TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
BOARD MEETING

Capitol Auditorium
1500 Congress Avenue
Austin, Texas

Thursday
September 4, 2008
8:00 a.m.

BOARD MEMBERS:

KENT CONINE, Chair
GLORIA L. RAY, Vice-Chair
LESLIE BINGHAM ESCAREÑO, Member
TOMAS CARDENAS, Member
DR. JUAN MUÑOZ, Member

STAFF:

MICHAEL GERBER, Executive Director
KEVIN HAMBY, General Counsel

I N D E X

P R O C E E D I N G S

MR. CONINE: We're back in session from recess for the Board meeting of the Texas Department of Housing and Community Affairs. This is September 4 at 8:00 a.m., in the morning.

We are now going to go into executive session.

Mr. Gerber?

MR. GERBER: On this day, September 4, 2008, at a regular meeting of the Governing Board of the Texas Department of Housing and Community Affairs held in Austin, Texas, the Board adjourned into a closed executive session, as evidenced by the following, given the announcement by the presiding officer that the Board will begin its executive session today, September 4, 2008, at 8:00 a.m. The subject matter of this executive session is as follows:

A.) 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.

B.) The Board may go into executive session pursuant to Texas Government Code 551.074 for purposes of discussing personnel matters, including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee; review and possible pay increase for the Director of Internal Audit, Sandy Donoho.

C.) Consultation with attorney, pursuant to Section 551.071, Subsection (a) of the Texas Government Code.

D.) Consultation with attorney, pursuant to Section

551.071, Subsection (a) of the Texas Government Code:

1. With respect to pending litigation styled Rick Sims v. TDHCA, filed in Federal District Court;

2. With respect to pending litigation styled The Inclusive Communities Project versus TDHCA, et al, filed in Federal District Court;

3. With respect to any other litigation filed since the last Board meeting;

4. Potential sale of real estate and/or loans.

The executive session will be held in E.1024.

MR. CONINE: And here we go.

(Whereupon, at 8:02 a.m., the Board met in executive session.)

MR. GERBER: Mr. Chairman, the Board has completed its executive session with the Texas Department of Housing and Community Affairs on September 4, 2008, at 9:05 a.m.

MR. CONINE: Good morning again. I'm going to call the roll just to make sure that we didn't lose somebody and that we gained somebody overnight.

Leslie Bingham?

MS. ESCAREÑO: Here.

MR. CONINE: Tomas Cardenas?

MR. CARDENAS: Here.

MR. CONINE: Kent Conine's here.

Juan Muñoz?

DR. MUÑOZ: Here.

MR. CONINE: Gloria Ray?

MS. RAY: Here.

MR. CONINE: And Sonny Flores is still gone. So we've got five here, and that makes a quorum. So we're official again.

Counsel, how about that?

MR. HAMBY: Yes, sir.

MR. CONINE: All right. We're going to move.

MR. HAMBY: Motion from the executive session.

MR. CONINE: Yes. We need -- we had an executive session here this morning. And I'm going to turn it over to Ms. Ray.

MS. RAY: Mr. Chairman.

MR. CONINE: Yes, ma'am.

MS. RAY: I move to reclassify our internal auditor position from a Director Two position to a Director Three position. And the Board recommends a salary increase for our internal auditor of 7 percent.

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

MS. ESCAREÑO: Second.

MR. CONINE: Seconded by Ms. Bingham. 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.

Ms. Donoho, thank you very, very much for your efforts. The Board is appreciative of your efforts. And I look forward to working with you again in the coming year.

MS. DONOHO: Thank you very much

MR. CONINE: Okay.

MR. GERBER: Mr. Chairman, we'll continue on Item 5, which is the internal audit items. And Ms. Donoho will present.

MR. CONINE: Great.

MS. DONOHO: Well, now that the Board has rendered me speechless, I guess I have to make a speech.

(General laughter.)

MS. DONOHO: Item 5.a. We're seeking approval of the minutes of the June 26, 2008 audit committee meeting.

MS. RAY: So moved, Mr. Chairman.

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

MS. ESCAREÑO: Second.

MR. CONINE: Second by Ms. Bingham. Any other 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.

