. I think in your earlier statements, dealing with another activity, you were talking about quarterly reports are onerous.

But why not look at doing six month reports, and why not ask the local community, the administrator who is on the ground, in the field, give us -- you have 24 months. Give us an implementation plan. Then they turn in their six month report. Staff can look at it. They can look at the implementation plan that they propose. And then they can come back, and they can discuss it.

This is relevant to these proposed guidelines, because everything is based on history. These rules are being developed because of what you all saw has problems in the past. I would hope that you all would reconsider your comments.

I think that public comment seems pretty -- you know, just on what the staff recommendations, it is very clear that staff recommendations, and to a great extent, have ignored public comment. And it is not public comment, it is public official comment. And these people want to be heard, and they feel like their voice should be responded to.

One of the things I would like to say to the members that are here today. I think that you have a single perspective right now for the most part, in terms of getting information about this program, and that comes from staff. There is very little information that comes from people like myself, and administrators in the field, the cities, the counties. You get some public comment. But you really don't have a direct line to the people who are implementing the program.

And staff, I would not want to be under their burden of having to deal with HUD directives coming down, dealing with people like myself who can get a little angry at times, and frustrated with what they are dealing with. But we do need to have better communications. And part of the communications is looking at reporting process.

But to the Board, what I would like to do -- our office is about 15 minutes from here: Grantworks office, up there around Koenig and FM 2222. I have got ten people in there that are managing HOME program, every aspect of it. Why not drop by, or give us a call and arrange, and come by and see what it is like at that level? And talk to the people who are actually putting this into the ground, and get their perspective?

Second, we are doing these all over the state. All four corners of the state. I would like to invite the Board members to go out to and visit with these administrators, and go and talk to the beneficiaries, and see the homes that are being built. And get a little different picture on that.

I think it would be very helpful in the future when you start talking about designing guidelines and rules and that type of thing. It does make a difference. And I would encourage staff to do the same thing. We would be more than happy to have them come down and see what it is like, on our end, in our offices.

And I would encourage them to go, not just to monitors. I would encourage you know, staff members to come and let's go take a look at the homes, and the benefits that this program is providing. This is a good program. It does a lot for the State of Texas. And I would encourage you not to make these drastic changes.

As far as one last comment, in terms of the lottery, as opposed to competitive. I don't think the Agency is ready for the lottery. But what I would encourage the Agency to look at and the Board to recommend to staff is that we have got two years before the next funding cycle.

Why not go back and let's take a look at when these applications are submitted, and we have gone through all the appeals, and the whining and all of that is done, and the awards are made. Ask staff to go back and pick out two or three regions. And come back and show the Board, what if we had done this on a lottery basis?

You are going to have pretty much the information that you need that you could do it, and attempt that. I do believe that the lottery system will open it up to many communities that have the inability to come up with match. The inability to have a good Area Housing Needs Score.

The Area Housing Needs Score is so problematic. You have communities like Tiki Island over in Houston Galveston. I don't know if you all know Tiki Island, but Tiki Island is in an island, but most of the homes are probably half a million, million dollar homes. It actually has a very good Area Housing Needs Score. Better than maybe, I am not so sure.

I think it is about the same score as the City of Hitchcock, which is a very poor community. That needs to be tweaked. We need to take a look at that. Maybe we need to add something that Tiki Island wouldn't rank so well. That is an exception to the rule. But the Area Housing Needs Score does have some issues.

I will stop and let some other folks comment. And ask if there is any questions.

MR. CONINE: Questions?

(No response.)

MR. SPITZENGER: All right. Thank you.

MR. CONINE: Thank you for your testimony. Clay Richards?

MR. RICHARDS: I will answer to Clay, but my name is actually Cloy. You say Clay, because my handwriting is so horrible.

MR. CONINE: Cloy. I am sorry about that.

MR. RICHARDS: I have to type everything. Being a former newspaper publisher, it is a little easier for me to type than write anyway. I appeared at the last regular Board hearing, and took part in the roundtable discussion out in Longview, which by the way, thanks a lot for coming out to our part of the world. That was handy to drive an hour and a half, instead of to Austin.

My comments are -- I have some written down, but I kind of want to go through a couple of other things. I was fortunate enough Merkel, we with your assistance and compassion, we built 13 homes in Merkel under the double funding cycle, nine at one time, and four on another one. This year, as I was switching cities, we put in a very hurried application for the HOME program, and were really close to being funded.

In fact, we received a partial funding and wrote Mr. Pike a nice little letter and said thanks, but no thanks. It is $11,000 and we don't want to kill our chances during the next cycle. So there wasn't really a lot we could do with that amount of money.

Just given the broad thing, the half a million dollar project in a community the size -- we have a little over 800 addresses in West Tawakoni. Given the old rules, we were very close to being funded last time, and we could build nine homes under the old program. The next time, with our Area Housing Needs Score and everything else we have got going for us, we will probably qualify for your maximum award which is being proposed at, you know, either four or five or six or whatever.

While I think that when you do reduce the amount of the top award, you are going to spread more housing out throughout the state. That is just logical. But it also will, by the same factor, diminish the local impact in a community.

And then we still -- Hot Cove was just here a minute ago, and I have seen all night of the homes that were built there. And believe me, that was the best housing boom that has ever happened in the history of that community. And that is something that I think that people here have a hard time understanding. A lot of times, HOME is serious economic development in small rural Texas.

I mean, I am in a lake community now, and we do have $200,000, $250,000 homes that are being built on that lake. But that is for the haves. The have-nots are still living in $175 to $225 a month rentals with holes in the ceiling and rat infested and that sort of thing. And they meet your guidelines. They will meet the poverty levels, and things like that.

We didn't deliver any housing to the people in Merkel that didn't deserve it. I mean, they came in with their certified income, and they were poverty stricken people, and they are proud people, now that they have a brand-new home. And it was just a boon to the community, and got rid of an eyesore, and just did all kinds of wonderful things.

So if you do reduce the amount of the grant, like I said, it does spread the housing out through the state, but it will diminish the impact, the local impact in each community. I would like to see -- I would rather hit a home run than a double.

And I think all of us would so but that is a little selfish, and I don't know what is best for the program, because like I said, we are in line to have hit the home run. So I would rather see the funding stay at a big program.

I think the biennial cycle is good, because that does give us all a chance to breathe, and we know where the money is going to be. And we know how we missed on the application, and what we can do next time to increase our chances, and that sort of thing. So I am just as in favor of that as I can possibly be.

The one thing I wanted to really talk about, and I do have some experience with this, is that I have explained this program to three different city councils. One at an invitation from a neighboring community who had never participated in the program. Their administrator didn't know a thing about it. And they were going to try to go off on their own and do this.

And I encouraged them, I didn't encourage them, I just almost demanded that they call a consultant. I said, you don't want to try to do this on your own. But it was a hard enough deal to go into these three suspicious city council meetings, with suspicious city council members, saying that this is a grant program.

They do not -- and it is a hard sell. It really is, on a grant program. They don't believe that somebody is going to come in, build a house, you fill out the application, hand you the keys and walk away. They just don't believe that.

And I think that if we start messing with forgivables, repayables, all that sort of thing, it is going to be an even tougher sell to some communities. That is the job of the grant consultant, and that is the job of the people in my position, to sell this program to the community. But there is already a lot of suspicion out there.

There is already a this is too good to be true concept when you go talk to people about this for the first time. And now when you add some things that, well, under these circumstances, this might happen, and under these circumstances that might happen. I think there is going to be an education battle to fight out there. Again, it was hard enough to explain this as a grant program.

I think it will be a little more of a challenge to explain as a forgivable or a repayable or something like that. Some language can obviously be written in, in case of deaths and things like that. And that language was changed from the 2002 program to the past program a little bit.

So you have taken some steps to put in away from a grant already in the past. And I think that a grant is the way to go. I think it is easiest process for us to sell out there in the field.

Contract times, again, you know there was an argument about a whole bunch of funding came down at one time. There are a bunch of communities that were behind the pace of filling out the 2004. And it just seems counterintuitive to reduce the contract time. But if that is the deal, that is the deal.

