TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

Room E1-004
Auditorium
1500 Congress Avenue
Austin, Texas

September 3, 2008
3:42 p.m.

MEMBERS:

C. KENT CONINE, Chair
LESLIE BINGHAM-ESCARENO (not present)
TOM CARDENAS
SONNY FLORES (not present)
DR. JUAN MUNOZ
GLORIA RAY

STAFF:

MICHAEL GERBER, Executive Director
KEVIN HAMBY, General Counsel

A G E N D A

P R O C E E D I N G S

MR. CONINE: Good afternoon and welcome to the Board meeting of the Texas Department of Housing and Community Affairs on this Wednesday afternoon, September 3. Glad to see everybody out.

Let me start by calling the roll right quick. Leslie Bingham is not here, and will be here tomorrow.

Tom Cardenas?

MR. CARDENAS: Here.

MR. CONINE: Kenneth Conine is here. Juan Munoz?

DR. MUNOZ: Here.

MR. CONINE: Gloria Ray?

MS. RAY: Here.

MR. CONINE: Sonny Flores could not make it. We've got four here; that is a quorum. Thank you.

As you know, we have public comment at the beginning of our meeting and then public comment on the agenda items. We ask you to fill out a witness affirmation form for those who might haven't and wants to speak, either now or at a particular agenda item. Please fill these out and turn them in.

As you can imagine we have a long list of those who'd like to talk to the Board today, so I would ask your indulgence as we move through these.

State Representative Jose Menendez.

REP. MENENDEZ: Good afternoon, Mr. Chairman and Board members. Once again, it's a pleasure to be here with you and I want to thank you for allowing me to address you.

I'm going to -- I know how packed your agenda is so I'm going to be brief. First of all, I'd like to thank Mr. Gerber and the Department for the tremendous amount of work and coordination they have put into all of the interim charges that we've been working on, and Brooke Boston, Mac O'Rydell [phonetic], Kevin Hamby and Tom Gouris as well as the entire staff have really done a phenomenal job in this interim as we go over what we need to do to get more affordable housing built in Texas.

But today I'm here to speak in support of two requests for 2009 forward commitments. I know that I have provided letters of support for both the Sutton Homes application Number 08190, as well as for the Darson Marie Terrace Project, Number 08269. But I believe that both of these developments are important enough to San Antonio to make the case in person.

Darson Marie Terrace is an incredible development; one of the highest concentrations of low-income senior citizens are in the area right there. The Retirement Housing Foundation is proposing to develop 57 units of senior housing with tax credits directly adjacent to a 54-unit HUD Section 202 property that is also for seniors which will open this month.

RHF is one of the largest nonprofit developers of affordable senior housing in the nation, serving 15,000 seniors and people with special needs. RHF has also been active in Texas with the development of 632 units under the HUD's 202 program including 105 senior units in San Antonio.

Because the 202 program provides rental assistance for every unit, the ability to develop tax credit senior housing on an adjacent parcel will create a diversified mixed-income senior community. I realize that the Board typically has a number of well-qualified applications that request forward commitments each year but I believe that this application in Region 9 should be approved because of the vital role it will play as well as the one I'm going to tell you about next.

Sutton Homes. I want to add my support with the support of my colleague Representative Ruth Jones McClendon who I expect here shortly who is fully supportive of this application in her district, as well as the city council person for the area.

Sutton Homes is a large San Antonio Housing Authority property on the east side of San Antonio that is in serious need of rehabilitation. Not only is there already a serious shortage of safe quality affordable housing in this community, it is right on the boundaries of Fort Sam Houston.

Fort Sam Houston and Brooke Army Medical Center will grow tremendously in the base realignment -- in the next few years as a result of the base realignment actions that will consolidate military medicine training on the post.

The entire area is at long last a major focal point of revitalization and the award of 2009 forward commitment will make Sutton Homes a valued part of the redevelopment efforts.

Mr. Chairman and Board members, I understand that there is a potential concern for the ability during these difficult credit crunch times for tax credits to be absorbed. I would be interested in knowing whether or not any application that asks for a forward already has potential lending or has the necessary financial backing to be able to move forward because if they don't, then maybe there should be a pause to allow the system to absorb. But if so, if they are ready to move forward today, I think we should hopefully -- you would consider the desperate need that is in the community.

And so I know and trust that you have the best interest of our State, and I know that you'll make the best decision, and I want you to know that if you seriously consider both of these commitments for San Antonio, they're desperately needed, they're well thought out, they're well planned and they really fulfill a need.

And so even though it would mean quite a bit of allocation for our city it would mean fulfilling a need that's desperately needed at the right time. And I'd be happy to try to answer any questions if anybody had any.

MR. CONINE: Any questions of Representative Menendez?

(No response.)

MR. CONINE: Thank you.

REP. MENENDEZ: Thank you, Mr. Chairman. Thank you.

MR. CONINE: Appreciate your interest in those projects. I have four witness affirmation forms on 07206, Villa Estella Trevino. As you know, only three people can speak on any one particular item in the public comment period, so I'm going to read off the four names and you can decide who goes in what batting order.

State Representative Aaron Pena, Luis Sanchez, Mayor Joe Ochoa, and Brittney Booth.

REP. PENA: Mr. Chairman, my name is Representative Aaron Pena and I guess I'll start.

I'm here to talk about the Villa Estella Trevino project which is Project 07206. And I believe you'll be talking about this tomorrow.

I want to first thank you for the opportunity to let me speak to the committee. I represent the community of Edinburg and so this is a valuable project, an elderly apartment project for our community.

As you may know the funding was approved by the Texas Department of Housing and Community Affairs under a 9 percent tax credit program back in July 28, 2007. Now in our community deep down in South Texas in the Valley, we have tremendous growth and we haven't had an elderly apartment project since the '70s.

We not only absorb a great deal of the elderly citizens who move down to our community where we're a retirement community, but we also have a great need for this sort of project and so I'm here to advocate for it.

The Edinburg Housing Authority presently has a waiting list for elderly housing in excess of 300, and that is growing. The City of Edinburg has made a huge investment in this project of $440,000 and the Edinburg Housing Authority has bought the 15-acre site.

The architectural, engineering, legal and accounting work has been done. But as you know because of the downturn in the national economy financing has been a huge challenge. The price of tax credits declined to an average of about 8 to 12 percent, construction costs increased from 12 to 14 percent and interest rates increased from 7.03 percent to 7.76 percent.

We know that there are tools that are available. The Housing and Economic Recovery Act of 2008 can be used to supplement income for buildings placed in service after 2007. I believe that others that are with us are going to also ask that the -- there's been some accommodation made so that the common areas have been minimized and so we're asking that this Committee approve those.

The bottom line is that this is an important project. It's named after an important citizen of our community who is here today with us, Estella Trevino. She literally goes back to not only parents but grandparents and great-grandparents in my family.

And so if this committee could see fit this is a project that we consider valuable. I know that you have many other projects but we want you to appreciate the growth that we have, the demand that we have and the necessity we have for this project.

And I thank you. If you have any questions I'll be glad to try to answer them.

MR. CONINE: Any questions of the representative?

(No response.)

REP. PENA: Thank you, Committee members.

MR. CONINE: Appreciate your --

MAYOR OCHOA: Good afternoon, Board members. My name is Mayor Joe Ochoa. I'm the proud mayor of this community, the City of Edinburg, population of about 60,000. Our council very excitedly approved a resolution back in July of '07 to move forward on this Villa Estella Trevino project, Number 07206.

We are supporting this project in the excess of over $400,000 coming from the City of Edinburg and providing potable water lines to this area, inclusive of some in-kind services that we would be providing.

Since 1975 our community, the City of Edinburg and the MSA of the City of Edinburg, McAllen and Mission have not seen an elderly facility such as this being constructed over 25 years.

I encourage you to look at this project favorably and look forward to be able to continue this project as seen fit for the elderly in our community and our surrounding areas. As was mentioned by our State Rep, over 300 elderly people right now are waiting in line to be able to enter into this facility. So I plead with you and I ask for your favor and your support of this project. Thank you.

MR. CONINE: Thank you, Mayor. Any questions of the mayor?

(No response.)

MR. CONINE: Dr. Munoz?

DR. MUNOZ: This project pre-dates my time on the Board but my question is it was awarded and they're asking for additional resources through the recent Housing and Economic Recovery Act.

MR. CONINE: That's correct.

DR. MUNOZ: So --

VOICE: Yes, sir.

DR. MUNOZ: -- how would we debate; how would we examine this?

MR. GERBER: Well -- and they're also asking for amendments to their original transaction. They want to reduce the common areas from I think a 12,000-square-foot common area to a 3,000-plus-square-foot common area. They also want to reduce the number of elevators which is always an important issue in an elderly development.

So they're trying to reduce the size of it as well as benefit from some of the implications of additional credits that may be -- that are coming to the State for allocations, so --

MR. CONINE: Specifically Agenda Item 2 is when we deal with the macro policy of what we do with the extra credits.

MR. GERBER: Right.

MR. CONINE: Agenda Item 10 is when this particular project is scheduled to come up.

MAYOR OCHOA: Okay. Thank you for your answers.

MR. CONINE: Thank you, Mayor.

Okay. Last but not least.

MS. BOOTH: Good afternoon, Board. I'm Brittney Booth from the office of State Representative Veronica Gonzales. I have letters of support from Representative Gonzales as well as State Senator Eddie Lucio in support of this project and I'd like to read Representative Gonzales' letter of support.

"I write to express my support for the Villa Estella Trevino Housing Project and to ask the Board to approve funding to complete the project.

"The housing project is owned and co-developed by the Edinburg Housing Authority which serves the constituents I represent. The Villa Estella Trevino Project is a 168-apartment-unit complex designed to serve the needs of the residents ages 55 and older, a segment of the population in dire need of affordable and accessible housing.

"The Edinburg Housing Authority has more than 300 applicants over the age of 65 on a waiting list for housing. The only other housing project designed to accommodate the elderly was built in 1975 and is completely full.

"Villa Estella Trevino will provide comfortable and cost-effective housing for many residents who are retired or physically no longer able to earn a living.

"The $14 million project was awarded by the Board in 2007 but the adverse economic conditions affecting our nation's housing tax credit market stymied the project's progress.

"Villa Estella Trevino accepted syndicators after receiving more than $1.1 million in tax credits in

2007 so the project would become a reality. However the syndicators dropped the project when the plunging stock market decreased the tax credit pricing from 92 cents to 79 cents.

"Meanwhile construction costs continue to rise. Due to these unforeseeable market conditions affecting housing projects nationwide, the federal Housing and Economic Recovery Act of 2008 provides a 10 percent increase in housing tax credit for 2008 and 2009.

"These funds can be used to supplement viable projects like Villa Estella Trevino. I ask that you consider the funding proposals of the Edinburg Housing Authority and appropriate the applicable funds to put this much-needed project back on track.

"Thank you for your time and consideration of this matter. If you need additional information please do not hesitate to contact me.

"Sincerely, Veronica Gonzales."

Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you. Representative Ruth Jones McClendon.

REP. JONES McCLENDON: Well, good afternoon to each of you, and I am just honored to be here to be able to speak in favor of the Sutton Homes application. I'm particularly glad to see my dear friend and my constituent Gloria Ray who has served so wonderfully on this particular agency and I'm just -- we're just so proud of her, what she's doing on behalf of housing not just in San Antonio but across this great State of Texas.

Good afternoon to all of you. As you've heard my name is Ruth Jones McClendon. I'm a member of the Texas Legislature representing District 120 and I'm here to speak to you on behalf of the proposal by Sutton Homes and Ryan Wilson of Franklin Development to build a housing development near Fort Sam Houston in San Antonio.

As I said before, Fort Sam -- well, the housing development is in my district and Fort Sam is directly across I-35 from this area in District 120. San Antonio is extremely fortunate to have Fort Sam and its personnel in our midst. We are eagerly anticipating the influx of some really 11,000 military medical training students and faculty and their families in connection with the establishment of the medical education and training campus.

Leaders are calling this the largest consolidation of training in the history of the Department of Defense. And it's because of the BRAC realignment a couple of years ago, and we were very blessed in San Antonio to be on the good side of BRAC this time.

When it is completed in 2011 this joint campus will centralize all Army, Navy and Air Force basic and specialty enlisted medical training in Fort Sam Houston. According to Air Force Major General Melissa Rank, this will transform San Antonio into a national center for education and training and this institution will become the largest in the world solely dedicated to medical training and education.

And we've heard that this consolidation is going to be larger than West Point and the Air Force Academy combined. So once complete, San Antonio will be the location where every enlisted medical military medic is going to be trained. And this is directly across I-35 from this particular development that we're concerned about today.

That is why it's so important to rebuild and upgrade the housing development near I-35 and Fort Sam Houston. The current state of Sutton Homes is simply not acceptable. It is presently dedicated solely to low-income housing. Sutton Homes has received widespread support of the current residents as well as others in the community in preparing to undertake this redevelopment effort.

The proposed plan will eliminate the blight and unsafe conditions of our citizens and residents and will provide a much needed quality of affordable housing. It's our hope with your support that Sutton Homes will be granted a forward commitment and be transformed into a community that attracts both residents and the commercial end of our economy.

It's local location is literally at the gates of Fort Sam Houston which is preparing, as we said before, to receive the 11,000 students and faculty. So it becomes so important that Sutton Homes become the model for mixed unit housing and be able to properly provide quality housing choices either for both the civilian and military presence right there at Fort Sam Houston.

As I understand it, the Sutton Homes development will utilize your award of the 9 percent tax credit to assist with financing and reconstruction which will help meet the necessity of upgrading the current housing. Therefore, I am here to strongly urge you to support Sutton Homes' request for a forward commitment of tax credits for the 2009 application period.

We ask you to please approve this request so that we can begin the transformation of what can only be described as dreadful living conditions into a vibrant modern community. And I thank you so much for allowing me to speak before you.

And I'm here to answer any questions you may have.

MR. CONINE: Any questions of Representative McClendon?

(No response.)

MR. CONINE: Appreciate your being here.

REP. JONES McCLENDON: Appreciate it. Thank you so much.

MR. CONINE: I have several other witness affirmation forms on that particular project. I made the general assumption that you wanted the state representative to speak so out of the rest of the people we got two slots left open.

I have Alfred Valenzuela, I have Evelyn King and I have Ryan Wilson. So two of those folks can come on.

VOICE: Just two?

MR. CONINE: Just two.

VOICE: Well, in that case then I'd like to have the General come on up.

GEN. VALENZUELA: Let me thank the Committee, first of all. My name is Freddie Valenzuela, Major General Retired, and the new interim president and CEO of the San Antonio Housing Authority.

If I can get to the bottom line and echo what my colleagues have said, this is about a love affair for the community. This is about a passion to take care of the elderly, the veteran, the disabled, the youth in the area which is right adjacent to the -- Fort Sam Houston which is what we talked about as far as the BRAC Revitalization Program.

The Board of Commissioners in San Antonio are 100 percent committed to the cause. We have invested $5.2 million in replacement housing dollars and it is our wish that you consider the forward commitment towards a tax credit for this Sutton Home, the number being 08190. Thank you. Appreciate your time.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you.

MR. WILSON: Mr. Chairman my name is Ryan Wilson and I'm also here in favor of Sutton Homes Application 08190. And you blew our plan for the three speakers so we're a little bit winging it here but I think

I want to spend a few minutes of your time --

First of all, I want to point out your attention to all the residents who have come here today to support this and just for two seconds I'd like them to stand up. They're all here in our "Save Sutton" shirts, and this is -- it's a big deal to have these people travel up from San Antonio today to show their support and I think that says -- that speaks volumes about the type of development that we're proposing and the type of development that you should support.

We have heard the previous Board meeting and today, there is an obvious need for redevelopment of this project. The living conditions are substandard. It's an old project that's outlived its useful life. No one designed these buildings to live for 50 years. So that's kind of an obvious foundation building block for where we go from here.