MS. DONOHO: Okay. Item 5.b. is the presentation, discussion and possible approval of the internal audit division's fiscal year 2009 audit plan. We developed the plan using risk assessment process, we gathered and evaluated information on various departmental functions, we incorporated comments from Board members and executive management.

In previous years, the internal audit division has completed approximately two projects a year; we aimed for seven projects in 2008, and we've completed five. So in 2009, we're planning five audits and factoring in additional time for unplanned work, such as investigations from our hotline or special requests from the Board or management.

There are two projects on this plan that carry over from 2008. Both of these are the CDBG disaster recovery. One is the testing of set-ups and draws, and the other one is subrecipient monitoring. Both of these projects are still viable. We have been waiting for sufficient additional transactions to test and waiting to determine the scope of the various external audits in this area.

There are also three audits of this program in 2008. One was from the state auditor's office last fall, one from HUD this spring, and one from HUD's office of inspection general that's currently underway. We believe none of these external audits covered or will cover transactions at the level and complexity that we're planning. So we're going to go ahead and do those two audits.

There are three new audits for this year: loan servicing and recycling of program income for the HOME program, an audit of the 4 percent tax credit program and an audit of the Section 8 housing choice voucher program. We have some other planned activities, which include a revision of the internal audit charter to comply with new auditing standards that take effect in December, continued work on tracking and closing prior audit issues, and assisting external auditors as needed.

Are there any questions on the draft 2009 audit plan?

(No response.)

MS. RAY: There are no questions.

MS. DONOHO: Okay. Then I would ask you to approve the plan, please.

MS. RAY: Mr. Chairman?

MR. CONINE: Ms. Ray.

MS. RAY: I move to accept the 2009 internal audit plan.

MR. CONINE: A motion by Ms. Ray to accept the 2009 audit plan. Any -- is there a second?

MS. ESCAREÑO: Second.

MR. CONINE: A second by Ms. Bingham. 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.

MS. DONOHO: Item 5.c. is the status of the internal audit divisions fiscal year 2008 plan. We've completed five of the seven audits on the 2008 plan. These include two audits of the 9 percent Housing Tax Credit program, an audit of the community affairs division's CSBG and ESGP programs.

And there are two more audits that have been complete and are in the reporting phase. You can expect to see these in the next couple of weeks. They're audits of the Bootstrap program and the border field offices -- both of these programs are part of the Office of Colonias initiatives -- and then the last two projects that we talked about earlier that will carry over on the disaster recovery program.

In addition, we revised internal audit's policies and procedures, worked on closing prior audit issues and provided support to 11 groups of external audits.

Are there any questions on the work that we did in 2008?

(No response.)

MS. RAY: There are no questions.

MS. DONOHO: Okay.

Item 5.d. is the presentation --

MR. GERBER: Mr. Chairman, can I?

If I can interject?

That's a very impressive uptick in the number of audits that have been done historically by the department. And we are really pleased and appreciative to have that kind of feedback coming in at that rate. It's been very useful on the management side. So I just wanted to express our thanks.

MS. DONOHO: Thank you.

Item 5.d. is the presentation and discussion of the state auditor's office audit report on the single family mortgage revenue bond program. This report was released in August. The state auditor spent about seven months at the Department looking at the bond program. At one point, I think the auditors outnumbered the program staff by about two to one. Overall, it's a good-news report.

The report concluded that the Department effectively manages revenues from the mortgage bond program and ensures that the payments are sufficient to meet the debt service payments. In addition, they concluded that the Department's use of swaps has limited risk.

They tested mortgages at Countrywide that originated in 2006 and 2007 and found that all of the mortgages they tested benefitted the intended recipients and complied with all program requirements. So that was the good news.

They identified some room for improvement in monitoring the mortgage-backed securities and the activities of Countrywide, our master servicer. They recommended that the Department ensure the purchase price of the mortgage-backed securities equates to the total principal of the underlying mortgages, that we reconcile payment data between Countrywide and the Bank of New York, and improve our swap policies, document procedures for issuing bonds and improve monitoring of the fair value of the swaps.

They also recommended developing a process to track, allocate and monitor the administrative costs of the bond program and improve controls of the MITAS system that's used to track the accounting data.