But again, I want to say that you know, the LCC HOME program is a great program. It is run by great people. Every time I have ever had a question about the program, I have been able to call and get an answer from Eric and his staff, and things like that. But I just see that some of these changes, is -- I know we want to level the playing field, but again, I think it reduces the local impact.

We have already lost some of our standing in AHN scores, our Area Housing Needs Scores where we were going to get 21 on a bonus of a multiple of three, and I have noticed the staff is now just going on a one through seven, so we are going to lose a few points there. And again, some of that is selfish. But I think that some of the changes are going to water down the impact of the program just a little bit.

And I think the communities that really want to come up with the levels of match, and really want to be aggressive to try to deliver housing to the poorest of their citizens are going to find a way to make the program work for them. That is just my impressions. Any questions?

MR. CONINE: Thank you for your testimony. I am sorry I butchered your name, Cloy.

MR. RICHARDS: That is all right. You ought to see some of the addresses I get.

MR. CONINE: Yes. Maybe it was just a misspelling on your birth certificate. Ms. Donna Chatham?

MS. CHATHAM: Good morning.

MR. CONINE: Good morning.

MS. CHATHAM: I am Donna Chatham with Association of Rural Communities in Texas. And we have one big concern, and you all do too. And you are trying to address in this capacity.

In rural Texas, it is very limited, and deeply appreciate you all trying to help us, because we need more capacity out in rural Texas. And even going to your staffing recommendations, your staff says they are attempting to address them in the proposed rules to achieve greater dispersion of the funds, which we deeply appreciate, and to ensure more applicants receive funding. After talking to staff, we found out that in 2005, you all already know this.

You had 200 applications from 1,100 cities and counties. That is not good, is it guys? And so one more time, we appreciate you all doing everything you can. We have a deeper concern now.

I remember when I worked at the Capitol sometimes this thing would come back, and it is called unintended consequence. And we deeply believe that is what may happen if you do some of these rule changes. We are on the same page. We want the same thing.

We represent over 300 rural cities and counties. And we want as many cities and counties to receive those funds, and receive it efficiently, and have impact. That is important, too.

Real quickly then, this is the reason that we believe that it is a little concerning, and an unintended consequence. Number one, the size of your contract award. We are very concerned about it. Cloy has already addressed that. The difference between if you take it from $500,000 down to $275,000, it is impact for the community.

When I had the pleasure of working for the City of Wichita Falls, a larger city. This is a long time ago. Telling something about my age. That is even before HOME was around.

We were able to take CDBG and target a neighborhood and do everything in the neighborhood. Water, sewer, streets, home. We had an impact. The property value raised on those houses, it helped the community, it held the neighborhood. It was awesome.

What you are doing with the HOME program now, with $500,000, you go out with nine houses. Nine houses in Merkel or West Tawakoni is 11 percent. You bring it down to $275,000, that affects 6 percent. It sounds little. It is not little for a community.

So just something to think about. You are not only trying to help the individual, you are trying to help the impact to the community, to help the community, to help raise their property taxes, and help the individual also.

Number two, and this major also, the deferred or forgivable program. We understand that through the DPAP program, your down payment assistance, you have a ten-year recapturable, which is great. Mr. Conine, we love the idea of trying to do this efficiently. And evidently, you do that with the DPAP.

You have received some money back about, I think Eric told me, about $400,000 a year, you receive back, and that is awesome. That client is radically different than the owner-occupied. In DPAP, the client is young families, young families who are willing to take the risk. Those young families are also above 60 percent of the income.

Now you are trying to take that -- that has been very effective and we are thankful for it. We say keep on doing it. Now you are wanting to apply that idea down to a different program, which is different. Which has a different client. And that is the owner-occupied. The owner-occupied is primarily elderly, it is below 30 percent.

Elderly do not take risk at that level, who would. And when you are asking them now to take -- to talk about a deferred forgivable for five years, that already concerns them. We have a little bit of history.

I asked your staff, which have been great, to go back, I think it was many years ago, TSAHC had this idea. They tried to do a deferred forgivable. Did they recapture money? No.

As much as your staff could ascertain, they really couldn't. If they captured any, it was very minimal. It also, as much as we could ascertain from the field, it also decreased the amount of applications that even came in, because it increased the fear. And this is major. This is so major.

I wish I could tell you that the cities themselves could do these programs, but as you well know, the program is very complex. So they rely on the consultants, and as far as we are concerned, the consultants are serving these cities well.

But you are going to -- that is the big thing about the capacity. I have been, now that I have been working for ARCIT for four years, every time I come across a consultant that is not involved in HOME, I am always trying to push it for you, and push it. Would you please get involved with HOME? But Donna, it is so complex. Would you please get involved with HOME.

Well, this year and the last two years, I can tell you two consultants that have gotten more involved, because -- not only because of us, but because of other things. We have been asking them, please get more involved.

But if you, one more time, start getting more complications on top of the program, these very consultants that are starting to get involved might think, it is just too much. We can't do it. And one more time, we are not driven by the consultants. We are driven like you are, to serve the community.

There is nothing wrong about also trying to help those that serve those communities. And this is very major. So we have three, four different suggestions for you.

First of all, when you do your survey, Ms. Anderson, you had asked us to encourage you all, and we will help you in any way when you do it. Perhaps for the several questions on there, ask them, are they interested in using the owner-occupied?

And if they are, why haven't they in the past? And maybe we can do some research before you implement something as large of a change that will have major impact for rural communities.

And number two, ask the staff to do a little bit more time. And they have done as much as they could to projections of what would really happen and back it up with some good solid research data.

Go back to that TSAHC program. Have -- I think TSAHC, some people are here from TSAHC today that maybe they could have some history. And understand a little bit more about that history.

And number three, and I know that is something you love to hear, but roundtable. But we are here to help you with the roundtable, and you do it very well. But maybe take a little bit more time.

Because this HOME program is major. It is the only program that rural Texas has to help their owner-occupied for their housing.

And number four, we really would really request that for the disaster relief, it continue to be grants. That is another major area. So not only are these people in rural Texas, but now you are also asking them to do, in the middle of a disaster, asking them to do something about a loan. And we just think that is stepping, that is asking far too much stretch.

So we are very thankful one more time that you are doing the best you can and wanting to disperse these funds as wide as you can. But we just ask that you take a little bit more time, especially with a deferred forgivable before you go another step further. Thank you.

MR. CONINE: Thank you. Any questions?

(No response.)

MR. CONINE: Thank you, Ms. Chatham. Jamie Welch?

MS. WELCH: Good morning.

MR. CONINE: Good morning.

MS. WELCH: I have actually spoken before you before, and I am going to actually address the same issues as I have in the previous times, and it is the deferred forgivable loan. My issues are the same.

Our city is mostly -- we have a very high retired, elderly numbers. There is just quite a few elderly folks there. And I know, we are actually in the process of our next step is to actually get the homes built.

And I know that in that process, just trying to convince these people who were living in terrible conditions to believe that we were offering them a grant, that they were really going to get the keys. Or we have even had them come back and ask you know, how long before it really is mine, after the fact. We are very concerned as a city.

Our mayor and our council, as to how we are going to actually get those deserving people that I believe that this program is trying to target to participate, if this is changed to a forgivable 5-percent, five-year, zero-percent forgivable loan. And you asked earlier about wouldn't you sell the home anyway, if the mother passed away? And the answer that I have seen in this small community, is no.

They actually look at that home as the only thing that they have to give to their children. You know, they are below the income. Like I said, I moved there from Arlington, Texas. And it is really kind of scary going to a small community and seeing this, and being thrust into this program and actually going out to those homes.

It was an eye-opener for me. You know, for them to invite me in. And like they were all describing, you are just kind of looking around, but you are trying not to look around, you know, type thing. And the windows are up because there is no air conditioning, and holes in the floor. And they are such gracious, wonderful people.

But that is one of the concerns that our city continues to address. So I would have been remiss if I hadn't have brought that before the Board. The other is the match.