We've heard from representatives as well as the General about the BRAC realignment, the new jobs coming online. And this project we can't stress enough is literally at the gates of Fort Sam Houston.

And it can provide and it should provide an anchor point for redevelopment and revitalization of this area and take what right now is, quite frankly, a little bit of an eyesore and a problem for the community and turn that absolutely around into a positive environment for our residents.

Obviously, the big deal that we want to show today is that we've received tremendous support from the community. You've heard from the state reps. I think you've seen from the 34 people, or 35 residents that we have here, that residents support it.

The city council supports our development. They've already approved the issuance of the bonds and the council, District Number 2, Councilwoman McNeil fully supports this development.

We've created a partnership of city, community and state government including the Housing Authority to make this project a reality. As you've heard the General state, they've already committed $5-1/2 million for Phase 1 alone of replacement housing funds to get this project going.

So we've already seen the commitment from the community to make this development a reality, and we hope that you see it too. And with that I would open it up to any questions.

And again I would strongly urge you guys to support our request. I know there's a tough decision in front of you guys from the Board standpoint with the recent times we have but I also want you to see what we're asking for.

It's extremely important for our community, it's extremely important for our residents who are here supporting us and it is extremely important for the community at large. So with that I thank you for your time.

MR. CONINE: Thank you. Any questions of the witness?

MR. GERBER: Mr. Chairman?

MR. CONINE: Yes?

MR. GERBER: I would just like to note that it's always nice when the -- we're always grateful when the paid professionals make it here, but for 35 people to go and take time out of their busy schedules to come to our Board meeting, I think that's really a special thing, and we want to recognize that and appreciate you all making the personal effort to be here in support of this project and thank you again for that time.

MR. CONINE: I would echo those comments. Thank you very much.

MR. GERBER: Thank you very much.

MR. CONINE: Maybe three and a half, because

Representative Menendez got a little bit --

(Laughter.)

MR. WILSON: Thank you very much.

MR. CONINE: Robert Ford.

MR. R. FORD: Good afternoon. My name is Robert Ford. I'm a citizen of Palestine, Texas. This is my second time to speak to you to oppose the housing tax credits for the Historic Lofts of Palestine. At your July 31 meeting tax credits for this project were not awarded and I ask you at this meeting not to consider this project for forward commitments or other funding.

I encourage you to refer to your staff recommendations posted as the addendum for that July 31 meeting. The project was not recommended. Palestine project has a score of 186, making it the lowest score within Region 4 Rural.

Also please review the public comment summary, also posted. The summary mentioned support from elected officials and 26 statements of opposition. Besides the neighborhood association in support, no other community input is listed. Other housing tax credit proposals were cited as having great community support: churches, civic and business organizations.

But this project would be surrounded by

churches if it were built and there are so many organizations in Palestine that I have to wonder if there not being listed means they were not involved in this project or if they are not supportive or they chose not to -- they chose to be silent.

More significantly I believe is the stated opposition, those 26 people. We represent residents of Palestine and of the Southside Historic District and we're persons who have visited Palestine and consider it a place to retire.

This project, especially the element of this that our city wants to place at the edge of the Southside District, is a project that will harm our neighborhood and affect the town irreparably.

Our mayor at your June 26th Board meeting, referring to your Board, stated that, "You sometimes have to balance personal interests with the well-being of the general public," implying I believe that statements of citizens opposed to this, her project, are really just voicing personal opinions and concerns.

Well, of course we are. However, no one I talked to who opposes this is doing so for purely personal reasons because merely questioning this project has cost too much personally, socially and politically in

Palestine.

Many of us are concerned with the damage that modern apartment buildings will do behind the most significant homestead in Palestine, the Bower's Mansion, the intact 19th century compound in town, one of the few, one whose setting would be next to modern apartments.

Those opposed are not just voicing personal whims. We are stating opposition due to concerns of historical appropriateness. The Southside neighborhood is rebounding from years of neglect.

With Palestine's being named recently as a certified retirement community, this historic neighborhood, once in severe decline, is on the upswing. Adding this development in an historic area is just beginning the process of decline and fall all over again.

At an April city council meeting zoning was changed from commercial to multifamily to allow these apartments to be built on Queen Street in the Southside. City employees mentioned, really as a joke, that if the city didn't change the zoning to allow Palestine Lofts to be built that we might suffer something like a car wash, or even what someone later called a, "Victoria & Albert Quick Lube" on such a site.

Inappropriate apartment building or car wash.

I would assert that there are more options that don't distract from the history of this neighborhood and that our city leaders should consider. I say this partly because the placement of the apartments on the Southside violates statements in the comprehensive plan for the city; this plan is cited by the developer to emphasize downtown redevelopment.

However, the plan also asserts in a section on land use that Palestine should use its planning and development regulations to protect residential neighborhoods from encroachment of incompatible activities or land uses which may have a negative impact on the residential living environment.

These are good words but the City's --

MR. CONINE: Need to end. Please wrap up, please.

MR. R. FORD: Yes, sir. These are good words, but the City's support of this project makes me doubt that they are even being read. I ask you to deny the project's application for tax credits. Thank you.

MR. CONINE: Questions of the witness?

(No response.)

MR. CONINE: Thank you very much.

MR. R. FORD: Thank you.

MR. CONINE: Kathi Masonheimer, City Councilwoman Kathi Masonheimer.

(Pause.)

MS. MASONHEIMER: Good afternoon. I'm Kathi Masonheimer. I'm the executive director of the Palestine Chamber of Commerce and I also serve as our District 1 Councilperson for the City of Palestine.

The City has already supported this project through resolution, but I'm here today to represent the Mayor, who could not attend. And she would like the following letter read in support of Historic Lofts of Palestine to be entered into the record:

"Dear Board Members, as Mayor of Palestine, I lead a community that is making great strides in creating opportunity for business, improving the quality of life and revitalizing our historic downtown.

"We need the Board's help in revitalizing our downtown and creating quality affordable housing for our citizens here. I have attached pictures of three historic buildings that will be renovated if you give our application a forward commitment.

"These are three of our largest downtown buildings, and as you can see by the size of these buildings, local developers stay away from these buildings because of the large development challenges they present.

"However, using historic tax credits alone would not create enough soft subsidies to make the renovations economically feasible. That is the reason that I recruited the Landmark Group to use their expertise in combining historic tax credits with low-income housing tax credits to bring affordable housing to downtown Palestine.

"This application represents a public-private partnership whereby the developer is carrying out our priority mission of downtown revitalization. Rural communities need TDHCA's help in revitalizing our communities. By recycling our existing building stock, we are preserving a part of our community history and creating unique quality loft apartments for our citizens.

"Please lend your support to our community by giving a forward commitment to Historic Lofts of Palestine.

"Sincerely, Dr. Carolyn F. Salter, Mayor."

And I will say too as a -- my family owns property in the downtown area, and that's the part that's missing. And I've spoken to you before. We've got to have people living in our downtown area and we are in desperate need of affordable housing.

So I am speaking in support of this project and I hope you will grant the forward commitment for this project. Thank you so much for your time.

Do you have any questions?

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you very much.

MS. MASONHEIMER: Thank you.

MR. CONINE: Appreciate it.

MS. MASONHEIMER: Uh-huh.

MR. CONINE: I have looks like three speakers lined up for the Blackshear Home project with multiple folks who are wanting to yield time to each of these speakers so timekeeper, five minutes each.

Craig Meyers, Jerry C-E-A and Terry Shaner. You all can go in whatever order you'd like.

MR. MEYERS: I'm Craig Meyers from San Angelo and I'm with West Texas Organizing Strategy and with the NAACP of San Angelo and St. Paul Presbyterian Church speaking on behalf of forward commitment for 08300 Blackshear Homes.

You already have from previous hearings the indications of total support of the City of San Angelo and all of its various departments. You've had a statement from Representative Drew Darby in support of this. We have again for the third time a different group of folks who have come down here. Would you stand up?

(Pause.)

MR. MEYERS: Folks who are supporting this from San Angelo, and I'd like to suggest that the people here are schoolteachers and ministers and representatives of not-for-profits, residents of the community, residents of the neighborhood that's affected and people who have given hundreds and hundreds of hands-on hours in volunteering political leverage and trying to also give the resources to support the revitalization of San Angelo of which the Blackshear Homes project is a part. Thank you very much.

They are passionate about supporting this for a variety of reasons. One is that it's an integral part of a greater revitalization project for all the blighted areas of San Angelo.

And they're passionate because already the revitalization project has taken the worst of the blighted neighborhoods, Blackshear, and are well on their way to being over halfway there to revitalization and stabilizing this community with new housing, with all kinds of infrastructure that's been added, apartments renovated, houses rehabbed, and now we're looking for the key element that's the hardest to achieve and that is to find single-family low-income affordable housing that's rental.

And one of the reasons that this is so key is that you don't have any leverage on upgrading and code enforcement of slum landlords which a number of which are in Blackshear if you don't have any place to put the people who would be displaced if you cracked down and had them evict their tenants.

And this requires some place that is decent for these folks to move into and then you can begin code enforcement which would force the landlords to either put money into upgrading their properties or to abandoning them so that they could be destroyed and condemned so that new property could be put in place.

The City of San Angelo has already invested an incredible amount of time and energy, and all the not-for-profits, all the people that deal with housing in San Angelo, have given themselves over to making this happen. It is not an overly optimistic statement to suggest that if Blackshear succeeds -- and in one year of planning and three years of operations, this project has almost reached two-thirds of its goal of renovating the whole neighborhood -- it's not an overly optimistic statement to say all the blighted areas of San Angelo within ten years will be well on their way to revitalization.

This is a key element. It also has a number of multipliers, because every dollar that's spent on this project enhances the property value of the new houses that are going into place around it which in turn makes the viability and stability of this project something that we can really depend on.

We ask that you consider it for forward commitment, and you have before you also an indication that the churches of the neighborhood -- the first letter on the first page is the San Angelo Ministerial Alliance, which represents the African-American churches, most of which are either in or adjacent to the Blackshear project, and a variety of other churches that are across the board throughout the community that support this.

This has the overwhelming support of San Angelo, which has already invested an incredible amount of resources in this. I please ask that you consider forward commitment of this project. Thank you.

VOICE: Thank you.

MR. CONINE: Thank you. Any questions?

(No response.)

MR. CONINE: No, don't think so.

MR. SEA: Good afternoon or good evening. My name is Jerry Sea; that's S-E-A. Gentle ladies and gentlemen, Chairman of the Board, you've heard some things that Craig Meyers has laid out to you. But I'm also a member of St. Paul Baptist Church, and I'm one of the leaders of WTOS. When we first started this program, this cleanup effort, we went door to door, and we talked to each and every person in these areas, especially the Blackshear area, to see what their needs were.

And we started to work with the City; the City is working with us and we're working together. See, what our intent is, it's an investment from you not just in housing; it's an investment in the people. The people that has paid taxes in that area for years and years and years and got very little from it.

Now, during the course of going from door to door, and I do work -- my church is in that area and I do a lot of stuff with the elderly in my church, St. Paul Baptist Church, and other elderly people. And -- for no money or whatever, there are some people that's proud enough not to let you do anything unless you pay them.

So one of my pays was banana pudding (laughs). But in this lady's house one of the business people came to me and said, "Jerry, this is absolutely terrible. You have to go look at this."

I went over and looked at that house. This lady has been homebound so long she don't even remember how long she's been homebound. She can do no more than go to her front door to accept a hot meal. This guy delivers hot meals and he called me and I went over there to see it, for the reason being, her wheelchair ramp had collapsed in the middle, and she's on a walker. She had fell sometime ago and broke her hip. She could not go out of her house.

In order to get her mail somebody that's delivering hot meals would bring her mail. If nobody came by over the weekend, she couldn't even get her mail.

Inside her house, there's a hole in the floor that's covered by carpet; other than that, she'd fall through that. I've been up under a house that one of the other church members -- I went up under their house.

Her house, the floor joists, they are set on pier and beam. The floor joists had separated from the rail and the wall had fallen down. You could walk in her front door and put a ball down. It would roll straight out the back door, and it was rotten.

I went under her house and balanced that up and I put new rails on, raised -- jacked up the wall, attached it again with lag screws. These are just some of the situations.

One other situation -- and I know I'm getting kind of short here. I went in this lady's house. She needed some work on her sink because it wouldn't drain. I opened the cabinet doors and I looked straight out the back under her sink. This is a slum landlord that absolutely does nothing to fix anything. And she's paying what I would call premium price for nothing, you know.

$300 is too much to pay for something that varmints can come into your house any time they want to, you know? Her lights -- in order for this lady to turn her lights on and off, she'd have to screw the bulb.

That's ridiculous. This is just unheard of. And this -- and our cleanup efforts over there and the things that we're doing in the Blackshear area, these are the people that we are targeting.

Because the people that live in those homes, that's unsafe. And if the City came in and started to do what they very well could do and condemn these places, where would these people go? They'd be displaced.

So this is not just the right thing to do; it's the moral thing to do simply because these people has paid taxes and has worked. Some has been grandparents and live-in maids and stuff like that -- husbands have died, stuff like that -- that didn't have insurance and when the senior of the family died, the family cared nothing about them, so they are put in situations like this.

You know, $500, $600 a month for, you know, their income, $300 for rent, and what? -- $150, $200 for utilities. That's it. And then they scuffle for their medicine and other things.

This I would ask you very, very -- be very sensitive to this situation, because it's an investment in people. And any time you give a community some hope, then they move from those areas which we all know in larger cities that turn into -- when you have a city, a large city that there's no care or hope in this community or city, people don't care; they get disconnected. This is a hotbed for crime and drugs and things like this.

But when you got the people involved in these communities, this doesn't happen. And this is a time for you now that you can invest in the people as well as the neighborhood and prevent some of the things that's happened in these larger cities. Because now you can invest a little money instead of down the line throwing a lot of money at a problem that you're not going to be able to control.

I thank you very much for your time, I thank you very much for your consideration. Have a great day.

MR. CONINE: Thank you, Mr. Sea. Appreciate it.

MR. SEA: Any questions?

MR. CONINE: Any questions?

(No response.)

MR. CONINE: Thank you.

MR. SHANER: I'm Terry Shaner. I'm the Director of Galilee Community Development Corporation and I'd like to thank the Chairman and the Board for letting us speak today.

We are in favor of the Blackshear Homes project. Galilee Community Development, just as a short introduction, where we're from: We came from the division of Reverend Cryer [phonetic], who was the pastor at Galilee Baptist Church which is in and of Blackshear. So we are part of Blackshear. We are the CHDO office for the City of San Angelo, and we're also partners in the Blackshear Homes project.

The Blackshear Homes project is a very important part of the whole revitalization plan for San Angelo and is, as Pastor Meyers and Jerry Sea have laid out, and previous presentations have laid out, it's very important for Blackshear.

The City has a plan and the idea of 20 new rental houses, this will be a significant upgrade to that neighborhood. It will help remove some of the urban blight; it will help provide affordable housing, decent affordable housing.

The possibility of 20 new homes on empty, tax-foreclosure lots in that neighborhood will make a very big difference. We've noticed that it's made a big difference for our clientele that we built for affordable housing for low-income families.

In the past probably 40 years there hasn't been a new house constructed in the Blackshear neighborhood. We built one in 2006, an affordable house for a family. And that was -- I mean, that was it for the past 40 years.

Now we're able because we're starting to fix up the neighborhood and the hope of this project being approved -- I have two homes that are under construction now and I have a third one which will be breaking ground in September.

We have a for-profit builder who's participating in the program. It's not just nonprofits, and he's building homes for -- affordable homes for low-income families. The neighborhood is going to transform and become a better neighborhood. And when we're here to support it, and we -- it's, like I say, we have nonprofits that are out there rebuilding together that are remodeling and fixing up homes for the elderly.