Are there any questions on this report?

(No response.)

MR. CONINE: This is kind of the first time that I noticed that the report had some suggestions and things we ought to do in our mortgage revenue bond area. And I thought it might be appropriate for staff to make some sort of response to what the audit produced.

MR. GERBER: Mr. Chairman, we'll respond. If I could ask -- because I know we've been working on some stuff --

MR. CONINE: Save it for the --

MR. GERBER: Let's go to the CDBG first.

MR. CONINE: Okay.

MR. GERBER: And then we'll come right back to that.

MR. CONINE: Okay.

MS. DONOHO: Okay.

And then Item 5.e is a presentation and discussion of the Department of Housing and Urban Development's management review of the CDBG supplemental disaster funds.

Generally, HUD concluded that the Department has procedures and systems in place for monitoring the COGs' housing activities but that we should develop and apply similar systems for monitoring and processing payment requests for Houston and Harris

County.

And I understand that you all are aware that there was some confusions about whether we needed to monitor Houston or Harris County or not. So I think HUD has finally decided that we need to do that.

MR. GERBER: Well, can I interject and clarify?

MS. DONOHO: Yes, please.

MR. GERBER: The intent of the Governor and the intent of the Department was to let Houston and Harris County, which each run large, sophisticated CDBG programs in their own right, to just simply manage their programs; they didn't need micro-management by the state.

HUD felt that because the grant was coming to the state, we could not turn around and simply allow Houston and Harris County to indemnify the state, which is what they've done -- and we have that agreement in place -- but, instead, we need to have a standardized contract that looks like all the other contracts we have with the COGs and like we have with our other subrecipients with Houston and Harris County.

So we continue to have higher expectations of Houston and Harris County. The indemnification agreements will remain in place, but we've clarified so that that audit finding is satisfied for HUD's purposes.

MS. DONOHO: Okay.

MR. GERBER: Kelly, is there anything you'd add to that?

MS. CRAWFORD: No.

MR. GERBER: Okay.

So we're working through that with them. It was a little bit disappointing, frankly, to all of us, because we had hoped to be able to just turn the grant over to Houston and Harris County and sort of let them deal with the challenges of serving Katrina evacuees, which they've become quite good at.

MS. DONOHO: They also identified some specific findings for the program. Several of these related to the Houston and Harris County issue that was just discussed.

The other findings that they had. One was related to the Department drawing funds in advance of need. And they recommended that we revise our cash management procedures to comply with HUD's three-day standard.

They also indicated that the Department was unable to reconcile its administrative draws with specific administrative expenses and felt like that meant there was no way to ensure that the expenses were incurred for the actual program. Some environmental reviews were not correct, even though the auditors found that the Department does have adequate processes for environmental assessments.

And public notices. There were, I think, a few that were not properly documented, but they did comment that the Department has procedures that are adequate but those just weren't always followed. I understand the Department has submitted its comments in response to this report.

And are there any questions?

(Pause.)

MR. GERBER: The Department has generally agreed with the report and has -- is working through the process now of making those changes as recommended by HUD.

MR. CONINE: Okay.

MS. DONOHO: Item 5.f. is the status of external audits. There were 11 external audits in fiscal year 2008. There are two that were recently completed, and we're awaiting the reports on those. One is HUD's review of the emergency shelter grants program, and the other one is the state comptroller's review of payroll, purchase and travel transactions.

There are three external audit groups currently performing work at the Department. One is Deloite. They do our annual financial opinion audits and bond audit every year. KPMG is reviewing the LIHEAP program, the Low Income Home Energy Assistance Program, as part of their annual statewide audit of federal funds.

And then HUD's office of the inspector general is looking at disaster recovery. And at this point, we're not really sure what their scope is going to be.

Are there any questions on the external audits?

(No response.)

MR. CONINE: No.

MS. DONOHO: Okay. That concludes my presentation.

MR. CONINE: Okay. Thank you.

I think we'll probably -- I see Matt Pogor walked into the room, but I don't see Gary Machak. So we'll probably ask for a response to the audit questions when we do the bond finance a little later on; that'll give Gary a chance to be here. We'll take that up at that time.