Obviously, you know a small community, a small city, our funds just like any other of the government entities. I know our county is going through the same thing. It is the match. We always would like for you all to keep that in mind. And keep rural Texas and our issues in the forefront. And I know you do.

And you are great representatives. Staff, Eric is just always a phone call away. It is amazing. You can call him and he calls you back in ten minutes. And I left a message, you can have anybody call me. It doesn't have to be you. If somebody else will just call. But we really appreciate that.

The roundtables are great. As someone stepping in to this program, any information you can get, because it is overwhelming. I told them, and I know they don't like to hear it. I keep saying a small city could never administer this program.

We are administering our own park grant. And I kind of came into this thinking, well you know, I wonder if maybe we could administer this. And our Mayor Pro-Tem is here. And I just keep saying, there is no way. There is no way.

But the staff is very helpful. And I just ask that you keep the match and the deferred forgivable as a possibility. Thank you for your time.

MR. CONINE: Thank you.

MS. WELCH: Do you have any questions?

MR. CONINE: No.

MS. WELCH: Okay. Thank you.

MR. CONINE: Phil Patchett.

MR. PATCHETT: Good morning.

MR. CONINE: Good morning.

MR. PATCHETT: And thank you for the opportunity to come before you today. I haven't had a lot of time to prepare, so excuse my handwritten notes. I am the City Manager, Public Works Director, City Secretary, what have you, for the City of Trinity. Welcome to reality in a small city.

It is election time, coming up very soon. Everyone is filing for elections. So it is kind of a late trip down here last night to try to prepare for this mornings meeting.

I would like to address a few items. You know, I had a lot of time to ask myself what I might say to you on my drive down here to Austin today. I guess the easiest answer would be to say nothing, since apparently we are not listening to a lot of the outcry and public input that we are trying to give you.

But I can't do that, because the City of Trinity, our residents, especially our poor, elderly and disabled are counting on me to be their voice. I strongly disagree with staff's recommendation to reduce the contract award amount from $500,000 to $275,000. I believe you should continue with the competitive methodology. Can I move that.

So let the numbers speak for themselves.

Retain the award amount of $500,000. You make a larger impact in the community that has been funded. Believe me, I talk to our citizens every day, and have cleaned up entire neighborhoods because of the HOME grant program. A few proud new homeowners, their pride, and newfound leadership is just very rewarding to us at a local level.

I guarantee you that extensions after extensions will be filed by reducing the owner-occupied contract from 24 to 18 months. You need to listen to the people that are in the field, implementing these projects, and understand reducing the contract time is beneficial to all of us, but none of us. Excuse me. It is kind of like your comment earlier, Ms. Anderson, wasn't it?

MS. ANDERSON: [inaudible].

MR. PATCHETT: Finally, the word alone, whether it be forgivable or repayable, versus the word grant scares a lot of people. Most of these folks are seniors. And I tell you what, they would rather put buckets under their roof leaks or lay a rug over the hole in their floor, because it is all they have, than to have a lien on a new house.

Besides that, the word loan versus grant will assuredly stop my city council from pursuing HOME grant monies in the future. That would be an absolute terrible event for the City of Trinity.

I am rather appalled at how this Board has ignored some of the public opinion. I expect more from you to help protect rural Texas. I will continue talking to my legislators and let them know how I feel, and your decisions will be affecting their constituents as well. I appreciate some of these changes that you have made, because you have made some very good ones, obviously.

But we still have a long ways to go. And I am just here to represent my city and how I feel. And I apologize if I have offended anybody. Thank you.

MR. CONINE: Thank you. Jean Langendorf?

MS. LANGENDORF: Good morning.

MR. CONINE: Good morning.

MS. LANGENDORF: I am Jean Langendorf. I am with United Cerebral Palsy of Texas, and I am also representing the Disability Policy Consortium this morning. Their representative could not attend.

We have made comment through the public input process concerning one little section that you had regarding getting points, two points to serve 100 percent for persons with disabilities. The recommendation that the organizations submitted was to eliminate the point structure there for those extra points to serve people with disabilities, but instead to have a threshold selection.

Our recommendation was applicants must propose targeting a minimum of 15 percent or at least one of the units to persons who meet the definition of persons with disabilities. And document how beneficiaries will be identified and how the applicant will work with the disability community.

MS. ANDERSON: Excuse me, Mr. Conine's phone. Excuse me just a minute, Jean. Mr. Conine's phone is ringing. And so if I may want to publicly acknowledge that ringing phone, and the beneficiary of the Housing Trust Fund as a result of that.

MS. CARRINGTON: Penny, make sure that is in the record, please.

MR. CONINE: Got me.

MS. LANGENDORF: Okay.

MR. CONINE: Sounds like I am going to be got a lot today. Go ahead.

MS. LANGENDORF: So, that was our recommendation as we see what the staff has proposed. They have proposed a minimum of 5 percent of the units for all, which is -- I mean, we support the idea of taking it out of the point structure.

Our concern is they have also added language about a waiver, which of course, we would be concerned about. And we would like to recommend for sure that you have, or at least one, because 5 percent, everyone is going to figure, that is less than one unit, so I don't have to do it. So as with other provisions, generally with federal funds, when you are looking at multifamily, under Section 504, it would be, or at least one.

We do want to express support for the looking at the HOME program. I have a bit of a concern. We had recommended that a minimum of all the units that would come under this.

And staff is saying it would not affect the ADI program, which I understand, because we operate the Home of Your Own program, which we do add additional counties as coalitions are developed. So we do try to assist those in other parts of the state. But we are big concerned that there would be no effort then to grow any other programs to serve -- to outreach to people with disabilities.

So I don't want, at some point there to be well, there is no other programs. And we need to grow other programs. If you don't have it in your rules to try to encourage people to serve people with disabilities, then I am not quite sure that they will. So I am happy to answer any questions.

(No response.)

MS. LANGENDORF: Thank you.

MR. CONINE: Thank you. Judy Langford.

MS. LANGFORD: Good morning. I am Judy Langford with Langford Community Management Services. This is the first time I have been before the Board.

MR. CONINE: Welcome.

MS. LANGFORD: Why, thank you. And this is the right agenda item as well, that I wanted to speak to.

MR. CONINE: Great.

MS. LANGFORD: The reason I am here this morning is because my firm has been in existence since 1983, as a grant consulting firm for mostly rural communities in Texas. We chose not to do the HOME program for years. We started in 2003 working with the HOME program, doing applications, and now administer several applications and continue to do applications in '04 and in '05.

Part of what I want to say is that the staff is really great folks. The program is extremely difficult to administer. I come from a background of knowing how to administer programs, this one is extremely difficult.

And some of the things that have been mentioned today that I want to speak to, earlier you asked about putting together what defines substantial progress. What is in front of you to approve is my understanding is at you have to be 50 percent drawn at twelve months.

Right now, the way the program is being administered in the field, that is going to be very difficult. 50 percent obligated, not difficult. 50 percent drawn, difficult.

MR. CONINE: Can you -- excuse me for interrupting. But can you tell me why?

MS. LANGFORD: I can tell you why, what is happening in the field, and hopefully that will explain it.

MR. CONINE: Yes.

MS. LANGFORD: The contractors that generally follow this program around don't bill until the end, until the house is built. And so if you complete the environmentals, and you get ready to go out to bid, you are likely not going to have 50 percent of the houses built by the twelve month period. And so you won't be 50 percent drawn, because if you don't bill until the house complete --

MR. CONINE: It sounds like that can be easily solved with an interim billing halfway through.

MS. LANGFORD: It does sound like that, except that you have to have 50 percent of your match also -- you have to have it submitted for you to be able to do that kind of draw as well.

MR. CONINE: All right.

MS. LANGFORD: And so you do not necessarily have all of the match taken care of at that point in time to be able to do that draw. And so in actual administration on the ground, it is going to make it very difficult. Obligation, no.