We have the City of San Angelo committing immense amounts of money for infrastructure and rehabs of homes. We have commitments from just groups of nonprofits, WTOS, the churches Pastor Meyers brought. And the commitment from and the members and the citizens of the Blackshear neighborhood.

They are excited about the idea that this is a possibility. We're going to have new homes here. And these will be rental homes, which will make it more affordable.

Basically, that's what I wanted to say about that. In San Angelo when we see a need, we do what we can to fulfill it, to fill the need. And with your support and your funding, we can go a long way in fulfilling the need for safe, affordable housing and rejuvenate that neighborhood of Blackshear, and we believe in the vision of our citizens and we hope that you believe in the visions of us as well. Thank you.

MR. CONINE: Thank you. Any questions of the witness?

MR. GERBER: Mr. Chairman?

MR. CONINE: Yes.

MR. GERBER: I would just note again that the best projects that we have are the ones where community leaders and faith-based leaders and committed developers working with -- development partners working with elected officials and others come together, and I know this is the second time that I know so many residents from San Angelo have made the four-hour trek out to Austin, and I just wanted to say on behalf of the staff and the Board how grateful we are that you've made the trip.

And a forward is an extraordinary thing -- action by this Board, but we appreciate the commitment that you've put into this, and the time you've come to express your thoughts on this important redevelopment initiative to this Board and to the entire staff. So thanks.

MR. CONINE: Yes. And I would agree and remind every one of the public speaking policy. It seems as if several folks yielded time to those three speakers and it only takes one to get you five more minutes and I just wanted to make sure everyone was clear.

I don't mind folks being here and interested in the project, but you only need one person to yield time to get you five minutes instead of three, so -- just a friendly reminder.

Tim Lang.

MR. LANG: Good afternoon, Chairman Conine, Members of the Board. My name is Tim Lang and I'm the owner and co-developer of TDHCA Number 08137, Hampton Villages, 2007 Tax Credit Allocation for the City of Pampa.

I have come to you today to bring to light some of the difficulties that we've been experiencing in moving forward with this development since receiving the allocation last year.

We are currently on, I believe, our fifth syndicator. Having had several LOIs fall out because syndicators cannot find investors for a rural deal/first time developer with the limited amount of investment dollars to go around in today's market. The development is a good ways down the road at this time. Having already invested close to a million dollars in site work, it has met the 10 percent test and has completed the due diligence for and received a commitment on a permanent loan.

The City of Pampa remains firmly behind this development with the planned development that they have in the area for major wind energy projects. Subsequently, should it come to such a point which we certainly hope it does not, where credits do need to be returned, we ask that the Board look favorably upon not only this project but other projects in the same predicament for forward commitments for 2009 so that we can go ahead forward with this project which is a worthy project and also a very good deal for the City of Pampa which is much needed.

In any event, this development, due to the drop in credit prices and the rising cost of supplies would need the full 9 percent credit price to actively go ahead and move forward with the deal.

Thank you for your time; that's all I have. I'm happy to answer any questions.

MR. GERBER: Mr. --

MR. CONINE: Go ahead.

MR. GERBER: -- I'm sorry. You're a 9 percent deal?

MR. LANG: Yes.

MR. GERBER: Okay, I just -- I'm sorry --

MR. CONINE: You're an '07 9 percent deal, and you don't have a syndicator but you spent a million bucks so that means you got a construction lender, or not?

MR. LANG: Not firmly at this time.

MR. CONINE: Not firm. So --

MR. LANG: No. It's kind of a --

MR. CONINE: -- you need a lender --

MR. LANG: -- Catch-22.

MR. CONINE: -- or a syndicator in place.

MR. LANG: Correct.

MR. CONINE: Okay. Any other questions of the witness?

(No response.)

MR. CONINE: Thank you.

MR. LANG: Thank you.

MR. CONINE: Drew Childre?

MR. CHILDRE: Good afternoon, Chairman of the Board, Board members, Mr. Gerber. My name is Drew Childre. I'm with RealTex Development but today I am speaking on behalf of Darrell Jack of Apartment Market Data, regarding the real estate analysis rules and guidelines, Section 1.33(d)(9)(D), the turnover section.

They would just like to read into the record to change one wording in that section as the word "most" to change it to "more reasonable rate," which states, "The market analysis should use the more reasonable rate supported by the REA, or independent surveys conducted by the market analysis."

There's been discussions with market analysis and Tom Gouris regarding this change and I believe everybody's on board with this. Wanted to go on record stating this specific change.

MR. CONINE: So Mr. Gouris agreed with you?

(Laughter.)

MR. CHILDRE: Not with me.

MR. CONINE: Any other questions of the witness?

(No response.)

MR. CHILDRE: Thank you.

MR. CONINE: Thank you very much. Tell Darrell hello, and we missed him.

Matt Hull?

(No response.)

MR. CONINE: Matt Hull?

(No response.)

VOICE: [inaudible].

MR. CONINE: J. Rice? Looks like maybe Andrew Rice?

MR. RICE: I have a handout of my comments for the Board.

MR. CONINE: Here she comes.

MR. RICE: Thank you, Mr. Chairman. I'm J. Rice. My middle name is Andrew. I just go by the initial.

I'm the president of Public Management. We are a management consulting firm working with the HOME owner-occupied program since 1993. And I'm here today about increasing the limits on the systems per housing structure.

Construction costs have increased 41 percent since December 2003, and this is a comment made by Ken Simonson, the chief economist for the Associated General Contractors of America. We have an 888-square-foot house that we build in this HOME program, and a 41 percent increase from 2003 when we were building these houses at $49,000 would go up to $69,000 today.

I've attached three bids that we received recently from contractors that have worked in this program since '93, and their average is $74,425. That is current bids. Two of these contractors are now working in the Rita Disaster Recovery programs where they are only limited by their open market bids. They choose to work in these programs because they're making a profit. This leaves the door open to second-tier housing contractors in the current HOME owner-occupied program because they don't want to work in it, and we have quality control problems because those contractors are bidding on these projects.

The other scenario is that no contractors will bid because there is not enough money for them to make in the owner-occupied program. We also have ancillary costs of loan closings and this adds a significant amount to the soft cost ranging from $9,000 to $9,500.

You tack that on to the $74,000; it gets substantial. Current limits require an applicant to match the HOME assistance. This may be the goal of the TDHCA in the regular program and we understand that. But in disaster programs, a lot of these folks do not have any money available to match; they're in small towns or in rural areas where they don't have the money available.

Plus they have significant other costs. They have an infrastructure that have caused them problems and they cannot match these programs. If it is a goal in the regular program to match HOME assistance then that should be stated in the application and not implied. It should be noted that the only limits given in disaster applications are 221(d)(3) limits for a single-family structure.

Now I've given you a cost breakdown on my comments. Construction and demolition costs at $74,425; housing services or soft costs of $6,250; closing costs of $1,070; appraisals, two of them; at $800; and a survey at

$900. That gets a total cost, a real time cost to date of $83,445 on an 880-square-foot house on the HOME owner-occupied program.

You do not change your limits on this very often. But we would recommend that on disaster programs you stay with the 221(d)(3) limits. That's a sanctioned HUD limit. And if you do that we can build these houses.

On the regular program, if you desire a match, state it in the application. And we'll talk to those communities that want to match these programs. Otherwise, set the limit at $90,000. That way we can do these projects. Right now we're having a hard time doing them.

Final recommendation would be that you let the open market determine what the costs are. If we do not get a change in this I do believe we're going to have a significant slowdown in what we can provide in services to these small communities and rural areas in Texas as far as a HOME owner-occupied program.

MR. CONINE: Thank you. Any questions of the witness?

(No response.)

MR. CONINE: I'm sure staff will -- you've provided some valuable information here for staff to chew on and I'm sure they will do so. Thank you very much.

MR. RICE: I think it is an item on the agenda today -- on your agenda, so there may be some other comments at that time. Thank you.

MR. CONINE: Okay, thank you.

Matt ever show back up? Matt Hull?

(No response.)

MR. CONINE: Still out. Diana McIver.

MS. McIVER: I'm going to wait until the agenda item if I may.

MR. CONINE: Okay.

(Laughter.)

MR. CONINE:

MS. McIVER: Do I lose points by doing that or gain points?

(Laughter.)

MR. CONINE: You marked them both, looks like to me.

(Pause.)

MR. CONINE: It wouldn't be that you were undecided, would it?

MS. McIVER: Never.

MR. CONINE: Dianna Lewis?

MS. LEWIS: I'm happy to be a backup Dianna when you can't get the one you want. Chairman Conine and members of the Board, thank you for the opportunity to speak to you all briefly this evening.

My name is Dianna Lewis and I serve as the Texas Director for the Corporation of Supportive Housing. We work with communities nationally and here in Texas to create permanent housing with services for people who've experienced long-term homelessness.

And in Texas we have opened our office this year and recently helped found and worked closely with the Texas Supportive Housing Coalition. And today I really just wanted to briefly speak in support of the changes to the QAP relevant to supportive housing.

As I said the Coalition is newly formed. We are made up of nonprofit developers across the state who are providing or want to provide this kind of housing, of service providers and representatives of local jurisdictions, and with a lot of input from state agencies as well.

So this is really the first year that we've given feedback on the QAP in a coordinated fashion, and I just really -- I think it's so important for us to express our gratitude and appreciation of the agency, of Director Gerber and the staff, for the really thoughtful approach that's been taken in the QAP to looking through and making sure that, you know, we're creating a system that allows these deals to compete in the process in a way that's fair both to supportive housing providers and to others.

And we really feel like, you know, this is major progress and also that in coordination with what we hope will be a substantial increase in the Housing Trust Fund with the ten-year plan that the state is moving forward right now -- it really represents substantial progress in the agency and our state, you know, creating an environment where we can go a long way toward ending long-term homelessness.

So briefly that's really all I had this evening but just also wanted to, you know, be clear that the Corporation for Supportive Housing and the Coalition members remain committed to continuing to work with the agency. There is much work to be done and we look forward to doing that as we move forward. Thank you.

MR. CONINE: Thank you, Ms. Lewis. Any questions of the witness?

MS. RAY: Mr. Chairman.

MR. CONINE: Yes, ma'am.

MS. RAY: I don't have a question for the witness but I do thank you for your comments. And I'd just like to say for the Board is, Lord, what a difference a year makes. That's all I have to say.

(Laughter.)

MS. RAY: Thank you for your comments.

MR. CONINE: Tony Sisk.

MR. SISK: Good afternoon, Tony Sisk with Churchill Residential. Board, I wanted to point out in the QAP proposal initiatives that there is a proposal to eliminate paragraph 49.9(I)(17) to -- in favor of adding the green building initiatives which I think is a good idea to add those, but I just wanted to point out to some of the new Board members that several years ago there was legislation to encourage development in exurban cities if you will, less than 100,000 population.

There was a six point -- there were six points in the selection criteria that was taken out with this proposal, staff proposal of the QAP, and since it was added with legislation a couple of years ago to encourage development outside of the central city and a number of smaller cities that do not have any affordable housing, I would like to suggest if possible to add that paragraph back into the QAP. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you.

Scott Marks.

MR. MARKS: Hello. My name is Scott Marks and I'm with the law firm Coates Rose. I'd first of all like to thank the staff of the Agency for doing a really amazing job of responding to the federal legislation that was passed this summer, getting public comment and incorporating that into the QAP. It's been really impressive and the staff have done a great job.

I only have a couple of comments on the QAP, slight word changes that I would like to propose. One is in the cost-per-square-foot points. That's ten points, and I've heard a lot of testimony from developers about the increases in construction costs.

And here, cost per square foot you're taking the construction costs and dividing that by the net rentable area, the area that's actually rented out. And the staff have proposed increasing the cost-per-square-foot limit for these points which is great and I support that wholeheartedly.

And the only revision that I would propose is in the sentence, "This calculation does not include indirect construction costs" that we also add, "or any other construction costs that are excluded by the applicant from eligible basis."

And the idea here is that if an applicant has a very high-cost property that the applicant can choose to exclude costs from eligible basis, meaning they're giving up those tax credits; they're not claiming those tax credits.

And so they lose the tax credits, but they don't lose the ten points. And I think that the Agency should be concerned about the credits that it allocates, and not the overall cost of the project. In particular, there are certain types of properties that are developed, for example, with structured parking. And that's just a very expensive type of development.

I don't think developers who are proposing that type of project should be penalized for doing a world-class urban property; they just should lose the credits, not get tax credits on that structured parking when they build it, but still qualify for these ten points. And these points are critical for any urban property.

The only other proposed revision that I would recommend is actually going back to the old definitions of unit and bedroom. For loft-type development we've had definitions of unit and bedroom in the QAP in previous years that allow loft-type development, and in downtown areas in particular, you might have a warehouse building and a developer is proposing to convert that to residential, doing adaptive re-use, and the QAP really promotes that.

And that's great. The definition of bedroom includes a new provision that it must be self-contained with a door, and that's just new language this year, and that's a real problem for loft developments that might have 1,200, 1,500 square feet for a unit but they have very high ceilings and it's hard to get drywall in there and a door for each bedroom.

Also in the definition of unit in the QAP there were square footages for loft developments and I would just propose that we leave that language in the QAP. Thank you very much.

MR. CONINE: Thank you. Any questions of the witness?

MR. GERBER: Mr. Marks, if I could just ask you to just get together with staff if you would just to make sure they have a copy of your recommendations and we'll talk about that when we get to the QAP.

MR. MARKS: Absolutely, I will.

MR. GERBER: Thank you.

MR. CONINE: Keeping on the Coates Rose theme, Barry Palmer.

(Pause.)

MR. PALMER: Good afternoon. My name is Barry Palmer. I'm with the Coates Rose law firm and I wanted to speak to the Board for a few minutes this afternoon about the 2007 tax credit allocations and to urge your help in providing assistance to the 2007 tax credit allocations.

At this point by my best estimates about half of the '07 allocations have not closed at this point, which is an unprecedented number of deals not to have closed by September the year after their allocation. And the reason for it is twofold:

The projects have suffered substantial cost increases and at the same time we all know what's happened to the equity market, and the equity prices have declined substantially, so it's been a double hit for projects.

You heard earlier about Estella Trevino in Edinburg and the problems that they've had with this and there are a number of '07 allocations that are in the same situation where their sources and their uses are no longer in balance because of things outside their control in the equity and construction market.

So I would like to suggest two things that the Board can do to help the '07 allocations. And there's a short window of time really; we've only got about 120 days to close those '07 deals because of the placed-in-service deadline. If we don't close by the end of the year most syndicators won't take the risk on the placed in service.

But it -- the two things the Board could do would, number one, allocate additional credits to the '07 deals, using the 9 percent percentage that was approved in the recent legislation. And that would provide additional equity to the '07 deals. It would make up for the cost of the equity going down in projects.

But that in and of itself won't be enough for many of the '07 deals. And so I'd also like to urge the Board to adopt a relaxed policy towards amendments for the '07 deals to allow developers to make changes to their project to cut their construction costs to make up for the huge increases that we have had.

And that would include things like changing the site plan, reducing the number of buildings, and in some cases, reducing the number of units to make up for the increased construction costs. And with those changes I believe that the vast majority of the '07 deals could close within the next 120 days.

And you're going to be hearing tomorrow on the amendment side, there's several '07 deals that are on the agenda tomorrow asking for changes to help them deal with the construction cost increases. And that together with the additional credits will allow these deals to go forward.

It's not in anyone's interest to have a large number of the '07 deals come back. Not only have the developers invested enormous time and resources in this deal but so has the Department. Your staff, this Board, has invested countless hours underwriting, reviewing the applications and signing off on the '07 deals, and to have those deals come back now -- yes, they could be reallocated in '09 but that will be a year from now, and then it will be a year after that before they close.

So we're talking two years from now before we us any of that money. Whereas we could get it out in the next 120 days if we showed some flexibility towards the '07 deals. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you. Steve Ford.