MR. GERBER: Mr. Chairman, we'd like to jump to Item 7, which are the disaster recovery items.

MR. CONINE: Okay.

MR. GERBER: Kelly Crawford's going to come forward and present. I'll go ahead and present Item 7.a, which is an update on the disaster recovery division and the progress of CDBG housing projects under Round 1 and Round 2 of CDBG funding, as well as the status of the FEMA affordable housing pilot programs.

For Round 1, we're pleased to report that as of today, 257 houses have been replaced and another 82 are under construction. Bids are out for all the rest of the homes, and we expect to have this work done by all of our COG partners no later than Christmas. So that Round 1 of funding, that first 40 million, will be done.

With respect to the City of Houston's program, the Department has conducted monitoring visits and completed its review of expenditures submitted for reimbursement from October 2007 through June 2008. Approximately 23 percent of the funds have been expended in Houston for their housing safety, which is a police overtime program. And they're starting the process of multifamily rehabilitation, and that work is underway.

In Harris County, we are working with Harris County. They are struggling to get their programs up to speed, and we've had conversations with them and explained very clearly that we have high expectations that they ramp it up significantly over the next several months.

Otherwise, we'll be bringing back to this Board a reconsideration of that $20 million and using it for other purposes in Houston and Harris County if we can't get satisfactory progress made. But they're taking too long, and we've impressed that upon them.

On the multifamily side, this Board awarded $81.1 million to repair or rebuild seven multifamily rental properties. The construction work, once completed, will restore 813 rental units to low-income households and families.

Award-specific status is outlined in the table that's provided in your Board book, but, to summarize, three of the seven developments have closed on their loans and have started construction, two more are in the final stages of the HUD-required environmental clearance process, and one other is in the final HUD loan closing process. All three of these loans are expected to close between September 1 and October 15.

There's one remaining award, Brittany Place, which we are going to discuss in Item 7.d, where the Board's going to consider a proposed amendment and extension request.

To turn to Round 2, Don Atwell --

Kelly, do you want to add anything on Round 1 or any of the items I just mentioned?

MS. CRAWFORD: As of today, it's ten more. It's 267 homes.

MR. GERBER: Excellent. That's great news.

Don Atwell, who's our contractor with ACS, is here to give us a quick update on the homeowner assistance program under Round 2 and the Sabine Pass restoration program.

MR. ATWELL: Good morning, Mr. Chair, Mr. Gerber and members of the Board.

VOICES: Good morning.

MR. GERBER: Good morning.

MR. CONINE: Good morning.

MR. ATWELL: Mr. Gerber, you did such a great job presenting. Do you want to do mine, too?

(General laughter.)

MR. ATWELL: Actually, I'm very happy to be here. There's a lot going on with the program.

In Sabine Pass right now, we have 71 applications that are complete; 29 of those are eligible and have been inspected, and we have 18 that are set up to start construction --

MR. GERBER: Oh, good.

MR. ATWELL: -- the week of the 15th.

MR. GERBER: The week of the 15th? Good.

MR. ATWELL: And so we're all excited about that.

In addition to actually having construction starting -- so big machines out there moving things around -- we're also going to have a model home out there that one of the contractors is providing. So people can walk in and touch and feel it and sort of see what they're getting. And we hope that with the model home, it'll generate some additional interest in the program.

On the homeowners assistance program, we have 1,255 applications that we're received back. Those aren't complete. The complete ones are 397. So the homeowners assistance program is moving forward, as well.

A lot of what we're doing right now is the infrastructure to help the applicants through the program. We've held a number of meetings with Lone Star Legal Aid to help applicants that have ownership issues, which we know is a big part of getting applicants through the program. And that is going very well.

We've also met with the local clergy. And a lot of the individuals that we called or sent mail to haven't responded.

And so in Beaumont, we sat down with about ten churches and gave them a list of people in their ZIP codes that they may be able to help with, and they went out and knocked on doors and made some calls. And in the last two weeks, just based on their activities, we've had 33 additional completed applications, 75 people call back that we couldn't get to call back prior and 79 additional applications returned.

So that process seems to be working well. We have a follow-up meeting with them today. And based on what seems to be a very positive result in Beaumont, we'll roll that out to the other counties within the program.