And if we could change it to obligation, I am still trying to figure out how we are going to meet this criteria. I am sure we will try to figure out some way to do it. But it is going to be difficult. The deferred forgivable loan, going into the folks houses --

MS. ANDERSON: Can I ask -- I am sorry to interrupt you. But I want to ask a follow-up while we are kind of on this.

MS. LANGFORD: Okay.

MS. ANDERSON: How much of the difficulty is because we are relying on a finite set of contractors who follow this program around. And how much of it is because of the inherent nature of the program. I mean, is there something in the program that is constraining the number of contractors that want to participate in this program.

Because I am not very patient to hear that oh, because there are only a few contractors who follow this program around. I mean, I want to look for a way to get more contractors to follow this program around.

MS. LANGFORD: And understandably so. And we have had local contractors bid the projects. They are never within the money that is available to do the houses. They come close sometimes. We get them to where they are like $58,000, $60,000.

But you have to bid these houses at $48,000, $49,000. And the local folks, because they have not ever done multiple houses like that before, they are not comfortable with the fact that they are going to be able to make money on that kind of house at that amount of money.

The folks that quote unquote follow the program around know that if they do it in multiple houses, they can actually ultimately make money on building these houses. But the local folks don't. And we have had, in almost every city we have done, we have had at least two or three local folks bid the project. But they are not close.

So unless something gives, if you will, on allowing either with the house, the amount of dollars available for the house to go up -- but that probably wouldn't do it either, because the guys that follow the program around are going to bid lower than the guys locally. I don't have an answer for that concern. I understand why you have it.

I would like to see the local folks be able to bid these houses and get them, because not only is it economic development for the neighborhood to have these new houses, that would be really nice to have the local folks be able to build them as well.

MS. ANDERSON: And it is more competition, which --

MS. LANGFORD: I definitely agree. But it unfortunately, what actually is happening is not that. Now if we can visit that and talk about it, we would love to do that and see if we can brainstorm to come up with a better way of doing it. But it is not working right now.

The deferred forgivable loan, the elder folks, they want to give that house to mom. And mom and dad want to leave that house to their kids. A lot of them, it has been passed through the land, and the house has been passed through the family. And they don't want to give it up under a forgivable loan. And they are afraid that it will leave the family at that point.

I have heard it over and over, because even though we are at the point of being grant, they are saying, you are sure it is a grant? If it is a loan, I don't want to have anything to do with it. And unfortunately, those are usually the people that are in the most and greatest need.

Because it is their only thing that they own, they don't want to give that up -- potentially give that up. Just on, specifically on the things that are in front of you today, I support competitive process.

MR. CONINE: Would it be better if we called it a repayable grant?

MS. ANDERSON: Forgivable grant.

MS. LANGFORD: You know --

MR. CONINE: I mean, I can -- no. Repayable grant, within --

MS. ANDERSON: Within five years.

MR. CONINE: Sell the house within five years. I am serious. Is it a nomenclature problem?

MS. LANGFORD: But it is because any time anything has to be repaid, in that five years, if they die in those five years, they are afraid they will lose the house and it will have to be sold. And currently with the wording, it will. And they don't want to do that. I mean, I have a person right now --

MR. CONINE: Call it a repayable --

MS. LANGFORD: She was in a hospice. She wanted to have her house redone. We had no rules in place to deal with it. And this is going to sound really awful. She has now passed away, so we didn't have to deal with it. But she wanted to have the house redone, so she had a house to have to pass on to her kids. I mean, that was legitimately what was going on.

I would really like to see it stay at 24 months. Eighteen months is going to be very difficult to do. I definitely support biennial funding. I would like to see that going to two-year-round and see how many projects wind up coming up and how well that works before we drop it to 275.

And I would really support match being a threshold as opposed to being a scoring criteria. I understand it is going to be in a scoring criteria as presented today, but if we could threshold match at 5,000, a house or something like that, where the communities do have to come forward and be part and partner to this project.

You can do $5,000 match by demo-ing and those kind of things. It is very difficult to get up to those higher amounts in a small community. Thank you so much for your time.

MR. CONINE: Thank you. Michael Hunter.

MR. HUNTER: I'm going to sit on the left side this time, so I have experienced the right and the left.

MR. CONINE: You'll cover both sides that way.

MR. HUNTER: That is right. The whole gamut. I am Michael Hunter, and with Hunter and Hunter Consultants.

I have provided some written comments, which I presume you all have received from staff. And they probably weren't as nearly as coherent as I am today, which makes them pretty bad. But at least you have got them. I don't want to go over those again. But I do want to make a couple of comments about future rules and application changes.

One, I don't think anybody is against wider dispersal of funds. I have not heard that. However, we have to balance the wider dispersal of funds with also in terms of CHDOs coming in and doing things. For example, in terms of building good organizations that have the capacity to do things, and then rewarding them for doing things that are good, and doing more assistance for people out there who really want to get the assistance.

So you have got a balance there that you have got to deal with. I am not sure that changing the rules and the application process is the way to get wider dispersal. I don't think it does it.

I think it may help, but I think really what its going to have to do, is we are going to have to develop a program out of TDHCA to go out and develop some response from those areas, geographic areas we are not getting now. I think we are going to have go out and market it and get it in.

Speaking of marketing, when you look at changing a grant to a forgivable loan, and what I have heard, it is really a marketing issue. They are going to have trouble marketing this. I happen to have the dubious pleasure of running the rehab program in the City of Dallas for a few years. And we went from a grant to a forgivable loan, in fact, to a payback loan. It was very difficult.

And what happens I think one of the things that you need to expect is, is that when you do do this, your transition is going to be -- it is going to take a while. It is not going to be overnight. All of a sudden everybody is going to say oh, great. We are now doing forgivable loans. You are going to have a down time.

It is going to dip, and it is going to come back up as you work it down the road. So it is a marketing issue. And it is something we have got to look at, at how to market it to the people to get them to understand it, to get them to come in and sign up. And I think that is the issue on that.

One of the things that has happened here recently, and I don't know if this is the right place to mention it or not, but it is about future rules, I guess. So I am going to, because we had a disaster in southeast Texas with Rita. And we are looking at now responding and bringing in applications to you guys, to the staff, for assistance in that area. And that rated a couple of questions.

And I have talked to staff about it. And I want to talk to you about it. One of the questions I have is, we know we don't have enough money to go answer all the problem down there. In Jasper County for example, they have 1,200 houses damaged. They are going to get $300,000 maximum. That is not going to help 1,200 houses.

We know in Jefferson County, giving them $2 million isn't going to answer all their problems. But that is what you have got. Okay. And even though it is a small amount, you are providing that assistance down there, and you want to get it out quickly.

So one of the first questions I have is why are we making them go through an application process? If you know how much they need and how much you have got and how much they need, FEMA has already come in and done the surveys of the houses, why don't we just give them a letter to the county judge and say, we are going to give you $2 million. Here is what you have got to spend it on. Do you want it? And if so, give us a resolution.

We could be out working on those houses right now. It is something to consider in the future, because disasters are not going to go away. And hurricanes are not going to go away.

Hurricanes are in a twelve- to fifteen-year cycle; we are in year seven. And I don't know if you have been looking at it like I have, but those hurricanes have been coming further and further west every year. So I suspect some of the houses we fix this year we may have to refix next year.

And one of the things we could do is look at how we are responding to disaster with the HOME funds and with community development block grant funds, with Housing

Trust funds. And I think the State ought to take this opportunity to decide how they want to respond in future disasters, whether it is hurricanes, tornados or fires, and be able to see what rules can be set aside and changed and do that up front.

So that when the disaster does occur and the Governor does call in the President and say it is a disaster area, and he turns to the Housing and Community Affairs and say address that, you can do it immediately. And you have already worked it out with HUD and here is what we are going to do in case of a future disaster. I think we need to get ahead of that game.

And I would surely encourage and I know everybody in this room would probably work with the staff to help develop something that we could implement quickly, without having to go through and change rules after the disaster occurs. Something to consider.

And that is basically what I have to say on those issues. And there you are. And that wasn't me, although it was pretty.