MR. S. FORD: Mr. Chairman, members of the Board and Mr. Gerber, I hate to say it because I don't usually ever agree with lawyers but I kind of agree with Barry.

(Laughter.)

MR. S. FORD: The -- I think we have a problem and I don't even think we even have an idea of the magnitude of the problem yet. But I'll start by introducing myself. I'm Steve Ford. I have been in this program since 1988. We have developed about 8,000 affordable units in the State of Texas and currently have an additional 1,000 under construction right now.

The -- I'm here to request exactly what the last two have requested, that consideration be given to the 2007 deals and 2008 deals because I think the underwriting climate when these deals were submitted in the underwriting climate to date for debt and equity and construction costs have changed radically.

Right now of our 1,000 units under construction we are not done with all the bids on all the deals but we're about $6 a square foot or 12 percent out of round on the budget. And it's all across the board from copper to steel to concrete. And every time one of these storms comes around, then shingles go upside down and OSB goes upside down and we have a bigger problem.

But construction costs, you're going to hear a lot about. I'm not going to dwell on it but that's -- on our 1,000 units under construction we've got about 12 percent right now.

I think the -- a bigger issue that has not been dealt with a lot is the debt crisis. Currently, Fannie Mae and Freddie Mac are virtually out of the bond business and from what I understand their spreads over Treasury on the 9 percent market is up about 50 or 60 basis points over even four months ago.

I think that if you add that to the additional loan-to-value restrictions, debt service coverage restrictions that you're probably going to see about 10 to 12 percent, maybe 15 percent reduction in debt when these people come around to get their final commitments, because a commitment they got in January doesn't mean anything today. It didn't mean anything last week.

I know that we have a lot of debt, maybe $700 or $800 million of it and I'll loan it to anybody who wants it any time, but right now I think we're perceived as a better borrower, and I'm not sure I'm going to get any debt, especially on the permanent side.

And I don't think it's going to get better in six months, and I don't even think it's going to get better in a year. I think Treasuries are going to move up and it's going to make the spread problem the least of the two problems when it comes to the permanent debt.

And last but not least we've heard about equity pricing, and it's pretty easy to blame the syndicators, and I know they're at fault because they haven't gone out and chased the people that are making money -- I'm almost done. Promise you.

And -- but right now, I'm seeing the last deal I closed in January I got 90 cents for equity; every bit I've gotten so far this year is for 75 cents -- 74, 78. That's another 15, 16 percent. So when you only have, you know, two sources, debt and equity, and your uses have gone up, this is a pending disaster. I'm not even sure giving the credits is going to solve it but I'll assure you without them, my guess is 50, 60, 70 percent of the credit deals allocated in July will not happen.

If you have any questions I'd be happy to answer them.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you, sir.

William Brown?

MR. BROWN: Good afternoon, Chairman and Board members and Mr. Gerber. I'm kind of like Steve. I kind of agree with some of the attorneys up here today.

My company is Brownstone Affordable Housing. We have been in this arena for about five years. We have two projects now leased up, we have seven affordable projects that have been under construction or are in development, and in 2008 we will be either the contractor or developer on four projects. So we are very familiar with the pricing and equity pricing and construction cost issues.

I'm here today to request that the Board allocate additional credits to the 2008 competitive tax credit award up to the new 9 percent rate. I'm going to give the Board an example of hardship developers are going to be facing in the 2008 affordable -- in other words, in 2008 equity pricing range. We are currently developing a 100-unit townhome development in Pharr, Texas.

This project received 2007 credits. We closed this project in July 2008. We are fortunate to have selected a strong syndicator for this project, and this particular syndicator honored their LOI and held their pricing at 93.2 cents when the market pricing at the time was well below that amount.

Construction cost on this project was $81.50. This $81.50 included a 5 percent construction contingency. We have received an allocation for an additional 100 units townhome project in Pharr this year. The project will be very similar in townhome nature to the 2007 project that was closed a couple of months ago.

The problem with this new 100-unit project, which was a 2008 allocation, is that the equity pricing will probably be 15 cents less. On this project 15 cents represents almost $1.5 million of equity loss. Combine this $1.5 million equity loss, in other words, the loss in equity, with at least a 10 percent increase in construction cost and you're going to be faced with over a $2 million deficit.

Without the additional credits being allocated to this project, the project will not be feasible. As you can see, I believe that it is important for the Board to allocate credits to 2008 because without these credits, I would be willing to bet that the majority of the 2008 projects will not be funded. Thank you.

MR. CONINE: Thank you. Any questions of the witness?

(No response.)

MR. CONINE: Thank you very much.

Matt Hull ever make it back in?

(No response.)

MR. CONINE: Third time's the charm.

That concludes all the witness affirmation forms I have for the public comment period, so we'll close the public comment and move on to the consent agenda.

Those of you can see -- Board members can see the items listed there on the consent agenda. Do I hear a motion?

MS. RAY: So moved, Mr. Chairman.

MR. CONINE: Motion to approve the consent agenda. Do I hear a second?

MR. CARDENAS: Second.

MR. CONINE: Motioned has been seconded by Mr. Cardenas. Motion was made by Ms. Ray. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

I swore I wouldn't do this, but we're going to -- the prerogative of the Chair, going to move to Item 10(b) initially, which is the Presentation, Discussion and Possible Approval of Forward Commitments from the State 2009 Housing Credit Ceiling.

Mr. Gerber.

MR. GERBER: Mr. Chairman and Board, over the last several months you've heard public testimony from some 2008 tax credit applicants and their supporters requesting forward commitment. Just for the benefit of the Board to clarify, forward commitment is a commitment now, in 2008, to an application of next year's 2009 credit ceiling.

Providing forward commitments is federally permitted and is authorized within the QAP. The QAP notes that the Board may consider all applications submitted under the 2008 application round and included in your Board materials is a report on that round.

All applications that are indicated by an "N" in the status column are those applications that did not get an award of 2008 housing tax credits prior to this meeting and would be eligible for a forward commitment under this agenda item. Staff will have a little bit more to say after public comment.

MR. CONINE: Okay. I do have some public comment on this item.

MS. RAY: Mr. Chairman.

MR. CONINE: Yes, ma'am.

MS. RAY: Given the -- Mr. Chairman, I move that the Board commitment decision be postponed until the

November meeting.

MR. CONINE: Okay. There's a motion on the floor to table this agenda item to the November meeting. Do I hear a second?

DR. MUNOZ: Second.

MR. CONINE: Motioned, and seconded by Dr. Munoz. No discussion on a tabling motion I believe. All those in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Now, we'll go -- I'll tell you what we're going to do. We're going to take a ten-minute break and be back to take Item 2 after the ten-minute break.

(Whereupon, a brief recess was taken.)

MR. CONINE: Let me get your attention. We'll move forward. As a reason of editorial comment so to speak on the last agenda item, both staff and some of us Board members felt very concerned about issuing forward commitments in the light of the turbulent credit market by not only -- nothing more credits on the market at this particular time, but also because of the unpredictability of the next agenda item that we're getting ready to take up. We just felt like it was best to postpone our decision on the '09 forwards to our next meeting.

That doesn't say that we don't appreciate everyone that showed up here to testify in the public comment period on their -- on behalf of their project. We duly noted that. I want to make sure the development community understood what we were thinking of here.

All right, moving on to Item 2, Presentation, Discussion and Possible Approval of a Policy for Implementation of HR 3221.

Mr. Gerber.

MR. GERBER: Mr. Chairman and Board members, as you know on July 30, 2008, the President signed into law a housing stimulus bill, the Housing and Economic Recovery Act of 2008, HR 3221. The provisions of the Bill are far-reaching and impact the Department in a variety of ways; however, there are several specific provisions that relate directly to the Agency's administration of the housing tax credit program that need immediate attention.

The most urgent of these issues is the allocation of an additional 10 percent or $4.7 million in credits per year for 2008 and 2009. On August 14, 2008, the Department hosted a work group to gather input on the implementation of HR 3221 for the housing tax credit program.

More than 130 people were in attendance and represented both for profit and nonprofit developers. Interest groups including the Texas Affiliation of Affordable Housing Providers and the Rural Rental Housing Association, consultants, attorneys, one syndicator, local government, legislative staff, advocates, supportive housing proponents, property management firms and other interested parties were all present.

Based on the input received and on staff research and evaluation, staff has provided you with a series of decisions that need to be made today.

On several items, staff makes a specific recommendation but on two of the items, staff has provided options to the Board for discussion and we are not making a specific recommendation.

Brooke Boston, who has done yeoman's work in leading our Department's efforts to fully understand and implement 3221 is going to walk through each of the provisions and decision points.

Brooke?

MS. BOSTON: As Mike mentioned we've put a lot of work into trying to talk with people about the ideal approach for how to handle this, and some of the things seem to have more obvious staff recommendations and some weren't quite so obvious, which is why we're laying them out for you as different options.

In your writeup -- I apologize if there's not page numbers. On the second page it starts with a discussion and there are four major issues that we are going to need you all to talk about and discuss.

The first relates to an increase in the housing credit. The bill allocated an extra 10 percent of credits, or 20 cents per capita, for 2008 and 2009 only. For 2008, staff is recommending that we definitely allocate that by the end of this calendar year which is part of the urgency of making sure we cover this today.

That urgency isn't as applicable for 2009, although our recommendations in here relate more to taking action on both at the same time. I'm going to skip past what those options are for a moment and just tell you that the other three items include dealing with the 10 percent test deadline, which is a federal deadline relating to when an owner has to have expended at least 10 percent of their costs. And in this case we're making a specific recommendation for you all.

And then we're also making a recommendation relating to site control. This isn't something that was specific in the bill but relating to just kind of what's going on with all of the properties and the cost changes that people have been alluding to.

We felt like this was -- it was something that was requested at the work group and we felt like was reasonable and made sense.

And then the last item relates to something we're calling amnesty. And that has to do with creating an environment where people can more comfortably return credits without being penalized, so that if someone can't make a deal work regardless of what decision you all make today relating to the extra credits, they can return those credits.

Right now the policy of the Agency through the Qualified Allocation Plan is that if someone returns credits after they've carried over they get a 20 percent hit in points being deducted next year if they compete, and that's huge. I mean, it's a huge disincentive for them to return credits for 2007.

In 2008 it wouldn't necessarily apply because they haven't carried over yet anyway, but -- so with that being said, I can either start talking you through the first issue or I don't know if you want to take comment first. I'm happy to do it either way.

MR. CONINE: Why don't you walk us through the staff recommendation or choices?

MS. BOSTON: Okay. The amount that I alluded to, the extra 10 percent a year, is approximately $4.7 per year. You can -- everything I'm about to talk through you can do for '08 or '09, or '08 and '09. So just, so keeping that in mind.

The first option would be to use the credits to generate new units and that essentially would be going through the '08 waiting list that the Board approved in July and taking the next few deals. If you all get to a point where you'd like to talk through that in more detail, Robbie has that list ready and could tell us which deals those would be if you'd like that information.

We did make that suggestion at the work group meeting and it had limited support. The second option --

(Laughter.)

MS. BOSTON: -- is to generate more lower-income units with the existing awards which would be that someone -- or an application could only get these additional credits if they committed to do some lower income units above and beyond what's already represented in their current application and award.

Again, there's limited support for that; the feedback we've gotten is that because the deals are tight as it is, trying to subsidize more units is not necessarily something that the money would be able to go for, the additional credits.

The third option would be to assist existing units, and that would be helping '07 and '08 deals. There are -- the Bill allows that the extra -- that the 9 percent credits can be used for any deals that haven't placed in service. And so that's pretty much almost all of the '07s, all of the '08s, of course, because you just awarded those.

There are a smattering of '05 and '06 deals actually that also have not placed in service because they would have had extensions for one reason or another primarily relating to the hurricanes. We are not recommending that they would get this because they're far enough down the path of construction that we don't think that it would apply.

So in this option we would use 2008 and/or 2009 credits to allow the 2007 and 2008 deals to be given extra credits. Part of the Bill also allowed that 9 percent deals can now be underwritten at a flat 9 percent instead of the kind of changing rate that we've been using in the program over time.

That would -- one of the recommendations or the option is that you could use the credits to let the deals get up to that level. That raises a lot of issues because to just do it on a flat basis -- some of the questions that staff's had to talk through is, well, do you just apply that rate on the current underwriting report at the current costs that were already in their application, do you look at new costs, do you look at the pricing that was in their application on syndication or do you look at new syndication pricing?

Because there are still a lot of moving pieces, so it's not as simple as just saying, apply the 9 percent. It's, okay, well, if you do apply the 9 percent to everybody that's one question, do you give it to everybody or only to some? And if some, what's the criteria? If you give it to everybody do you -- how do you calculate that?

So those are some of the issues that arise, and the last option is a combination which would use half of the credits, and we aren't specifying which half. It could either be '08s versus '09 or half of '08 and then half of '09.

To help some deals on a case-by-case basis from 2007 and 2008 they would need to come in and be evaluated.

We imagine we would get requests that would exceed the amount we would have available, and so it would probably need to be some type of criteria that the Board would need to direct us would be the method for evaluating those on a case-by-case basis.

Then the other half would be used to either just be used in 2009 as part of the ceiling or could be used to go down the waiting list a little bit. So -- and we also have that list in a halfway scenario if the Board ends up wanting that information as well.

Depending on which of those four options you do, there's then a whole series of decision points that my thought is that we wouldn't go down all those and take you there until after we know what general direction you're heading, because some of them we don't need to discuss depending on what you do.

But I'd be happy to talk about them also at your pleasure.

MR. CONINE: Why don't you -- I'm going to ask some questions before we get to public comment just so I can understand what we're up against. The real critical projects from a timing perspective are the '07 that haven't closed for one reason or another.

Would you go over the timeline that the staff proposed in, was it 1(f) or whatever it is?

MS. BOSTON: Yes.

MR. CONINE: Tell me kind of how that would work from a developer scenario and staff scenario.

MS. BOSTON: Okay. We -- and granted, yes. I'll just take you through. Okay.

The -- we have the Board would approve a policy at the meeting today or tomorrow. Because of that -- depending on what direction you go, but one of our suggestions in here is that the Board could ask for new syndication letters so that our evaluation on behalf of the applicants by our underwriting staff would be looking at the most accurate picture of their syndication pricing.

The timeline accounts for that and says that by September 18, about two weeks, we would get letters back from them letting us know what the pricing that they want us to evaluate their application is based on.

And if you all choose to direct us to also accept new cost documentation that would also need to come in then. That's a lot for them to do in two weeks, but I would think that they could do it. That means that we would then reevaluate each of the applications but using that standard.

By October 1 we would release new commitment notices. For 2008 deals they already had commitment notices out; we've kind of put them on hold, so we would just issue new commitment notices that reflect the amount you all awarded the other day, plus whatever the new calculation would be.

For 2007 deals we'd be issuing commitment notices just for the new additional incremental amount. In that commitment notice, it would have the new amount and it would also indicate any fees or conditions that would be in place. They would be required to pay their fee and everything that would have had to come in with their original notice by October 12.

But then also to continue promoting the amnesty concept that I alluded to, we would allow amnesty to go beyond that, to November 1. So from the time they would get -- when we would send the notices out on October 1 they would have 30 days to make a decision about amnesty and whether they do or don't want to return their credits.

That would apply for the 2007s, and the 2008 although as I mentioned they're -- they wouldn't necessarily need the amnesty because they wouldn't have carried over yet.

Then at the same time that -- well, I take that back. October 12 they would have their fees in, and then carryover would still occur at the same time. However, we are no longer recommending that carryover include site control and so carryover essentially is mostly them just filling out some basic documents. It's -- I don't believe that our applicant community would find it a challenge to meet carryover on November 1 if the site control component is approved to be moved to the 10 percent test.

It's tight. It's tight for staff side and it's probably tight for the development community but I think if we were going to do it this way where you want us to reevaluate syndication, it could -- we can make this work.