We've requested the release of funds from HUD based on the environmental noticing. That should happen today or later this week, depending on when HUD can actually get the documents signed, which allows us to actually start closing the grant documents or the loan documents for Sabine Pass and building houses.

MR. GERBER: Don, how many homes will we be starting with in Sabine Pass?

MR. ATWELL: There are 18 that have been inspected and completely through the grant process.

MR. GERBER: So we'll be inviting you all the week of the 15th to a groundbreaking for 18 houses in Sabine Pass, which is a huge milestone for this program.

MR. CONINE: Great.

MR. ATWELL: You'll all look very good in hard hats.

There have been -- August was a big month for outbound calling. We actually made 5,752 calls to try to talk to folks, and 2,282 people called us. So the program is gaining some traction with the community. And we had ten community days, where 194 people actually came out to see us in their communities, versus in our offices.

Future activities. Development of a coordinated outreach program, let people know the program's here, get them to respond. And then a lot of what I've been talking about so far is getting people to respond.

Identifying new applicants if we need them, based on whether or not all of the grant funds will be spent based on the current number of applicants. And just showing the program in a positive light, because this is a great thing that's happening down in southeast Texas.

We've met with HUD to finalize the environmental side of the HAP program. And there's a consensus there on what we need to do moving forward for the public noticing for the HAP program.

We're going to begin eligibility determination -- actually, that started this week for the HAP program. And we've added a number of people in the case worker function. There are six that are in training today, and we'll add up to twelve more over the next couple of weeks that can help people through the process.

And that's it. I'd just like to say that things are moving forward. The applicants are beginning to get involved. We're helping them get involved and using the community to do that.

MR. GERBER: And just to give our Board members a sense of the perspective, we are -- in terms of the timetable laid out when we contracted with you all, we've slipped about a couple of weeks.

MR. ATWELL: We have.

MR. GERBER: And we were intending to build at the very end of August. Because of those HUD environmental clearances that are required before we could draw down the funds, we're off by a couple of weeks.

MR. ATWELL: Yes, sir.

MR. GERBER: But that's been the only slippage significantly that we've seen.

MR. ATWELL: Yes, sir.

MR. GERBER: Which is good.

We're also continuing to work, obviously, on the gap financing issue. We've been working with lenders and others who are interested in assisting with that. So -- but we do have adequate funds because of the million dollars that the Board has approved to enable us to deal with that issue at least initially.

And we're still looking to try to come up with a more ongoing source to address the 8- to $10 million in gap that we think exist, but we don't have problems with this initial loading up of eligible persons.

MR. ATWELL: That's great.

MR. GERBER: Okay.

MR. CONINE: Don, before you leave --

MR. ATWELL: Yes, sir?

MR. CONINE: -- again, thank you for that report and hard work. I want to let you know that I volunteered both you and Kelly for a job. And that has to deal with again the new housing legislation that congress passed, the $4 billion that's going to come via CDBG money to the states and local communities to be able to buy up some foreclosed homes and redevelop some areas.

And I think the staff at NCHSA [sic] would like to hear from both of you as to the difficulties of applying CDBG regs to the single family business. And I told them that we've recently gone through that experience with the disaster relief program that we had and could provide them some wonderful insight as to the pitfalls, in some cases, of being able to do that in an expeditious manner.

So if you wouldn't mind kind of making a laundry list and getting those to Barbara Thompson at NCHSA, I'd appreciate it.

MR. ATWELL: I'd be happy to.

MR. CONINE: Thanks, Don.

MR. GERBER: That concludes that discussion.

MR. ATWELL: Thank you.

MR. GERBER: The last item is the FEMA affordable housing pilot program. We have 15 houses that are on order; they are being shipped over to us. We hope to deploy them in the next 120 days throughout east Texas.

We're also working in Houston and Harris County to work with Harris County Housing Authority and, we hope, Habitat for Humanity in Houston to go and do an urban test of this particular Heston home that we've talked about and have been authorized to test by FEMA.