MR. CONINE: Another donation to the Housing Trust Fund.

MR. HUNTER: Are there any questions or anything I can answer?

MR. CONINE: No.

MR. HUNTER: Thank you very much.

MR. CONINE: Thanks. Okay. That ends public comment on that particular agenda item.

MS. ANDERSON: I think there is one more.

MR. CONINE: There is one more. There's one more. Would someone give him a hand with the microphones up there, please. Ron Cranston?

MR. CRANSTON: Yes. I am Ron Cranston. I am with the UCP of Texas. I would only like to shortly reiterate those comments that Jean Langendorf mentioned. We had proposed that serving folks with disabilities be targeted at 15 percent. And again, I think that the staff recommendation of 5 percent is a little low.

But if, and I would reiterate again if, you have a minimum of at least one targeted to one person with disability per contractor, that would make a difference. As you also proposed, in terms of dispersing those funds across the state, if you have it to a minimum of one, that would increase the number of serving those folks with disabilities across the state with those funds as well. That was the main point that I wanted to reiterate.

So that is extremely important to us to have that minimum of one targeted. The other thing, there is one more thing. The waiver has no specific language as to how those folks were targeted or marketed, in targeting folks with disabilities, if they were unable to do that. So that is why we can't really support that waiver, as well. So thank you.

MR. CONINE: Can I ask you a question, Ron?

MR. CRANSTON: Yes.

MR. CONINE: And I don't mean to be disrespectful or anything with this question. But are we sure there is a disabled person with a broken down house in every community in Texas?

MR. CRANSTON: No, we are not sure.

MR. CONINE: Well, why would you then want to penalize that city --

MR. CRANSTON: Because I don't think we have done a fair target and marketing with regard to that.

MR. CONINE: Why would you advocate eliminating the possibility for a city to get funds when we are not sure that there is?

MR. CRANSTON: I don't think I said that I was trying to eliminate them getting funds.

MR. CONINE: Well, if they have to have one, and there is not one, how do they apply?

MR. CRANSTON: Well, I think that the point was that the language --

MR. CONINE: All right. How do they get to the point.

MR. CRANSTON: They would apply. But the language shows it doesn't -- and the regulation doesn't show that they made a good faith effort in targeting a population of folks with disabilities.

MR. CONINE: Okay.

MR. CRANSTON: That is what I am saying.

MR. CONINE: All right.

MR. CRANSTON: Okay.

MR. CONINE: All right. Thank you. Is there any other public testimony before the Programs Committee on this issue?

(No response.)

MR. CONINE: Seeing none, Eric, do you want to come up and answer a few questions probably? Do you want to go first?

MS. ANDERSON: You go first. You the man.

MR. CONINE: Thanks a lot. One of the issues that came up, that I jotted down here, was the match, 5,000 versus 10,000. Can you comment on that. And is rural Texas having trouble coming up with 10,000 match?

MR. PIKE: Eric Pike, Director of Single-family. I would suggest that in the past that obviously it has been a very big hurdle for many of the rural communities to achieve.

However, folks always seem somehow, someway to -- many of the communities, I should say -- always seem somehow, someway to come up with the funding. I will give you a little bit of a history on the match. The State of Texas is required to provide a 25 percent match for our HUD dollars.

Texas is considered an economically distressed state by HUD, which is -- can be a good thing or a bad thing, I suppose. But in this instance, it is good. And what that means is that our match requirement is reduced to 12 ½ percent.

So we try, at a minimum, to attain 12 ½ percent match from each of our applicants that applies, so that we ensure ourselves, or hope to ensure ourselves that we will be able to meet that match requirement for HUD. I realize that it is an issue. And one of the reasons -- one thing I would just like for everyone to think about, too, is that with the proposed contract, maximum reduction to 275, or whatever that figure may become, the associated match that will be required by an applicant will be reduced, effectively.

Because in the past, they were having to provide at a minimum of say 12 ½ percent match on a $500,000 application. If that figure for the contract maximum is lowered the thought was, the 12 ½ percent match is easier to attain.

MR. CONINE: Okay. Reporting process was mentioned several times in public testimony. Have you taken that into consideration on this next round? And what sort of reporting features have you built into the new rules of this particular program?

MR. PIKE: I hate to pass the buck, but I will try to address this as best I can. Typically, my division is responsible for awarding the HOME funds, and do not oversee the day-to-day administration of these funds.

In all honesty, I am not sure what the reporting requirements are. That is something that is addressed in our Portfolio Management and Compliance Division. And so, I don't know if we would like to have someone speak on that?

MR. CONINE: Ms. Carrington?

MR. PIKE: On their behalf or have somebody from that department speak on that issue.

MS. CARRINGTON: We do have two representatives from Portfolio Management. We actually have more than two. We have Lucy Trevino. I see Patricia Murphy, Ruth Cedillo. So I would ask staff for the most appropriate person to come and address Mr. Conine's questions.

MS. TREVINO: Good morning.

MR. CONINE: Good morning.

MS. TREVINO: Manager in PMC. And with the new central database, we do have the capacity to track commitments, draws, match. All that information is entered online, by the administrator. So with reports, we are able to track everybody's progress on each of the contracts.

MR. CONINE: Would it make sense for us to ask the cities to report into us, rather than us having to reach out to them? If we are shortening the cycle to an 18 month cycle, at the nine month point, or at the six and twelve month point.

I am open to suggestions here. But it would seem to me that if we have something that is coming into us, at some particular point in the cycle where then Portfolio Management and Compliance can take a look at it.

MS. TREVINO: Well, what we can do is, let's say at twelve months, we can look at all contracts that have been in existence for twelve months, and then draw a report that tells us how much has been committed. What percentage has been committed of the total. How much has been drawn, so --

MR. CONINE: Well, that is requiring us to do something. What I am interested in, is the cities reporting back to us what the activity which they have been doing, rather than a strict dollar amount. I know there was some mention here earlier of funded versus obligated. There is a huge disparity there.

And if they have obligated a bunch of stuff at the twelve month point, then it would be helpful for them to tell us that, and not just to look at what has gone out the door from our side. And I think that is critical information that we, as administrators of the program need, and maybe a hole that is out there, that I think we need to fill. Any issues with regard to that?

MS. TREVINO: Are you asking how much is committed to activities? I am not sure I understand that.

MR. PIKE: I think what you are trying to say is like a progress report that would be submitted either every quarter or six months or annually.

MR. CONINE: Right. No. I am not in the every quarter camp.

MR. PIKE: Okay. And I think it is a good suggestion, because many times the communities that are receiving the HOME funds, the contracts are administered by a consultant in many instances. And this would at least bring awareness to that local community of where they are in their particular project.

MR. CONINE: Okay.

MR. PIKE: Where otherwise they might not, you know, be aware.

MR. CONINE: You know, we may want to amend this here in few minutes or at the board meeting. But thanks for answering that. On the wonderful topic of the loan versus grant, can you -- I can read what is here.

And I know you and I have had some discussions recently about a process which would give credit if you will for the existing appraised value before you start any construction on either the remodeling or the new home. How did that all ferret out in your internal discussions with the staff?

MR. PIKE: We did have some internal discussions about that. I did, with Ms. Carrington, as well as with our General Counsel. It is obviously something that I think we could do. It is not something that I suggested in our recommendation, because we didn't receive public comment on it.

But obviously, you guys are able to provide suggestions and comment that I am not able to do. Do we want to sort of go through what this suggestion is and how it might work. Or do you want to do that --

MR. CONINE: No. I can do that. I can do that later. But I don't want to put that onus on you.

But to the other members of the Committee, we were talking about giving credit on the -- if the house was worth 20 sitting there as it is, then they would have a $20,000 credit against the 50, so that the heirs, the children or whomever the heirs might be would not be penalized in any shape, form or fashion. And I think that would help explain the program even a little better.

At least alleviate some fears to that particular segment of the population that is dealing with this program. And their kids or offspring. So I -- I can see how the way it is termed here, might give some people some cause to -- pardon.