MR. CONINE: Well, we -- when's our November Board meeting scheduled? Anyone --

MS. BOSTON: Fourteenth?

MR. CONINE: So we would have the ability to understand what the outcome is of the process by the Board meeting based on your timeline -- by November 10.

MS. BOSTON: Yes.

MR. CONINE: The rest of us [inaudible]

MS. BOSTON: You mean, outcome --

MR. CONINE: What the bottom line was on this whole thing.

MS. BOSTON: Yes, yes. Definitely. And what -- we might not know at that point. We would definitely know of any returns within the amnesty period, although kind of who those all go to next may not have all happened. And the --

MR. CONINE: We have a -- I see what the number was fully loaded, if you will --

MS. BOSTON: Uh-huh.

MR. CONINE: -- '07 and '08 and '09 percent. Do we have a number that -- I think we went to full load at 9 percent on the '07 deals only, that [inaudible]. Do you know what that number is --

MS. BOSTON: This number's not split out by the ones that haven't closed. I do have it for '07 with looking at a lower syndication rate. That -- and if you look at the costs being what they were in their application with gapping them at an 83-cent-syndication rate for just 2007 it would be 3.3, approximately.

If you look at an 81-cent-syndication rate it would be 3.9.

MR. CONINE: So half of them have closed, half that number, roughly.

MS. BOSTON: Roughly. And I don't know that our data shows that it's half having closed. Is it --

VOICE: It is half.

MS. BOSTON: Okay.

(Pause.)

MR. CONINE: Any other questions of Brooke or staff at this point before we go to public comment on this agenda item?

(No response.)

MR. CONINE: All right. Michael Hartman.

MR. HARTMAN: Good afternoon, or good evening. Mr. Chairman, members of the Board, my name is Michael Hartman. I'm with Roundstone Development in Dallas. Thank you for letting me speak on this. I was one of the 130-some people that showed up for the workshop, and most of what Brooke has already told you I agree with.

I definitely think that all the 2007 deals need help. You've seen a drop in credit prices of 10 to 15 cents, an increase in loan rates of 100 basis points, and an increase in construction costs. All three of those are causing a perfect storm for the 2007 deals.

Since the workshop I've had time to think about the 2008 deals and I'm kind of shooting myself in the foot here because I have a 2008 deal. But at the time they were done, we were already in the midst of the tax credit drop in prices. I mean, anybody that used more than 81 or 82 cents to underwrite their potential 2008 deal was really just fooling themselves if they thought that they were going to get a higher credit price than that.

And in terms of interest rates, most of that 100-basis-point increase happened before March. So again in terms of the debt that people thought they were going to get on 2008 deals, I really think that, you know, they should have been factoring in a 40-to-50-basis-point increase over what current rates are anyway, just to be safe and give themselves some room so if the deal didn't work then -- I don't think that the 2008s necessarily need it.

I would say -- my recommendation would be leave the 2009 credits for 2009. Right now there's not much capacity in the market. If American business picks up in 2009 and American businesses start making profits again, then there's going to be more of a demand for the tax credits in the first quarter of 2010 which is when those 2009 credits will be going to the market.

The other thing on amnesty I would like to talk about is maybe even broaden it more than what's been proposed by staff. Basically right now a developer has two choices. Either they go ahead with a bad deal, even if that deal loses a little bit of money, because otherwise they're out of business for the next two years in Texas. That's the long and the short of what that 20 percent penalty means.

So in some cases they will do a deal that's showing a loss going in because they can't afford to be out of business for the next few years. So if you get -- as long as you get those credits back and you can recycle them, I would suggest that you not impose a penalty because it's better to let the developer give you the credits back and recycle them into a deal that is economically feasible, than have a developer go forward with a deal that isn't feasible and that would fail down the road. Thank you very much. Any questions?

MR. CONINE: How does the amnesty proposed by staff differ from what you just said?

MR. HARTMAN: Well, the amnesty by staff is proposed basically for 2007 and 2008. I'm saying more of a general -- as a general policy going forward that you would have -- there would not be a penalty unless those credits were permanently lost to the state.

MR. CONINE: On any '07 or '08 deal?

MR. HARTMAN: On any deal.

MR. CONINE: Or just perpetuity.

MR. HARTMAN: Perpetuity.

MR. CONINE: We don't penalize anybody for doing anything --

MR. HARTMAN: No, I'm not saying that. What I'm saying is that you're not losing the credits. You can recycle those credits.

MR. CONINE: You weren't losing credits when we didn't have them. There were reasons to have them.

MR. HARTMAN: Okay.

MR. CONINE: Okay. Any other questions of the witness?

(No response.)

MR. CONINE: Thank you.

MR. HARTMAN: Thank you.

MR. CONINE: Dennis Hoover. Dan Allgeier's up next.

MR. HOOVER: Good afternoon. My name is Dennis Hoover. I'm here to speak on a couple of '06 deals, new construction rural development USDA deals that are down in the Lower Valley. They're 100 percent rental assistance. They're little deals. One of them's 22 units; one of them's 30 units.

I started the USDA application process on one of them in 2004, the other one in 2005, got credits on both of these deals in 2006 and have been laboring with USDA ever since trying to get their approval.

I'm finished with one of them as of last week, finished construction, and about 75 percent finished with the other, and as of example of the shortness of staff there at USDA they -- we're going to preconstruction conference tomorrow on the one that I've already finished.

(Laughter.)

MR. HOOVER: And on the one that's -- on both of them. But as you can imagine, my costs have increased quite a bit since I put in the applications, 2004 and 2005. I basically will get finished and be able, hopefully, at current rates locked in at 3.48 percent, since these were 4 percent deals -- they're not bond deals but since they're federally subsidized they're at the 4 percent rate.

And I got 92 percent of the development fee deferred on one and 83 percent of the development fee deferred on the other. And they're '06 deals. Rick was saying a while ago most all the '05 and '06 deals are in, but I think, you know, the new law allows '05 and '06 deals to be helped by this.

I need the 9 percent credit, and I need about $20,000 extra credit on one and $40,000 extra credit on the other. And that's a sad story.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you very much.

MR. HOOVER: Thank you.

MR. CONINE: Dan? Bill Fischer's next.

MR. ALLGEIER: My name's Dan Allgeier, I appreciate the opportunity. Frankly, the only practical use of these additional credits is to increase the allocations for the '07 and '08 projects. Everybody's told you about the increased construction costs; that's true, told you about lower equity prices that's taken money from us. There's a couple of things that haven't been mentioned.

We are getting equity offers. They're not giving us the money at the same times they were giving us money before. We're not getting equity funds until you're completed with the project, until you're getting certificates of occupancy. So you got a higher interest to carry because you got to build the project; you got to pay the contractor.

And so you've got higher interest costs included. Because of the timelines involved, the fact that we delay our commitments slightly, we've been holding these land contracts since January, some cases December. The land sellers are not always excited about the fact that they were supposed to be closing in September and

October on the land.

They want more money; I've got a contract with North Park Baptist Church in Fort Worth. They want another $15,000 a month on top of the construction costs. They got a roof that got torn off; they want to repair their roof.

So, you know, that's an additional cost too. Those factors should show that it's really too complex to look at these on a deal-by-deal basis; there's so much involved on every deal. When you get your money, how much money you're getting, what your construction costs are, why your construction costs are different, whether you're on the coast, whether you're not on the coast.

You really need to do a broad, across-the-board increase in the credits and sort it out at cost certification as to what's available.

And finally I wanted to reiterate what Barry Palmer and Steve Ford said, that you need to look at consideration for some changes in the construction. I'm doing a townhouse project; I've got to do 9-foot ceilings in it, under what I did. I can put something in as an alternative. These are issues you guys need to address without penalty right now because of the situation right now. Thank you.

MR. CONINE: Any questions of Dan?

(No response.)

MR. CONINE: Bill Fischer, Robert Johnson's next.

MR. FISCHER: Good evening, Board members. I'm Bill Fischer, Odyssey Residential. I think you know the problem. Our recommendation having two allocations for 2007 and having offers from syndicators on the latter is I want the Board to understand what they're really doing allocating us additional credits. You're making our transactions competitive with the other tax credit investments these investor have around the country.

They're looking for the best projects in the best locations, and the one thing that they're certainly insisting on is that the projects be fully funded. They're looking for as much tax credit equity as is feasible under the formulas and minimizing the debt on these developments.

And by allocating the '07 projects additional credits using the 9 percent tax credit allocation formula, you are making sure these developments are competitive with other investment choices these people have in other states.

Specifically obviously we're supporting the recommendation of Option Number 3 which is to fund the '07 developments and '08s utilizing the staff's methodology, although using the gap method emphasizing the use of equity to support these developments, because we are in a dynamic environment.

We'd ask that as part of the staff recommendation that you support C, D, E and F with the one change in F that you bump forward by two weeks the -- from starting with the syndication letters, two additional weeks for staff releases, two additional weeks for notice commitments and two additional weeks for the amnesty period.

We have to go back to these investors again; they are very particular. We're going to be getting new letters. They have processes to go through. We do want -- we do think it's important to demonstrate to the Department and the staff that we do have investors if you're giving us additional credits. That's a very reasonable part of this solution.

But we do need some time to work through folks who have a lot of options out there. And we appreciate you all taking your time to address the concerns we have for the projects from '07 that really need your additional support. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you.

Mike Sugrue is next after Mr. Johnson.

MR. JOHNSON: Thank you, Mr. Chairman, and members of the Board. My name is Robert Johnson. I'm senior vice president of National Equity Fund. We are a tax credit syndicator, and we're here to also recommend that the Board accept Option 3 that the staff is recommending, which is the overall increase in allocation for transactions that were allocated in '07 and '08.

The fundamental issue in our market right now is the IRRs that investors, top-tier investors are demanding right now is increased by almost 200 basis points from this time or earlier in 2007 which has caused a dramatic impact on all transactions. Much of it has been unforeseen. Even from the beginning of this year, we've had increases in the internal rate of return demanded by investors to the tune of almost 100 basis points.

Right now we perceive that the IRRs going into the end of this year are going to be in the low 7s and going into 2009 they could be even higher than that. Couple this with the fact that investors at the top-tier level are having an opportunity to be much more selective and there may not be sufficient capital to serve all transactions that were allocated tax credits nationwide is putting additional capacity in the hands of the top-tier investors to be very selective and demanding with regard to the feasibility and structure of any given transaction.

The increase in low-income housing tax credits to deals that were allocated in 2000 and 2008 -- 2007 and 2008 -- will obviously enable these transactions to be much more financially feasible in this current credit-pricing environment.

In consideration of that we believe that it is important to strengthen the already allocated transactions as opposed to allocating additional tax credits to new deals that may be in front of this body, which would then further dilute the market that would be out there for equity investment. And I'm available to answer any questions.

MR. CONINE: Mr. Johnson, is there a situation where you as a syndicator would not allow additional credits in an '07 deal?

MR. JOHNSON: Well, I think that the -- all funds that are put together have a certain amount of capacity to enter or to recognize additional tax credits on an upward-adjuster basis. But those amounts of additional tax credits that would be available for purchase from any given fund, and this varies from investor to investor, is limited.

And so a couple of years ago when Katrina came up and this body allocated additional tax credits to certain transactions due to development cost increases was a remote instance inside the United States and not the United States as a whole.

Now, investors are looking at the prospects of not only this body but your peers throughout the United States also, you know, dealing with the same question of, how do we increase allocation of tax credits to existing closed transactions.

And I could see a situation where there just will not be sufficient funds inside of those equity funds to service all of the additional credits that would be available.

MR. CONINE: So what would you do in that scenario? Would you take some money out of an '08 fund to fund those, or you just --

MR. JOHNSON: Well, it could be very possible that we would not be able to fund the additional credits on closed deals.

MR. CONINE: And could you respond to whether you could or couldn't on a particular deal within the time frame outlined in the time frame the staff has recommended?

MR. JOHNSON: I think that we could. Of course, NEF stands -- obviously is a -- possibly, I'm not the person that should respond to that, Mr. Conine, because --

MR. CONINE: You're a salesman, aren't you?

(Laughter.)

MR. JOHNSON: Well, I am. But my situation is that National Equity Fund doesn't have a huge volume of activity inside the State of Texas, so it would be very difficult for me to sit up here and say, "Sure, that's no problem," and then have this Board basically use that comment as a determination for P&C or Sun America or other groups that do have large inventories inside of the state.

So respectfully I would probably defer comment to a future -- a subsequent speaker.

MR. CONINE: Well, I'll get a chance to ask one or two more.

MR. JOHNSON: Okay.

MR. CONINE: Thank you. Any other questions of the witness?

(No response.)

MR. CONINE: Thank you.

MR. JOHNSON: Thank you.

MR. CONINE: Mike? Granger MacDonald's next.

MR. SUGRUE: Good afternoon, Mr. Conine, Board, Mr. Gerber. My name is Mike Sugrue. I'm here in my capacity today as the president of TAAHP, the Texas Affiliation of Affordable Housing Providers. And as you've already heard -- and excuse me for that earlier comment, Ms. Ray, by the way when we were on the way to the facility. As you've --

(Laughter.)

MS. RAY: Private joke, you all.

(Laughter.)

MR. SUGRUE: As you've heard from those who have preceded me, costs are going up; prices are going down. And the costs are going up for a number of reasons. You know, just because a time -- I want to make sure everybody understands the timing of putting in an application, timing of getting an award and timing of being able to start -- one to two years obviously as you're hearing because you know '07 deals are not closed.

And during that time costs go up just because costs go up. Gustav had some minor impact; Hanna may pick up the slack. Neither one so far looks like it's any impact compared to Katrina. However, we have Ike coming, and then the J hurricane. I don't even remember the name of that one. But we're in the midst of hurricane season; we anticipate additional costs.

The prices have gone down for a number of reasons, not just because Fannie and Freddie have left the market, which were the major purchasers, but because the syndicators don't control the price. The upper-tier investors pull the strings for the syndicators and tell them what they're going to pay based on the yields the upper-tier investors are demanding.

They're demanding higher yields today which interprets to lower prices. The lower prices -- and I will tell you that '07 and '08 deals both are having the impact. I could talk specifically about mine but that's not what I'm here for.

The -- but I think the most equitable way would be pro rata across the board, let the people who need the credits get the credits; those who don't need credits tell you they don't need them; give a time limit to turn them back as you see that's in our letter. I don't want to bore you with reading the letter.

Also, the amnesty period that was talked about earlier, I think it should be extended to the Board meeting in November whatever that date is, which probably is a little further than Brooke had mentioned earlier. But it just gives you the opportunity to hear amendments before the amnesty kicks in.

In our letter we say the '07 allocation is going to take a little over 5 percent additional; the '08's approximately 10 or close to 10. To answer the question you asked Robert a little while ago most partnership agreements have a 10 to 15 percent limit of additional credits.

So you can take an upper-tier adjuster to that but some have lower so it depends upon the closed deals if they can use them or not.

I guess that's -- I don't want to take up too much time with it. I'm here to answer questions as it relates to anything else, anything I did.

Oh, the other thing that I must say that -- because Barry just ran over, about the 9 percent that's in our letter -- Barry help me out. Quick, there goes the buzzer.

VOICE: [inaudible]

MR. SUGRUE: Oh, the $2 million cap. The $2 million cap for those -- because that's legislative, for those who would bump that we would respectfully request an '09 forward to make up that difference so they -- if it's warranted, they don't hit the legislative cap and not be able to do their deal. That's me.

MR. CONINE: Mr. Sugrue, are you suggesting that the upper-tier investors are ballooning on pricing? Is that what I heard you say?

MR. SUGRUE: No. I would say the upper-tier investors have gotten to be so small in number that they're demanding -- I'll give you a good example -- and some of the investors here deal with Verizon. Verizon at an upper-tier is looking for like an 8 or 8-1/2 percent, 8-1/4 percent upper-tier yield.

That will relate to a 9-1/2 lower tier. 9-1/2 lower tiers could be a low 70-cent price. What they're doing, they're making hay while the sun shines, or so they think.

MR. CONINE: Okay. Any other questions of the witness?

(No response.)

MR. CONINE: Granger, and then Nicole is next, Nicole Flores.

MR. MacDONALD: My name's Granger MacDonald of Kerrville, Texas. Thanks to this opportunity to speak before you today. I come from an entirely different angle, different viewpoint. I'm a contractor first and developer second. I know I don't look like it but I've been involved in the construction business for 38 years.

We've been going into fairly uncharted waters with pricing. And because of that our '07 deals that are closed need credits, additional credits, as bad as the ones that did close.

Yesterday, 7/16" OSB plywood, mainstay of the modern construction, jumped $26 a thousand. Asphalt shingles, if you can get them, are up $45 a square more than last year. Concrete is routinely priced in excess of $120 a yard. Copper, which is used in air conditioning, plumbing and wiring is in excess of $4 a pound. Iron and steel products which is used in everything from manhole covers to stairways and railings is double over the past two years.

Diesel fuel which shows up in delivery fees and equipment fuel is still more than $4 a gallon. And more importantly, because of all the fuel increases, items and commodities which should have gone down have not because delivery costs have eaten into that.

The only item that I know that I can track that's gone down is insulation. It's down about 3 percent. And that makes up a very small piece of the construction puzzle.

We're also facing a real unique problem in several of our rural communities, two of my projects specifically. Changes in the International Building Code have made us now go install fire sprinklers in projects that we didn't have budgeted -- '07 projects that we did not have fire sprinklers budgeted in.

This cost is about $1.50 a square foot. Those that are involved in the construction business knows that's a fair price on that number. That's equating to 2 percent of our total budget in that one item alone.

So even if everything else was in good shape we just lost 2 percent on the sprinkler budget on the change to the IBC building code, International Building Code.

When you couple those facts together, it's just not a cheery situation. I realize that there's talk about the price of credits but the credit issue you could give one project a trillion dollars in credits, and it's all boils down to what's going to happen when they reach cost certification, the actual cost of what the construction is.

And that's why I would advocate that you give a 10 percent across-the-board allocation of the credits that would require less underwriting, less participation on a staff level, and you can do it instantaneously and virtually overnight. If there's any overage at that point it will come back to you at cost cert. I doubt that anybody will overbuy their credits because they'll have to pay commitment fees on them and suffer the consequences at cost certification.

I've checked around with a lot of people that were involved in the effort of passing House Bill 3221, and the consensus is, the 10 percent increase in credits was done to cover the indexing to the 9 percent. It's not accidental that those numbers matched up almost perfectly.

I wish there had been more written legislative intent so that we wouldn't be having to have this discussion, but from what I can tell that was the legislative intent.

I'll be glad to answer any questions you might have.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you.

Nicole, and Ray Lucas is next.

MS. FLORES: Good afternoon. My speech has been reduced to this.

My name is Nicole Flores. I'm the senior vice president with P&C Multifamily Capital. We are a tax credit syndication firm as well as providing financing.

Mr. Chairman, Mr. Gerber, Board members, I really appreciate your time. I know you've heard a lot of duplicative information this afternoon but I think it's important that we have this dialogue.

To date in 2007, P&C Multifamily Capital has closed seven 9 percent deals in Texas. Five of those we originally underwrote to pricing at market conditions. We did not reduce our price on those five transactions despite being in underwriting for nearly a year.

Two of those seven transactions we picked up from another syndicator. They were repriced early in this year but we were able to successfully close them. We have five deals in underwriting, hoping to close in the next 30 to 45 days. All of them are scheduled to close right now before September 15.

They have various states of problems. None of them related to credit pricing, all of them related to expense increases, cost increases, utility allowance increases, increases in finance cost. The two items I haven't heard discussed today are the expense increases and the utility allowance increases which add to this perfect storm.

The workshop that was held a few weeks ago -- thank you so much for that workshop. There were two things that I noted at that workshop. There was tremendous participation. I couldn't find a person that I've known in this industry for 15 years that wasn't there. People were sitting on the floor; people were standing in the corners.

There was virtually unanimous consent, and I think staff has done a really good job of highlighting for you the feedback in the consensus. Across the board construction prices are up. The deals that P&C has closed this year I've told you, our credit pricing remains stable. From last fall most of them closed with more than 50 percent deferred fee because of changes in construction costs, and increases in the expense side, which had the reciprocal impact of reducing the debt that the projects were able to carry.

So I would encourage you to stick with the TAAHP recommendation and also the staff's recommendation under Option Number 3, which is to provide additional capital to the transactions that are there.

My granddaddy used to say, "A bird in the hand, a lot better than two in the bush." In this market it's never been truer. Timing -- timing is critical to these deals. We don't have time to underwrite them.

I'm going to say something that you'll probably never heard me say again. I agree with Barry Palmer, I agree with Steve Ford and I agree with Bill Fischer. We need to move forward quickly on these deals. We don't have time to re-underwrite them.

I'm going to disagree a little bit with Barry. I don't think we have 120 days to save the '07 deals. If you have a 12-month construction contract, a 14-month construction contract, syndicator's not going to close your deal in November or December knowing you have less than that to place the deals in service.

So time is critically of the essence here. Finally, I just want to underscore some of the comments you've heard about how difficult it is to underwrite these transactions, how the standards are changing and how our investors are very selective. I would mirror Bill Fischer's comments. Bring the Texas deals to par with some of the other deals across the nation.

I'm competing with deals in New York City that have a lot more soft dollars in them. I'm competing with deals in South Miami; they've got HOME -- sale money and HOME money that help those yields come up to where the investors need them. In Texas, we don't have a lot of soft dollars. We don't have a lot that helps bring our yields up. We need more credits to save these deals.

My count is about 30 percent of the '07 deals haven't closed. In addition to the five we have still in underwriting at P&C, we have two others that just got numbers on it in the last 60 days, developers who have spent money $400,000, $500,000, $600,000 into these transactions and all the supporting disciplines you see in this room. They're all waiting to be paid too.

These units can be brought online. We can start construction in 60 days on these next five deals but we need relief; we need it critically.

It's not -- I mean, the analogy I've heard about forward-committing '08 deals right now is deck chairs on the Titanic. We've got to get closed what we have. We need to get these units into the market as soon as possible, and we desperately need your help.

And I really appreciate your time again listening to all of us, listening to our unique situations. Not only am I a syndicator, I'm married to a tax credit developer who's under construction on three '06 deals one of which just closed three months ago. I hear it from both sides -- living it from both sides. And everything you're hearing is absolutely true. Absolutely true. We really need help. Questions?

MR. CONINE: Nicole, can you speak to the question I asked Mr. Johnson earlier about capacity. If you take credits -- additional credits on an '07 deal within the framework of this --

MS. FLORES: Yes. We would be very happy to take credits on additional '07 deals. And I think the question is a little bit twofold, because as I read the staff's recommendation there's two things. I think it would be very difficult for '08 applications to have a letter confirming their pricing by September 12.

And that's because it typically takes us sometimes 30 days now to get these prices underwritten. We're having to do a lot more underwriting on the front end of these deals. We're often having to go to committee several times; we're often having dialogue with our investor services group about whether they have investors in a particular area.

So getting commitments for 2008 deals in terms of where their pricing is in the next two weeks is going to be very difficult. Getting confirmation as to whether '07 deals can accept additional credits, that's a pretty easy process. As Mr. Johnson and Mr. Sugrue indicated, we often syndicate deals in funds. There's typically a working capital line item that allows for 8609 adjustors, and typically our partnership agreements at P&C allow for up to 10 percent in additional capital based on the fund that you're in.

So typically I can tell you across the board, in my opinion, this is a much greater problem than Katrina and Rita, a much greater problem. And we did a 14 percent across-the-board increase there. P&C absorbed every additional credit in every single deal that came to us with 8609 adjustors. We have developers in the room that got additional credit and we were able to honor that credit and pay it out as part of the final adjustor, so --

And in some cases, we actually waived the requirements in our partnership agreement that would have that 8609 adjustor come in at the end. We actually funded that capital in the middle of construction to make sure that we would have adequate funds to finish projects. That's how dire the need is.

MR. CONINE: Any other questions of the witness?

(No response.)

MR. CONINE: Thank you very much.

MS. FLORES: Thank you.

MR. CONINE: Ray, and then Sarah Andre.

MR. LUCAS: Mr. Chairman, Board members, staff, my name's Ray Lucas. I operate Lucas & Associates, and I've been working on at-risk applications, rehabs for the last 15 years, but not in the tax credit. Tax credit's been in the last three or four years, and I'm here to agree with pretty much what everybody has said.

I think the flat tax credit addition to the '07 and '08 is in order. I also want to state that '07 transactions that closed, there were a lot of things that the syndicators were able to do to us to either increase costs or in order to honor pricing that caused us to want to be able to get more credits in order to make those more feasible, even though we have already closed.

And I agree with the amnesty, extending that as long as possible so that folks, once they figure out that they need to pass the credits back to the TDHCA, they can. Any questions?

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you, Mr. Lucas.

Sarah Andre, and Diana McIver's next.

MS. ANDRE: Good afternoon. My name is Sarah Andre and I'm here today as a consultant to tax credit applicants. The first thing I wanted to do is reiterate what somebody said and commend the staff. They did a great job with the workshop, and the document that they put together is really, really good. I feel like they heard what attendees said and they did a great job in developing options based on that input.

I am going to weigh in again on a few items that other people have mentioned today. First, time is really of the essence when responding to these -- to the new legislation and any potential allocation of additional credits.

Every week pricing drops, and it goes well below 79 cents in some cases. And that means that deals incur additional costs, and their viability is tested.

I think Option 3 proposed by staff that gives the across-the-board increase is definitely the best option. It's most efficient; it would be the quickest. Any case-by-case review or competitive process such as what was outlined in Option 4 is going to hinder the allocation of credits and end up hurting everybody in the long run.

I think it would also introduce a level of subjectivity which would then probably require an appeals process and would increase workload of staff and the Board and just slow everything down.

Second, I want to state my support for waiving the $1.2 million cap per allocation. That would allow all projects to benefit from the new legislation. Those that are already at $1.2 million, if the cap is still in place, would not be able to take on new credits, so I would like to state my support for that.

Third, I want to state that new cost documentation for projects should be allowed but not required by the Board. Some projects are going to keep their current cost structures and others will not, and to do an across the board submittal of new costs would be very time-consuming and burdensome I think for both program participants and for staff.

Any review of new costs should be done objectively and quickly. I urge you to direct staff to create clear and easy-to-follow guidelines for new cost submission and if feasible to have a third party do a review of those costs. Whatever would be quickest would be best.

If a developer chooses to go forward with a new cost submittal, he or she has got to be aware of what the timeline for approval or denial is going to be. They've got to know what the consequences are if those changes are not approved.

Developers who are not approved for cost changes may then decide to give credits back. They should still have access to any amnesty that would have been granted. That's a decision factor for them.

My fourth point is that the deadline for syndication letters outlined in the staff document is not reasonable for the '08 deals. Just reiterating what Nicole said, a more appropriate deadline might be December 1, but at any rate a little bit later.

We also need clarity if these are initial letters or LOIs. because developers are not going to be able to get LOIs that quickly.

Finally, I just encourage you to consider allowing design changes to deals, and I support the staff recommendations for moving site purchase to 10 percent, and the amnesty period. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you.

Ms. McIver. Dick Kilday will be next.

MS. McIVER: Diana McIver. And I believe that there is a handout that I was sharing with all of you. Chair, Vice Chair, Board, members of the staff, Diana

McIver with DMA Development Company. And my mode today is really more as one of educational.

So what I have done is to take several of our '07 deals and go through them and show you really what our issues are. And I will tell you at the outset, the good news is that we have -- the 2007 deals, we've got six, either in a consultant or developer role. The bad news is, we have six.

(Laughter.)

MS. McIVER: The good news is that we actually are better off than a lot of the people you've talked to because we actually do have investors on all six of those deals. Three of them closed in late May, early June, and another three should close in the next 30 days.

Two of those are rehab and I have not gone through this exercise with them. But I have gone through it with the three that have closed and one that should close in a couple of weeks. Now, I have protected the name only of the city, although I guarantee that Mr. Gouris can go through this list and tell you what each and every one of these projects -- I've made this available to staff. I'm sure they already know that.

And by the way if I need a few minutes of extra time, both Barry Kahn and Les Kilday have said they would grant me some time.

The first way -- I want to tell you sort of how I looked at these transactions, and so if you start with the first one it's 48 units, rural community. Please note in this case, this is under construction but our construction prices -- this is my big issue, our construction prices on this little deal, went up 30 percent from the time we filed an application.

That is a killer. So we went to closing with deferred developer fee of 65 percent. All of the deals that I have closed so far have deferred fee ranging from 61 percent to 110 percent. We'll get to the 110 percent in a little bit. The audience is going, "How can anybody do something that stupid?"

And in a sense none of these deals are good business deals; they are not. They are bad business deals. But in three of the four we have partners, and in two of the four we had cities who helped us acquire the land, and we had communities who needed the housing. And you don't back out of a deal simply because you're not going to make any money. You still go forward.

So please understand that these are really stupid business deals but this business is not all about the financial side of the transaction.

So taking you through the first one, basically we have a qualified basis number there, and these were '07 deals so they were all underwritten at a 0.0855 factor. If you simply were to take a 9 percent on our total eligible basis, we would end up at our current credit price of 96 -- 90 cents -- we would end up with $423,000 additional equity or the other thing -- there's three ways of looking at them. And Tom does all of his underwriting -- Tom and his staff do all of their underwriting and they already have factored in the credit boost. They have factored in if you have any market units to your applicable fraction and then they get to either the amount you requested, the amount of gap, so maybe you've got additional grant funds, the amount of gap calculation or just simply the amount that the project qualifies for based on its eligible basis.

The interesting thing about these four transactions is they each have different math to them. So on this particular one, we had a gap calculation of $506,000 and we had a credit award of $525,000. So if you go back to the gap calculation, then our additional credits would only be $26,633. If we were able to go to our full basis then that gap would be $47,044.

In this situation all that means is that you're right; we would be paying ourself more money because all of that goes to deferred fee at this point because we've already closed with a $660,000 deferred fee. But what that means is if the Board were to award '07 credits on our scenario, our worst two, best-case scenario would be from raising $423,000 to $239,000.

And I've taken you through each of those. The process that I used was simply to take that factor, whether it was the gap or whether it was the request, and to take that and divide it by the 0.0855, and then multiply it by 0.09 instead. That is what I went through on each of these.

And as you will note, the very last one, which is closed and is under construction, is one where we have 110 percent deferred fee. And in that one, even in the best-case scenario, we would still end up with a 68 percent deferred fee with the additional credits.

So really I guess I'm not going to walk you through all of this because it's really just math. But I guess my request is this, would you consider on the '07s to grant the simplest way across the board, and if that needs to be the least aggressive test, then it's the least aggressive test.

Grant that, let people come in and accept those credits, and then anyone who needs additional credits go in and go through underwriting. I think that -- well, I shouldn't even throw out numbers but maybe, you know, 30 or 40 percent of the applications would be comfortable with the least aggressive test and just getting that little extra credit.

We -- I just really emphasize time. We do not have time for your staff to re-underwrite every single deal. We simply don't have that kind of time. So I guess I'm here asking for assistance on the '07s -- you know, I've made my personal business mistakes. It's -- no one put a gun to my head to get me to close those projects. I did it voluntarily and if there's help to be had I appreciate it.

But, you know, I think that there are folks out there in worse situations than I am, and I think having four projects with deferred fees ranging from 61 percent to 110 percent is pretty bad. And if you look at those, one point I would like to make is that --

MR. CONINE: [inaudible] Ms. McIver.

MS. McIVER: I got time from Barry.

MR. CONINE: No, it's already been --

(Laughter.)