I think again, on the two issues that have been mentioned most here, the reduction from 550 or 500 or whatever it was down to 275, we are still allocating the same block of dollars. We are still fixing the same amount of houses. It is just going into twice as many cities.

MR. PIKE: Right.

MR. CONINE: And therefore, creates twice as much work for consultants and the like. And I can understand why they wouldn't want that to happen. But in the end of the game, we are still fixing that many more houses.

And we are spreading it out in more communities across Texas, which I think makes a bigger impact than isolating it back into the few that have gotten them up with the program so far. And that is why we are -- this Programs Committee has spent a lot of time breaking this program down and trying to rebuild it in a format that might make some sense. It has been awhile.

This thing has been running for awhile on automatic pilot. And I think it is good that we talk about some -- this program, and some of the issues it has.

The other person that is not here speaking today is the person who benefits from a recycled dollar. The second and third person who happens to have one of those forgivable loans paid back, and then have their home rebuilt because of the program was structured in the way that staff, or maybe in a slightly modified way, has recommended here. And I think it is critical for us as an agency to try.

If we are going to do a -- especially if we do a biennium cycle, it is critical for this agency to give it a shot. It is going to be multiple years before we find out, because fortunately when you fix up somebody's house, they hopefully live in it awhile. So there is not a chance for the repayment to occur for quite some time.

And measuring this particular program against some other TSAHC program or anything else, might not make sense because enough time hasn't elapsed. So it is very critical for us, and I think this Board and this Department is looking after the citizens of Texas in recycling those dollars. Especially if we can make sure it is a net number and not a gross number for the next citizen of Texas to be able to benefit.

And that is prudent use of federal resources as I see it. And those people aren't here commenting. And I just wanted my -- the people to hear at least my viewpoint on what I consider to be a very critical subject. Ms. Anderson?

MS. ANDERSON: I have just a couple of questions. Eric. I am interested in your thoughts. Well, I want to talk about match for a minute. 12 ½ percent of 55,000 is 6,875. So it is more than five, it is less than ten.

And the fact that we currently now give points for match, and since people that are able to go put in more dollars right. I mean, what are staff's thoughts about making match a threshold item, not a scoring item, with a threshold of the 12 ½ percent?

MR. PIKE: Okay. I will attempt to answer that. One of the -- I think one thought was that in some areas of the state, some regions of the state, you don't always see applicants put in a match requirement. And they don't do that, in some instances because of the competition.

They are, in many instances -- in some instances, the competition in that area. The communities may not have the match. And so they just don't put any in. So they don't need match in order to get the funding.

MS. ANDERSON: In their region.

MR. PIKE: So that is one, I guess, concern or issue perhaps, that if we mandated it, it could impact some areas more so than it does others. The point assignment in the past, a lot of the applicants did try to attain the maximum number of points by putting in as much as they possibly could.

And so what we attempted to do, is to in order to make it more of a level playing field for everyone, we are looking at proposing, and it is in this document today, some caps on the value of the donated services, as it relates to match. So basically what that means is, in the past, you might have had a community where you had very generous people, and they were willing to assign a high value to their service.

And if you were fortunate enough to live in a community like that, you had a competitive advantage over your neighbor. Whereas in a neighboring community, there may not be someone with a level of expertise to provide a donated service, or if there was someone who had that expertise, they valued their service at a lower level. So it put you at a disadvantage.

So what we tried to do was to look at implementing some caps based on what we have seen reimbursed through our program, in the past, through program year 2004, to be exact. And an individual or an organization or a company that may want to donate their services may value their service and their donation at, say, $10,000.

But history tells us that when that is actually reimbursed through our program, it has a value of X for instance. And so that was one thing that we did and so, I guess, to sort of in a roundabout way to answer your question, one of the reasons we didn't look at requiring match specifically, because in some areas it can impact the communities, because they may not need to put up that match, cannot.

And then what we tried to accomplish is tried, by lowering the contract maximum, making match less of a determining factor in who gets funded and who doesn't get funded. We also went so far as to try to help the smaller communities, the very rural parts of Texas by assigning many more points if their population was small in size.

So to help you understand that for instance, a town of I believe, 1,500 in population or less can receive ten points for being small. And if they put in the minimum match of 12 ½ percent, they receive an associated six points. So that is 16 points. The max total is 20. So they have a really good competitive advantage, I think, right there.

And it is not -- now yes, if they want to put in the full 25 percent match and get the full 20 points, it is going to be challenging on some. But I really don't think that they will have to.

MS. ANDERSON: Thank you. Next question. We had a discussion about after twelve months, 50 percent obligated versus 50 percent drawn, and the comment was made in testimony that one of the issues is the contractors don't bill until the house is built.

Is that in fact, your experience across the state? I mean, was that sort of a fair -- is that a loosey question? Thank you.

MS. TREVINO: I guess that varies by administrator. Some administrators do bill us with their interim draws as construction is progressing. And then we have others that wait until the very end, and just draw the whole amount at -- for the online houses.

MS. ANDERSON: Is there any pattern of administrators who do the interim billing versus wait until the end. Is it -- you know, larger cities wait until the end?

MS. TREVINO: I think the pattern is more consultant driven than anything else.

MS. ANDERSON: Okay. So certain consultants wait until the end, and other consultants do interim billing?

MS. TREVINO: Exactly.

MS. ANDERSON: Okay. Next question, about the forgivable loan. Is the loan, the forgivable loan that is being contemplated, is it tied to the individual or to the property? To the house.

MR. PIKE: My thought would be that it would be tied to the person.

MS. ANDERSON: Okay.

MR. CONINE: Wait a minute. Before we get past that for just a minute. If -- it is going to be hard to do, you know, I would think legally in the State of Texas.

MR. PIKE: And I may need some assistance. I am sorry. From Mr. Hamby on this one.

MR. CONINE: If the loan would be on the home, and let's just say the person passed away unfortunately, during the time frame we are talking about, if the family rented the house out, I don't think -- I don't know of any provisions that you could stick in a loan document that would force the issue. Mr. Hamby?

MR. HAMBY: Well, actually, the loan is generally why we have some sort of lien or deed of trust or something on the house itself. The loan is actually tied to individuals for their life and being, is what a deferred forgivable would be.

And so if you had a couple that owned a piece of property, it would actually be for the couple. They would be the people signing. Obviously, the house can't sign a loan agreement.

MR. CONINE: Right.

MS. ANDERSON: But if I am the child of those people, and my parents pass away, and I or somebody is living in that house for another three years, until the five-year clock runs, with no effort made to sell it because I have got it rented out or something, I am trying to figure out you know, wouldn't they or a related party somehow just stay in the house for five years, and then it is forgiven.

MR. HAMBY: Well, obviously, that would be completely dependent on the terms of what we put in there. If you ended up with a longer term, or if you ended up as long as the person lived -- and that would be the legal jargon of life and being -- whatever that persons life is, the house actually would, whenever the person passed away in the State of Texas, it would either be passed by will or in an intestate process, where it would have someone who was the natural heirs by virtue of the intestate process.

And frequently, what would end up happening, is the house would be probated, and it would go to whomever it was going to by will or by intestacy. And it would have to have any debts cleared with the estate. So if it had a debt that carried forward, before the house could pass, the estate has to pay off existing debts.

MR. CONINE: Unless the estate doesn't have enough money to pay off.

MR. HAMBY: If the estate doesn't have enough money to pay off existing debts, then you would have to sell the house to generate the income. It is the argument that is going forward with the estate taxes at the federal level as well, that you know, many times, long time ranches, farms, those sorts of things have to be sold to pay existing estate taxes. And so you would end up in that situation.

Where it would either -- the Department would either have to extend the note to whoever the next people are, and then we would have to have questions about does it meet -- do they meet the requirements of the program. So you would have some question as to how it would be done.

It would have to -- the loan documents would either have to say extinguish upon death of both parties, assuming some of these houses are probably going to people who are married, or have some form of joint agreement to own and occupy the home together. And so you have those issues.