MS. McIVER: -- okay. Is that --

(Laughter.)

MS. McIVER: If you would look at the construction cost increases we've had, and they're basically up there in that 24 to 30 percent range. Thanks.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you.

Dick Kilday and Les Kilday, did they punt or did you decide to come on?

MR. D. KILDAY: I'm going to see if I could get a safety instead of punting. Hi, Dick Kilday, it's nice to see you all, appreciate the time and I won't take very much.

One thing that hadn't been brought out here yet today I think is the fact that most of the deals that we're talking about have no chance of having any cash flow. So they're all going to be flat or in deficit situation, and I can't speak for everybody because if you can make your deal work by dropping -- having your permanent loan drop so far, and you can still make it work then you could have some cash flow.

But I don't see any -- none of our deals are going to have any cash flow. We've got a deal that has even worse a problem because a zoning situation caused us to do a one-story project, and we've done that in the Hill Country and other places and it's worked okay, you know. It's more costly, Mr. Conine, as you know to do one-story than two or three. But it was enormously over; we couldn't believe it.

And so there are just all kinds of horror stories out there, and you've heard most of them and I had no intention of speaking but I think the cash flow and the other thing is worth bringing up, and we appreciate you all's deliberations, and we think the staff has just done an incredible job. Thank you very much.

MR. CONINE: Thank you. Any questions of the witness?

(No response.)

MR. CONINE: Les Kilday?

MR. L. KILDAY: I'll pass. My thoughts have been echoed.

MR. CONINE: Barry Kahn?

(No response.)

MR. CONINE: Looks like Ryan Heddick [phonetic] has granted you a little time, so you have five minutes, although I hope you don't use them.

(Laughter.)

MR. KAHN: No, I don't want five minutes. I just wanted to make sure Diane didn't take all my time with her liberties.

Anyhow, I'd just like to reiterate real quickly several of the things that have been talked about. One, that the $1.2 million cap that's a Board requirement be waived. Secondly, very much for the amnesty things, that way we'll find out quickly about some deals being returned. Echo the thoughts on Option 3; echo the thoughts on no underwriting.

And what I'd like to bring up is there's a lot of discussion on 2007 deals. We don't want 2008 deals being forgotten. And the issue with underwriting is if anybody knows what the impact of oil -- the price of oil is going to do between now and the time '08 deals close sometime next summer, you know, more power to them.

Interest rates, that's a fluctuating market. It could be significantly higher. Credit prices could be significantly lower. And as mentioned, we don't know what the impact of hurricanes is going to be, you know, which are likely to occur during the fall.

Utility allowances for next year are definitely going to be higher which is going to put further pressure on '08 deals, and as I say I'd just like to echo the thoughts of others. We need to treat all deals equitably for '07 and '08. I don't think we can re-underwrite and give any type of allocation, you know, towards one deal as compared to the other.

We need fairness in the system. I think, you know, that's the intention of what this group really wants, and again, we thank you for all your help.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Mahesh Aiyer? I probably butchered that again.

Terri Anderson, you're next after Mr. Aiyer.

MR. AIYER: Good afternoon, members of the Board. My name is Mahesh Aiyer and I manage community development lending for Wells Fargo here in Texas. And I just wanted to give you from a banking perspective, I think in all honesty there are two kinds of deals that we have going on right now.

One are deals that have very high cost structures for a number of the same reasons that have been outlined here today. And we're trying to find a solution to help those deals become more workable. And you have another set of deals that -- doesn't matter what the cost structure is; they're just simply not going to get done.

And there are a good number of deals in the marketplace that whether it be debt or equity just will not get financing in this market. And I think if -- I would agree on the 10 percent across the board. If you're able to do that and do that in a very timely, quick manner, you can help those deals that are still quite workable get done, and that have financing access.

And I think you'll wind up -- it will wind up being a wash. You'll get credits back from the deals that just won't get done. I'm a bit more suspect on the 83 cents that staff had alluded to in terms of current pricing. If you go out to try to price the deal today that has not been committed, I think there are a lot of developers in this room that would throw a party if they could get 83 cents. I mean, you're just not going to find it.

Capital is being sucked out of this market very, very quickly and it just can't be replaced quick enough. You know, the problem with the Housing Bill and getting some AMT relief, that presumes that the investors have income to use AMT to get relief. And so that's an ongoing problem and I don't see it getting better any time soon.

And so I would encourage you as well to

basically redistribute those credits and give the deals that are feasible, that can get done, the additional credits because you will get quite a number of credits back. I think that's just the reality of what we see. Thank you.

MR. CONINE: Thank you. Any questions?

(No response.)

MR. CONINE: Terri?

MS. ANDERSON: Yes, sir. Good evening, Chairman, Mr. Gerber and Board members. I do want to echo everything that everyone has said, and just I guess there's never been a time where I've seen so many people in the development community begging -- and that's kind of where I see us right now.

An across the board approval on the 2007 transactions would definitely help substantiate existing transactions, waiver of the $1.2 million cap would certainly be warranted given the rising cost, and request that there be no underwriting and no gap method used, because the additional credits will definitely come back and leave the cost review for cost certification.

And definitely request an expedited approval process, because time is of the essence. On the 2007 transactions that have not closed, having the opportunity to know what the actual credits will be for the existing transactions will certainly help us proceed with our sources when we go through the entire construction process.

And then also request that the Board not necessarily provide any additional forward commitments on new transactions because that would certainly exacerbate the problem of limited capital. So, thank you.

MR. CONINE: Thank you. Any questions of the witness?

(No response.)

MR. CONINE: That's the last witness affirmation I have on this particular item. Why don't I -- I guess I need to ask some questions of Brooke, Kevin, Tom, et al.

(Laughter.)

MR. CONINE: For my mind. Is that -- I mean, everybody who knows me knows I've been struggling with this for the last 60 days pretty hard.

Let me -- let's talk about -- well, from the testimony I've heard today it seems to me that we should focus whatever we do today on any relief we want to provide for the '07 transactions and kind of set aside the '08 transactions until the November meeting. Let me just say that out front.

Is there anything within the legislation or within the timing of that theory not working?

MS. BOSTON: Kind of, yes.

MR. CONINE: Kind of?

MS. BOSTON: The 2008s have to --

MR. HAMBY: Mr. Conine, there are some risks that are involved that -- from a statutory standpoint, that we probably need to discuss, if that's okay with you, in an executive session that we probably need to talk about in terms of what some of the potential pitfalls are before you start actually talking about detailed deadlines.

MR. CONINE: Okay.

MR. HAMBY: And so that's --

MR. CONINE: Let's go into executive session. It's going to be ten minutes at tops. We're going to go in this room right over here, as a Board, and we'll be back.

MR. GERBER: So on this day, September 3, 2008, the regular meeting of the Governing Board of the Texas Department of Housing and Community Affairs held in Austin, the Board adjourned into a closed executive session as evidenced by the following opening announcement by the presiding officer:

"The Board will begin its executive session today, September 3, 2008, at 6:25 p.m. The subject matter of this executive session is that the Board may go into executive session on any agenda item if appropriate and authorized by the Open Meetings Act, Texas Government Code, Chapter 551, for consultation with attorney pursuant to Section 551.071, subsection (a) of the Texas Government Code."

(Whereupon, at 6:25 p.m., the Board recessed to executive session, to reconvene at 6:45 p.m.)

MR. GERBER: -- Governing Board on September 3, 2008, at 6:45 p.m. We'll ask you to sign the certification that this executive session of the Governing Board was properly authorized pursuant to Section 551.103 of the Texas Government Code and that the -- that all members of the Board were present with the exception of Ms. Bingham and Mr. Flores.

MR. CONINE: Okay, we're back from executive session.

MS. RAY: Mr. Chairman?

MR. CONINE: Yes, Ms. Ray.

MS. RAY: Mr. Chairman, I move that we table agenda item 2 for a short period of time pending staff clarification.

MR. CONINE: There is a motion to table for a short period of time. Do I hear a second?

MR. CARDENAS: Second.

MR. CONINE: Motion, and seconded by Mr. Cardenas. Any discussion?

(No response.)

MR. CONINE: There is no discussion on a motion to table, so all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries. Moving on to Item 3(a). Mr. --

MR. GERBER: Mr. Chairman, if you wouldn't object, we'd like to move to Item 4 first.

MR. CONINE: Want to go to 4? Okay.

MR. GERBER: Yes, sir. The first item, 4(a) is the consolidated plan, TDHCA, along with the Office of Rural Community Affairs and the Department of State Health Services prepared this annual 2009 State of Texas Consolidated Plan, One-Year Action Plan to submit for public comment.

The Action Plan reports on the intended use of funds that are received by the State of Texas from HUD for Program Year 2009. These include the HOME program, emergency shelter grants program, the CDBG program which is administered by ORCA, and the Housing Opportunities for Persons with AIDS program, which is administered by the Department of State Health Services.

We ask for your approval of this consolidated plan to go out in draft form for public comment.

MR. CONINE: Do I hear a motion?

MS. RAY: So moved, Mr. Chairman.

MR. CONINE: Motion to approve by Ms. Ray. Do I hear a second?

MR. CARDENAS: Second.

MR. CONINE: Seconded by Mr. Cardenas. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Item 4(b).

MR. GERBER: Mr. Chairman and Board members, Item 4(b) is the 2009 Regional Allocation Formula Methodology. Texas Government Code requires that the Department to use a regional allocation formula to allocate its HOME Housing Trust Fund and housing tax credit funding. This regional allocation formula is intended to objectively measure the affordable housing need and available resources in 13 state service regions that are used for planning purposes.

We believe that there has not been a tremendously significant change to the RAF, and we ask the Board's approval to go and issue the RAF in draft form for public comment and to bring that back hopefully at the November Board meeting for your final approval.

MR. CONINE: Hear a motion?

MR. CARDENAS: So moved.

MR. CONINE: Motion by Mr. Cardenas. Is there a second?

DR. MUNOZ: Second.

MR. CONINE: Second by Mr. Munoz. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: Motion carries.

MR. GERBER: Mr. Chairman and Board members, Item 4(c) is the Affordable Housing Needs Score. The Affordable Housing Needs Score is used to evaluate HOME Housing Tax Credit and Housing Trust Fund applications. The formula is submitted annually for public comment and the final methodology and resulting score are published on the TDHCA website.

The 2009 Affordable Housing Needs Score reflects only one change, and that is that updated data source for population projections similar to the Regional Allocation Formula which is also using an updated data source for population projections.

Unlike the other documents, this draft is being made available for public comment upon Board approval today and will be taken out to the six public hearings that we'll be holding and then brought back to you in November. We ask for your approval.

MR. CONINE: Do I hear a motion?

DR. MUNOZ: So moved.

MR. CONINE: Motion by Mr. Munoz. Second?

MR. CARDENAS: Second.

MR. CONINE: Second by Mr. Cardenas. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: Opposed?

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: Going back to Item 3(a), Mr. Chairman.

MR. CONINE: All right.

MR. GERBER: Item 3(a) is the draft 2009 Real Estate Analysis Rules and Guidelines.

Tom, do you want to just touch on that briefly?

MR. GOURIS: Tom Gouris, Director of Real Estate Analysis. The rules presented today result -- changes include two major -- are from two major sources of input, public comment at several recent round table meetings, and staff input.

Both of the changes clarify rules for consistency with existing department practice to provide additional guidance to the public. Several revisions were made to ensure consistency with the QAP and trends in the industry.

Two of the most significant changes have to do with the concentration policy and market study rules. The concentration policy on page 12 of 26 is something that was created last year as a new feasibility criteria last year. It had to do with the rental units in buildings of three or more units.

During 2008 only two developments out of the 66 that were fully underwritten were impacted by both, and both applications had mitigating circumstances, and were waived by the executive director. No other applications came close to violating this policy, as it was, in the rule.

We believe that this rule probably is not necessary. It inhibits transactions in urban core areas from being developed. So we're recommending that that rule come out. That's on page 12 of 26 in the Rules.

On page 15 of 26 there are some changes to the market study rules, and as you heard earlier, there's a request to modify what you have in front of you and that modification I can give you if you would like --

MR. CONINE: Read it into the record, please.

MR. GOURIS: Okay. It's under Item D, "Turnover," and the last sentence should read, "The market analyst should use," -- cross out "most" and replace it with "more" and then "reasonable rate supported by IREM, the Institute for Real Estate Management, or independent surveys conducted by the market analyst, and which is subject to the review by underwriter."

And the intent there is to provide the market analyst the ability to provide additional turnover information to us but allow the Department staff to reasonably review that turnover information and compare it to census data and the Department's own turnover information, to see which is more realistic.

MR. GERBER: Thank you, Tom. I think we have one public comment from Michael Hartman.

MR. HARTMAN: I'll pass.

MR. GERBER: Pass? With that, without --

MR. CONINE: Hartman passed?

MR. GERBER: He passed.

MR. CONINE: Oh, wow.

MR. GERBER: With that, the staff is recommending that we -- that the Board approve the draft REA rules and allow us to take them out for public comment with the intent to bring them back to you at the November 14th meeting.

MR. CONINE: As amended.

MR. GERBER: As amended.

MR. CONINE: Do I hear a motion?

MR. CARDENAS: So moved.

MR. CONINE: Motion by Mr. Cardenas. Do I hear a second?

DR. MUNOZ: Second.

MR. CONINE: Second by Dr. Munoz. Any further discussion?

(No response.)

MR. CONINE: All those in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MS. CRAWFORD: Motion carries.

MR. GERBER: Mr. Chairman, Items 3(b) and 3(c) relate to the repeal and proposal of Texas Administrative Code Rules for the Community Affairs programs.

Previously the Community Affairs Division relied on a policy issuance system to communicate policies to subrecipients of the Community Affairs programs.

Community Affairs and legal staff have reviewed the existing policy issuances, federal requirements and contract requirements in an effort -- in order to consolidate the rules for the Emergency Shelter Grants Program, the Community Services Block Grant Program, the

Comprehensive Energy Assistance Program, the Weatherization Assistance Program, and the Section 8 Housing Choice Voucher Program, into one chapter in the Texas Administrative Code.

Approval of the proposed draft rules initiates the public comment process for the proposed rules. The Community Affairs Division of course will be participating in those hearings. We believe we've worked very strongly with our stakeholders in the community and believe we have, I'm pleased to say, are consolidating these rules into one place, so this will be a major part of the Department that will be in the Texas Administrative Code.

And that's long overdue and I appreciate the hard work of staff, and we ask for your approval to take these out to the public in draft form, with again the intent to bring it back to you on November 14th.

MR. CONINE: Mr. Hamby?

MR. GERBER: What did I miss?

MR. HAMBY: I'm sorry, Mike, if I missed it. There was an addendum that was passed out, and --

MR. GERBER: I -- yes.

MR. HAMBY: -- on 3(c) that the public has and the Board has that made a few corrections.

MR. GERBER: Thank you very much. There were small technical corrections that were identified in the draft rule, and so we've provided a copy to you of an addendum that would amend -- make changes that are largely small, technical corrections.

But there is one section that was originally intended to be in the monitoring guidebook that the Division would be using, but instead we felt that it would be better served to have in the rules, and that deals with definitions of findings, recommended improvements, and what a note is.

It just puts a little more definition to it, and having it in the rules makes it clear to the community of what those items are, so we clarify that.

So we would ask approval of these rules with this addendum to 3(c).

MR. CONINE: Okay. I have one public comment on Item 3(c), Stella Rodriguez.

MR. GERBER: Thank you.

MS. RODRIGUEZ: Good evening, Mr. Chairman, members of the Board and Mr. Gerber. My name is Stella Rodriguez and I am the executive director of the Texas Association of Community Action Agencies. With me this evening is our -- in the audience, our president Vicki Smith of Victoria, first vice president Tama Shaw of San

Saba, and Treasurer Rhoda Gersch of Giddings.