And we would have to -- we would have joint tenancy questions that would pop up you know, as to if there is a family member who is taking care of somebody in this household, does it -- I mean there are questions that would arise. And I want to just make a comment about one thing that Eric said, just to clarify it.

The cities and populations that would receive points for the match, they have to reach the threshold match first. It has to be 12 ½. It is not -- they don't get points just for being their size. They have to hit that 12 ½. Anything less than 12 ½, they wouldn't do it. And of course, as Eric has mentioned, one of their business reasons for having the match is that we have to have match as well.

MS. ANDERSON: Right.

MR. HAMBY: It is not an arbitrary number that we have pulled out of the air. Does that answer your, with as little legal jargon as possible, does that answer your question?

MS. ANDERSON: Yes. That answers that one. I have another one, which is about -- you might as well just stay there. That is probably more efficient.

The question I have is around the disability issue. And one person made a comment about -- this is the same thing I just asked about match. You know, having the at least one with the ability to get a waiver on that, if there was no need in a community, and have that be a threshold item.

We give points in the proposed rules, are we still giving points for disability? We are not. So we are saying that 5 percent --

MR. PIKE: In the past we would assign an additional two points, typically to an applicant that would serve persons with disabilities.

MS. ANDERSON: Right.

MR. PIKE: And what we are proposing this time around is that there would be a threshold, or a requirement if you will.

MS. ANDERSON: Right.

MR. PIKE: That you would try to serve one of the units would be for a person with disabilities. What we were thinking is that when an application is submitted for our review and approval, there is a program design component of that application.

And typically, it spells out the marketing of the program. How they go about -- how they anticipate going about marketing their program. What type of preference they are going to give. Is it going to be to the lower income. Is it going to be the elderly? Things of that nature.

And we felt like that we would revisit that document and make some revisions to it, if this is adopted. To address how an applicant would go about trying to market and make the public and their community aware of this requirement. And then we felt like, if they could show that they had performed their due diligence, then that would be something that could be waived by our Portfolio Management and Compliance Department at a later date.

MR. CONINE: So let me make sure I have got it straight in my head, because I am slow sometimes. It is a best efforts basis on threshold, but scoring criteria, yes or no?

MR. PIKE: No. There would be no scoring criteria. Everyone would be charged with attempting to serve at least one of their units, whether it be TBRA or owner-occupied, there would be an attempt, if you will, to provide services to persons with disabilities.

MR. CONINE: Okay. All right. Good.

MS. ANDERSON: Last question. There was discussion, I think this was in the first witness on this agenda item was talking about, in 2004, if they were 50 percent drawn, they only get eleven points.

And versus some other points, I guess, in the same scoring items, the next highest score could get 14 points. And some request -- I think her request was to try to give, if you are 50 percent drawn, maybe you get 11, but if you are 100 percent committed, you might award -- do you know what I am talking about?

MR. PIKE: Yes. I have got it right here.

MS. ANDERSON: Would you give me your thoughts on that?

MR. PIKE: Well, obviously, I will just go back through it here. It says that if you received a HOME award in '02 or '03, and you are 100 percent committed and drawn, then you would get 14 points. An '04 award, what we are suggesting on an OCC award, if you are 100 percent committed, and you are 50 percent drawn, you would receive eleven points.

And what Ms. Thomas was suggesting is that there be an additional bonus point or two if you will, for someone who goes above and beyond that requirement and actually closes their contract out and/or draws 100 percent of their funds within that same time period. And one reason -- we talked about it a little bit.

We know it is going to be a big challenge on staff's part to ascertain all of these different performance levels when we have our applications come in, because we will have an applicant that may receive an '02-

'03 award, they received an '05 award. You are going to be looking at, okay are they 100 percent committed, or are they 50 percent drawn.

And we just felt like adding an additional requirement, or an additional step there to verify information and what have you would prove somewhat cumbersome. It is not to say that we couldn't do it.

But basically what we are looking at is an '04 award, if my memory serves me correctly, I think those contracts probably were -- the start dates were October of '04 or thereabouts. So they would be ending up, they would be completing in October of '06. And so what she is saying is, if we by, let's say our application deadline for '06 is going to be this coming April, if we have done a really good job, and we have 100 percent, we would like an extra point or two.

MS. ANDERSON: Okay. Which you could argue puts us on a glide path toward being able to perform in 18 months as this proposed rule is proposing for the future.

But you raise a very good overall question that I need to -- I feel compelled to put to you directly. And Ms. Trevino is welcome to answer this as well. We are talking about, without amending this or getting into that right now, as proposed, is the Department, because this is a change not only for the HOME community, but also for our staff.

Is the staff comfortable that as proposed, that you can stay on top of this, and administer. Are these workable rules from an administrative perspective for you all?

MR. PIKE: I would have to say yes, I think they are. I think the biggest challenge will be gathering the past performance, just ensuring that we have good data.

I know that from in the past, when we had a performance requirement in our rules, there was -- it was very contentious, because a lot of people would say, well I sent that documentation into the Department two weeks ago, or whatever. And if it had been processed, I would be at 50 percent complete. And so that becomes a real big issue.

Is it the Departments -- is it because of the Departments delay, or was it because the applicant was actually delayed. And so what we have put in here as a safeguard is, we say, in the scoring criteria, as of the application deadline, pending setups and/or draws will not be counted. They have got to be processed.

MS. ANDERSON: They will not be counted.

MR. PIKE: They have got to be processed, in other words,

MS. ANDERSON: Okay.

MR. PIKE: It says in cases where entities have been funded in multiple years, the most recent award will be reviewed for performance. So we would be looking at the most recent award that community had had to verify this level of performance.

MS. ANDERSON: Okay. Ms. Trevino, I would like to put the same question to you. Is this practical as proposed. Are these rules practical for your Portfolio Management and Compliance folks to administer?

MS. TREVINO: That is why we chose commitment rate and expenditure rate as measures, because administrators enter their setup information, which determines commitments, and they enter their draws online. Each administrator enters them, themselves. Once they are approved by the administrator, then they are submitted to PMC for approval.

So it is electronic, and of course, they have to submit their backup documentation. So now we can track commitments and draws as they go.

Now it is also going to encourage administrators to submit their draws and setups as soon as they are available to be submitted, instead of waiting until the end. So that will improve the State's commitment, and expenditure rate as well, with HUD.

MR. CONINE: Can I ask a follow-up question? Is it safe to say that even though we pass these things today, we could still look at the way compliance administers the program, and make modifications to the compliance of these particular rules, to make it a little more user friendly in the future? Can't we -- I mean, they are not set in stone, where we can't modify what we do on our end, are they?

MR. HAMBY: They are set in paper.

MR. CONINE: They are set in paper. So if the paper comes back to the Board, then --

MR. HAMBY: Well, no, they would be, in the sense that depending on what you put into the contract and there is some question in any of these contracts that we let, there is a requirement to follow the policies issued by PMC. There would be some question, obviously, if you radically changed the policy.

There might be some, without passing a rule on it, there might be some provision that someone would say, well, that takes away a right that I had, without any rulemaking in the State of Texas. And so you could potentially have a problem.

As far as tweaking, figuring out how you are going to do it, you can amend the rule at any point. And it would be a question of is it substantial; does it substantially change the rules under which the people applied.

I mean, probably if we went to the other direction, if we were at 24 months in this rule, and then midway through the process, we said, you know, we decided 18 instead, that would probably be a sufficient challengeable argument by someone to say you can't do that.

MS. ANDERSON: But if we were at 18 and went to 24?

MR. HAMBY: If you were at 18 and went to 24, you probably wouldn't get too many complaints, unless they were people who claimed that they didn't apply because of the 18.

MR. CONINE: I think what we could do, Ms. Anderson, might be to ask the Compliance Department to kind of look at the user-friendliness, if I can use that term, of the compliance of this program, and come back to us at a future Programs Committee meeting to analyze what is set in stone or on paper as you say, is there. And see if we can tweak it a little bit, and make it more user-friendly.

Because I can sure understand the plight of a small city, rural city in Texas being able to act like a big city. And it is very difficult to do sometimes.