We welcome this opportunity to provide input in the rulemaking process with respect to the programs of the Community Affairs Division. We concur with the TDHCA staff that operation and administration of programs will be much simpler by having rules referenced in one document as opposed to several, such as policy issuances, memorandums, et cetera.

We also thank Mr. Gerber and staff for dialoging with our network at the recent annual TDHCA conference in which roundtable discussions transpired, and thereafter. We have begun reviewing the proposed rules and have identified areas in which we will file written recommendations during the allowed time frame.

Again thank you for all that you do in helping community action agencies across the state provide services to the neediest Texans, especially the low-income families with young children, and persons with disabilities. Thank you very much.

MR. CONINE: Thank you. Appreciate that testimony.

MR. GERBER: Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Okay. Do I --

MS. RAY: Mr. Chairman?

MR. CONINE: -- hear a motion. Yes, ma'am?

MS. RAY: I move staff recommendation on Item 3(c).

MR. CONINE: With the amendments, I presume?

MS. RAY: With the amendments as presented.

MR. CONINE: There's a motion to approve by Ms. Ray. Is there a second?

DR. MUNOZ: Second.

MR. CARDENAS: Second.

MR. CONINE: There's a tie. Dr. Munoz wins the tie for second. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye?

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: Mr. Chairman, Item 3(d) is Possible approval possible to publish a draft of the First-Time Homebuyer Program rules. This chapter of the Texas Administrative Code deals with our First-Time

Homebuyer Program, and due to the recent mortgage crisis, stricter underwriting guidelines and homebuyer education requirements on conventional loans that are delivered through the MRB program, staff is recommending one amendment to the rules, which is the addition of a new homebuyer eligibility requirement in Section 7.3 of the rule, which requires completion of a pre-purchase homebuyer education course for all borrowers using the Texas First-Time Homebuyer Program or mortgage credit certificate programs.

We think this is very prudent. It's become a national best practice, and we're very pleased to have this be included in -- have that pre-purchase homebuyer education being an important part of our First-Time Homebuyer Program. We'd like to recommend that you approve the draft of this rule and allow us to take it out for public comment with the intent to bring it back in November.

MR. CONINE: Do I hear a motion?

MR. CARDENAS: So moved.

MR. CONINE: A move to approve the staff recommendation for circulation and publishing in the *Register* by Mr. Cardenas. Is there a second?

MS. RAY: I'll second this.

MR. CONINE: Second by Ms. Ray. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: Mr. Chairman, I'd like to hold on Item 3(e), the HOME Rule and go to 3(f), which is the Housing Trust Fund Rule. This draft rule proposed by staff incorporates public input from the recent Housing Trust Fund Program Roundtable. The Action Item on the draft ruling in the Board Book details the changes which are primarily administrative and/or ensure consistency with other program rules.

We're really pleased to be presenting the Trust Fund rules to you, and Jeannie Arellano, Director of the HOME Division which includes ACF has some additional quick comment.

MS. ARELLANO: I just have one staff clarification on page 7 of 31 of the Rule. One correction to the definition of the loan. It's Definition Number 37.

We just need to add the word "repaid" at the end of the sentence; it was accidentally omitted.

MR. CONINE: Okay.

MR. GERBER: So with that amendment, we urge -- with that change, we'd ask for the Board's approval of the draft rules.

MR. CONINE: Do I hear a motion?

MS. RAY: So moved with the amendment, Mr. Chairman.

MR. CONINE: Motion by Ms. Ray. Is there a second?

MR. CARDENAS: Second.

MR. CONINE: Second by Mr. Cardenas. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All those opposed?

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: Mr. Chairman and Board members, I'd like to hold on Item 3(g) which is the QAP and go to 3(h) which are the Multifamily Revenue Bond Rules.

These Multifamily Revenue Bond Rules for 2009 are consistent with the other Multifamily program rules. The primary changes proposed include additional clarification on the proof of notifications and shortening the deadline for requesting neighborhood organizations.

Other changes include the addition of the green building amenities. The fee section of the bond rules has also been changed to include the amount of the private activity bond compliance fee and also lists the fees for refunding applications. I'd like to urge your approval of this draft and allow us take it out for public comment.

MR. CONINE: Do I have a motion?

MS. RAY: So moved.

MR. CONINE: Motion by Ms. Ray. Do I hear a second?

MR. CARDENAS: Second.

MR. CONINE: Second by Mr. Cardenas. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: Mr. Chairman, so the two remaining rules are the HOME Rule and the QAP. I believe --

MR. CONINE: We'll hold off.

MR. GERBER: -- we're ready to hold off.

THE CLERK: Can I get a motion to take Item 2 back off the table?

MS. RAY: So moved, Mr. Chairman.

MR. CONINE: Motion by Ms. Ray. Is there a second?

MR. HAMBY: I'm sorry. Before you do that, Mr. Chairman -- I was out of the room but I believe that you all missed actually approving Item (b) which is the repeal of the 1.8s.

MR. GERBER: Yes, we -- 3(b)?

MR. HAMBY: You said you did (c) but I don't believe you did --

MR. GERBER: We moved them jointly. Do we need a separate motion?

MR. CONINE: Well, let's get a --

MR. HAMBY: Yes, because it was included in the motion you made.

MR. CONINE: Can we make a motion to approve Item 3(b)?

MS. RAY: Mr. Chairman, I move to approve Item 3(b).

MR. CONINE: Ms. Ray makes a motion. Is there a second?

MR. CARDENAS: Second.

MR. CONINE: By Mr. Cardenas. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Now then, let's get Item 2 off the table.

MS. RAY: Mr. Chairman?

MR. CONINE: Yes, ma'am.

MS. RAY: I move to remove Item 2 off the table for further discussion.

MR. CONINE: Is there a second to Ms. Ray's motion?

MR. CARDENAS: Second.

MR. CONINE: Second by Mr. Cardenas. All those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: Motion carries. Can we ask Ms. Boston to get us some language -- further clarification.

(No response.)

MR. CONINE: Oh, what have I done wrong now?

(Laughter.)

MR. HAMBY: We had a brief discussion about the difficulties of potentially some of the language that's not yet clarified, and you were asking Ms. Boston to check on some other details that --

MR. CONINE: Let me explain, you know, some of my reservations were relative to some of the legal aspects of what we're doing. And this came from a document that I was made aware of. It's the technical explanation of the 3221 from the Joint Committee on Taxation between the House and the Senate. And the one verbiage that got me was, relative to the increase, the 20 cent increase in allocation of credits, and where the State Housing Finance Agencies had the authority to use those.

And under the Joint Tax explanation of the Bill, it said "provisions effective for low-income credit allocations made for calendar years after 2007." This created, you know, in my mind, an inability for us to help the '07s, but staff and counsel is getting clarification or got clarification from some of that today, and at least made me somewhat more comfortable that we can pursue some of the fix-it on the '07 allocations while still trying to get a ruling from the IRS relative to those particular issues.

So with that in mind, can we now move to what Brooke has got for us?

MS. BOSTON: Okay. So based on trying to split out the 2007s, you could provide credits to all the 2007 awards not closed as of today at the full 9 percent rate based on new syndication letter pricing, not allowing for new cost increases -- not having to submit new cost information, with no further underwriting evaluation, for using the timeline that we had in there for F anyway and still following some of the items that we had noted in the writeup, for instance, not applying the $1.2 million test, not being limited by the original application amount, still applying it to eligible basis and still getting the syndication letters in so that we could recalculate that.

That would cover the '07s that aren't closed as of today. Depending on the pleasure of the Board, the '07s that have closed, I know we talked a little bit about that they -- you might want to allow them to resubmit new information or some type of additional information for staff to re-look at them. I'm not quite exactly sure what we would --

MR. CONINE: I wanted -- I think it would be at least this Board member's pleasure to see how the closed '07 transactions would be affected by the Bond Fund going to the full 9 percent, relative to sources and uses.

MS. BOSTON: New sources and uses.

MR. CONINE: New sources and uses.

MS. BOSTON: Okay. Okay. So then my recommendation would be that if -- that they be the '07 deals that have been closed would turn in new source and use information to us by September 18th so that we would have time to evaluate that for you all in preparation for the November Board meeting.

One thought or one response to the dialogue would also be that we wouldn't take action on the 2008s today. Staff would need to be directed to just proceed with the current awards from July as they were approved and move forward with those commitment notices and so that the deals could still move forward and we can get that much of the ceiling allocated.

But with the thought at least that it would continue to be evaluated or revisited, either later this year or early next year with the '09 ceiling.

I don't know if you wanted to mention amendments, anything about that?

MR. CONINE: Yes. Our thoughts on the amendments and the amnesty for any of the changes, we are obviously sympathetic to the development community for trying to reduce their overall cost in the project by providing detailed amendments to their particular projects that may help in lowering the overall cost in order to get the numbers to work.

And I think we would be open to that through the end of this year at this point.

MS. BOSTON: And then a few other just kind of, still tying back to the --

MR. HAMBY: I need to clarify what you just said. You mean, the amnesty would be a period of time, or the amendments would be --

MR. CONINE: The amendments would be --

MR. HAMBY: And the amnesty would be on a timeline --

(Simultaneous discussion.)

MR. HAMBY: -- because you're looking -- that's part of the risk question is you're looking to see if deals come back to fund the '07s --

MR. CONINE: We need to look at them, but I think you're going to find they're apt to be somewhat lenient relative to -- especially if you can prove that, you know, under the original scenario it was $80 a foot, under this scenario it's $75, and this makes our sources and uses work out. That would be the intent.

MR. HAMBY: And so that's the ones that are actually statutorily required to come to the Board, the ones that can be amended via the administrative procedure that you've already established, or -- go ahead and do those, and we don't want to see those again.

(Simultaneous discussion.)

MR. CONINE: -- staff, that's correct.

MR. HAMBY: Okay, thank you.

MS. BOSTON: Okay. And then just a couple of other things from the writeup, that we would still proceed with the 10 percent test language that we had in there relating to the change in the timelines; site control, hopefully we'd still approve that change.

And then still allowing the amnesty, and staff's recommendation would continue to be that that amnesty be effective from essentially today when the Board takes action until November 1. And I know there had been suggestions about changing that, but for us to know the amount of credit we have to get recommitted is important, so --

And then I would also just clarify because I think there's been some chit-chatting in the room about the $2 million and how that test is applied. And our writeup indicates that the $2 million test would be applied in the year that the original allocation was made. So if a 2007 deal -- if it is given additional credits, it's added to the '07 perspective and we would evaluate the $2 million test, which is statutory.

Therefore, if, by giving the extra credits it would exceed $2 million in 2007, we would ratchet it down until they wouldn't exceed the $2 million test.

MR. CONINE: Or we could give them '08s.

MS. BOSTON: Well, but the statutory language isn't that it's from the ceiling; it's from the round. And so the round that they competed in is still the same round.

MR. CONINE: Okay. Still the hard ceiling then on the $2 million. Okay.

Okay.

MS. RAY: Mr. Chairman?

MR. CONINE: Yes, Ms. Ray.

MS. RAY: I move staff's recommendation for Item 2.

MR. CONINE: As articulated by Ms. Boston.

MS. RAY: As articulated by Ms. Boston.

MR. CONINE: Which is probably as clear as mud.

(Laughter.)

MR. CONINE: I think I understood it.

MR. HAMBY: Let me clarify it just a little bit. It's a graduated approach to minimize risk as much as possible depending on what the interpretation is by the IRS, that '07 non-closed deals which appear to be in the greatest jeopardy at this point of not being able to be funded, would be treated immediately under the guidelines that we think can happen, the flat percent, no-underwriting and they have to make the decision on -- the commitments will go out, and they have to make the decision as to whether or not they're not going to keep their deal by the deadline that was set November 1, I believe. Is that what it was?

And then the second round would be the closed deals that they can prove up between now and the next Board meeting, that they'd need the credits that the Board will re-evaluate those at that time through the sources and uses.

MS. BOSTON: To be turned in by September 18th.

MR. HAMBY: to be turned in by September 18th.

And then finally the '08 deals will be evaluated hopefully before the end of the year, to look and to see how much additional credits may be supplied to them. So it's a timing question for the Board, and then the amnesty would go -- the 10 percent test would go to what was recommended in the writeup. And then you'd also have the carryover. I think that's the last one.

But that's the staggered plan to give the Department the most cover possible until we get some IRS clearance.

MR. CONINE: That's correct. Thank you.

MS. RAY: That's what I said.

(Laughter.)

MS. BOSTON: And one point of clarification I think that the Board will need to give us as well is I think I had said a flat 9 percent, but I also said they'd turn in syndication letters, and Tom is telling me that those are in conflict with one another.

If we do the syndication letters with gap that's not necessarily the same as 9 percent.

MR. GOURIS: Right. Tom Gouris, Director of Real Estate Analysis. We can go up to the 9 percent with -- but look at gap based on new syndication letters. Or we can do a flat 9 percent and not look at the syndication and just give 9 percent. They're two different --

MR. CONINE: Yes, they're two different numbers.

MR. GOURIS: And the flat 9 percent is going to be a much larger number --

MR. CONINE: Right.

MR. GOURIS: -- than looking at syndication and allowing up to the gap with the new syndication and old costs.

VOICE: [inaudible].

MR. GOURIS: Correct.

MR. CONINE: Now, I think we want the input from the non-closed deals relative to syndication prices, I think, you know, putting the construction costs issue on the side for a minute.

MR. GOURIS: Correct.

MR. CONINE: And so I would suggest that we do the 9 percent gap with new syndication letters, as per Ms. Ray's motion.

MS. RAY: Mr. Chairman?

MR. CONINE: Yes, ma'am.

MS. RAY: I accept the amendment to my motion.

(Laughter.)

MR. CONINE: Motion on the floor. Is there a second?

MR. CARDENAS: Second.

MR. CONINE: Second by Mr. Cardenas. Any further discussion?

(No response.)

MR. CONINE: Ms. Boston?

MS. BOSTON: I would just say, I will summarize this in a pretty concise way and I'll make sure that we get it out to our ListServ so that everyone who maybe isn't here, or who's here and wasn't quite sure what we said, will have it in writing.

MR. CONINE: I think the idea from an explanation viewpoint from the Chair would be, let's take care of the most critical first, which are the '07 un-closed deals. Let's take care of the -- on the second priority at our November meeting, let's take care of the -- let's work it and see, of the '07 closed deals, how the new 9 percent would affect their particular sources and uses, along with the amnesty period, seeing what --

By the time November 14 rolls around, we're going to have a much clearer picture on how much of the credit gap got used, the additional credit gap got used, how much of the '07s got turned back in, what syndication prices are, what the closed deals, how they would affect their sources and uses if the Board decides at the November meeting to grant them some of the credit cap.

And then we can deal with the '08 issue, either at the December meeting or beyond, and we'll provide as much relief as possible to those, after we know the results of '07. That's the attempt, and that's the -- in the meantime, we'll be getting a lot of advisories out of the Internal Revenue Service and others who have a say in this particular matter.

Any other discussion from the Board?

(No response.)

MR. CONINE: Seeing none, all those in favor of the motion signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries. We will recess this meeting until 8:00 a.m. in the morning, at which time, at 8:00, we're going to go into executive session first thing. My gut feel is that that will take about an hour more than likely, maybe 45 minutes, somewhere in that time frame.

So we'll probably plan to come back in public meeting somewhere between 8:45, 9:15, something along those lines, and hopefully finish our agenda.

Thank all of you for your diligence in sticking with us tonight, and coming for two days of a Board meeting that's got a lot of substance to it. We're in recess.

(Whereupon, at 7:14 p.m., the meeting was recessed, to reconvene at 8:00 a.m., September 4, 2008.)

C E R T I F I C A T E

MEETING OF: TDHCA Board

LOCATION: Austin, Texas

DATE: September 3, 2008

I do hereby certify that the foregoing pages, numbers 1 through 152, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the Texas Department of Housing and Community Affairs.

9/09/2008
(Transcriber) (Date)

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