MR. HAMBY: I will tell you at this point, Mr. Conine, that Anne Reynolds in the Legal Division is doing a comprehensive compliance rules review of the entire program. And so that is something that is going on right now, and will be before this Board most likely in the August time frame. We are not giving Anne a vacation again this year.

MR. CONINE: Are you done with your questions? I don't want to interrupt. You know, again, from what I am hearing, there is a couple of things I would like to propose as an amendment, and then I will ask if there is anything else that you would like to propose, Ms. Anderson, or Mr. Gonzalez, since you now join us.

I think in the reporting process situation, I guess I would like a -- and I don't know what the right language is, but I would like to propose a twelve month into the -- after the award update from the municipalities, back to TDHCA, so that we can -- so that again, if we develop other rules in the Compliance

Department that would then know that those twelve month reports are coming in.

And especially if we are doing a double funding cycle, where in theory, you have twice as many cities that we are having to monitor. I think it would be good to get a report from them on their progress as to their particular award.

I am really sensitive to the issue of the forgivable loan, as you guess, most people can understand. But I am also sensitive to the existing value of the home, and not infringing upon that existing value. The question I guess I might have is, if we were to require an appraisal of before and after to be submitted, so that we could then contemplate the value of the forgivable loan that we were going to place on the property.

Now let me just go through a quick example, just so everyone understands where I am heading with this, let's assume that we have got a before appraisal at 20,000 and an after appraisal of 60,000. Yet, it takes 55,000 to fix the house up. The forgivable loan in that situation would be the difference between the 60,000 after it is improved, and the 20,000 of equity that was there to begin with.

Or we would, in essence, spend $55,000, but only put a $40,000 forgivable loan on that particular property, under the terms of which you have outlined here, under the 50 percent plus or minus. That way, we have not infringed upon the real life equity in the home as it sits today, and we have obviously bettered the living conditions of those who happen to be living in that home in the immediate future.

I would propose that as an amendment to the rules, along with the 12 month reporting period back, are the two issues that I think I see. I didn't finish my question.

The appraisal, who pays for that appraisal. And let's just assume it costs $250 to get one of those appraisals done. Who pays for that, and how does that fit into the existing rules, as they are proposed here today?

MR. PIKE: Typically, that would be something that would be paid for by the subrecipient.

MR. CONINE: Okay. And it is an allowable --

MR. PIKE: I mean, it is an additional cost.

MR. CONINE: It is an allowable cost under the --

MR. PIKE: It is a soft cost.

MR. CONINE: You know what, I just thought of something else, too.

MR. HAMBY: One of the questions that we will try to answer, hopefully before this -- if we have any time in between, and we will ask somebody to do it, is if all counties have appraisal districts.

MR. CONINE: No. I don't want tax appraisals. I want real estate appraisals. Forget tax appraisals. They are not -- they are so inconsistent, it is unbelievable. No, I want a real estate appraiser to come appraise the house for what it -- and it may just be lot value. I don't understand -- what it is, is what it is.

The other thing that just dawned on me, is the cost of -- the sales cost of disposing of the piece of property. And again, I don't want to Pac-Man eat into the equity that may be there. So I am going to go back to my example, and say, it is worth 20 today. It is worth 60 after it is finished. But it is going to cost something to dispose of the property.

So I would propose at least in my amendment to -- for the forgivable loan to be the difference of those two amounts, less 10 percent of the after appraised value to handle the broker of the sale, the title policy and anything else that has to be sold. So again, in my example it would be -- that would be $6,000. So we would put a $34,000 forgivable loan on that $60,000 house.

Now that is complicated to explain. I understand. But given the time to explain to five people in a town in Texas, I bet I could do it fairly quickly, and hopefully convince them that they are doing something that makes sense for them.

MR. PIKE: And would that be repayable upon death of the borrower within the five year period of time, I presume? I mean, they can live there as long as they want, within that five year period of time, let's say. And then once they pass, then the home would be required to be sold and --

MR. CONINE: No. I don't want to get in that game. I think Mr. Hamby made a good point. That there are existing inheritance rules on the books today. And I think we just let that dog fall where it might, okay.

MR. PIKE: Okay.

MR. CONINE: I think there is enough checks and balances in that system, if you want to get into the will writing business for these folks, that is something that the cities can talk about in their discussion of this particular program, because there is, unfortunately a lot of folks out there without wills. And I would think they would want to make sure that they had one, in this particular circumstance.

But again, what we are talking about is giving folks money to improve their living conditions, where they don't have to pay a red cent for it, basically. And I want to, again, make sure that we protect that value that is sitting there today, so that they are not in any danger whatsoever of eating into that at all.

MR. HAMBY: Can I get a clarification on that, Mr. Conine?

MR. CONINE: Sure.

MR. HAMBY: What you are -- according to what Eric said, and what you have said, what you are saying is it is a five year minimum term, or upon death, whichever is shorter?

MR. CONINE: No. I don't think we mess with the language at all when it comes to that.

MR. HAMBY: Well, the problem is whenever we write up a loan document for that, we have to do something that says what happens if the person dies in that five year period. If we are trying to do a five year note, then we would either, it would either be the shorter of --

MR. CONINE: Why do you have to deal with that issue?

MR. HAMBY: Well, because we are going to have a lien on the property. So whenever it goes into probate, the probate court is going to have to do something with it. If we have a lien, if they die within the five years, and we had a lien on the property, the Court is going to have to --

MR. CONINE: But my house is that same way, that I live in.

MR. HAMBY: Well, and I know. And when that happens, you know.

MR. CONINE: Why would we want it to be any different from anybody else's home.

MR. HAMBY: Well, because what we would end up doing, and that goes into the question that we had about, if this is a piece of property, usually in these cases, the estates will not be able to repay the loan if the -- I would assume. And I am making a giant assumption, they are based on who qualifies for these, that the estate would not be able to pay back the loan.

MR. CONINE: Right.

MR. HAMBY: And so if someone died intestate within the five year, or even with a will, within the five year period, one of the requirements of a will is to clear up the estate.

MR. CONINE: Right. Or the estate can go borrow the $34,000 against a $60,000 house and pay us back.

MR. HAMBY: They could, if that is what your intention is.

MR. CONINE: Yes.

MR. HAMBY: And so you are saying that it is a minimum of five years. And if someone predeceases or dies before the loan --

MR. CONINE: We still preserve the value that was there. In fact, we have increased the value that was there, substantially. And we now have a new income limits living in that home probably, than we had in there before. And they can then -- the kids will be able to choose what the alternative would be.

MR. HAMBY: Right. So I am just clearing up, that you are talking about it is five years. And if someone passes away before the five year period, it doesn't matter. We are going to let the estate, the probate laws runs this to course.

MR. CONINE: Correct. Yes. As in the case in my house. I don't think it should be any different.

MR. HAMBY: Okay.

MR. CONINE: Make sure and put the 10 percent feature in there, though. I forgot that in my first conversation.

MR. PIKE: I have it.

MR. CONINE: I'm done.

MS. ANDERSON: I second your motion that we are recommending to the full Board what he just said: the rules with those amendments.

MR. CONINE: I will probably get accosted in the hall. But I think that is important, I really do, to try at least this one cycle. If it doesn't work, we will know it two years from now. We will know it.

MR. HAMBY: You need to take a vote.

MR. CONINE: Oh. All those in favor, say aye.

(Chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries.

MR. GONZALEZ: No. I am against.

MR. CONINE: You are against. Two to one. I guess that is all we had for the Programs Committee. I apologize to everyone in the audience for being a little long. We will take a five-, ten-minute recess, and we will start the board meeting in ten minutes. Thank you.

(Whereupon, at noon the meeting was adjourned.)

C E R T I F I C A T E

MEETING OF: TDHCA Board Programs Committee

LOCATION: Austin, Texas

DATE: February 15, 2006

I do hereby certify that the foregoing pages, numbers 1 through 124, 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 & Community Affairs.

02/22/2006
(Transcriber) (Date)

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