Interestingly, there was some interest in seeing which of these houses we had currently as part of the preparation for Hurricane Gustav. Unfortunately, we didn't have them, but I hope we will have them. It would be nice to take a small number of them off the 50, if FEMA should require it, to test them and see if we really are going to get value for them as an emergency response housing tool.

Turning to Item 7.b. real quickly, it is an amendment to Harris County's portion to the partial action plan. Again, we've tried to give great autonomy to Houston and Harris County to use their funds as they see fit. They have held public hearings and related to a proposed amendment that is needed.

Essentially, what they are trying to do is -- they are wanting to reduce the number of people who are served in one program and increase the number of people who are served -- who are receiving case work management, which has been more intensive with the Katrina evacuee population. And we've seen changes from Harris County, you know, reducing the number of people who have youth offender services issues -- they've been reduced -- and other instances where more persons have needed transportation assistance.

We've seen other amendments that have similarly just sort of jiggered the numbers and the dollars around a little bit as the needs of this evacuee people changes. This is another example of just their feeling that another million dollars is needed for the intensive case work with this, really frankly, most hard-to-serve population that's been in Houston for now three years. So we're asking for just simply the approval of that amendment.

Kelly, anything you'd want to add to it?

MS. CRAWFORD: The Board meeting today serves as the public hearing for Harris County's request for an amendment, as well.

MR. GERBER: So they've already had one in Harris County to solicit local comment, and this is another opportunity for the public to comment should they have it.

MS. CRAWFORD: I'm not --

MR. GERBER: And I don't think we have public comment on this item.

MR. CONINE: Well, I've got a couple.

MR. GERBER: Oh. Do we? I'm sorry.

MR. CONINE: I've got a couple witness affirmation forms.

MS. CRAWFORD: That's --

MR. CONINE: Mr. Fisher, you've got 7.b, or d?

MR. FISHER: d.

MR. CONINE: Well, you wrote b. on here. So we'll save you for d.

MR. FISHER: It's a write-o.

MR. CONINE: Okay.

MR. GERBER: So the Board is asking -- we do need a Board motion in order to approve that amendment.

MR. CONINE: Okay.

Amendment for Harris County's plan. Do I hear a motion?

MS. RAY: So moved, Mr. Chairman.

MR. CONINE: Ms. Ray makes a motion to approve. 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.

MS. CRAWFORD: Item 7.c. is a request to allocate funds that are currently in the obligated under CDBG Round 1. As of now we have 1.12 million that remains unobligated under Round 1.

And we're requesting additional administrative funds totaling $582,532 primarily to cover costs associated with extending the contracts through December 31, 2008, as well as for intensive case management provided by TDHCA in December of this past year and costs incurred when the Agency created a new disaster recovery division when it became clear that the program could not be absorbed by the existing staffing structure.

Staff is also requesting approval to access the other $538,989 to extend case management services to applicants for determination of eligibility and assistance for Round 1 disaster recovery housing.

MR. GERBER: So there's really two things happening here. One is that staff -- because the two-year contracts with the COGs has gone on for an extra six months, plus, in the case of one COG in particular, we had to do an awful lot of intensive hand holding.

We expended an awful lot of our administrative dollars. There was some held back, but we needed to be able to draw down to cover those costs. And so that's the request for the 582,530.

The second request is for the $538,989. And what we're asking you to do is actually use those Round 1 dollars to actually pay for costs associated with expanding case work for those people who were unable to really be served with those Round 1 dollars and have gone into ACS's system.

We're going to use the services of the Southeast Texas Regional Planning Commission, we believe, or another qualified case work provider that has some real experience in dealing with this population and has tracked them all along, to get them through the hurdles of this process. And there are a lot of them. So it'll expand our case work capacity quite a bit.

MS. CRAWFORD: Right.

MR. GERBER: So those are really the two separate actions that you're voting on today.

MS. CRAWFORD: Yes.

MR. GERBER: And the Board's recommending a motion in support of both of those.

MR. CONINE: Can you give me a picture of what the increase would expand our overall administrative costs in the form of a percentage?

MS. CRAWFORD: Gosh.

MR. GERBER: For Round 1, I think we --

Didn't we go from three to five?

MR. CONINE: As I seem to recall --

MS. CRAWFORD: We'll go from 1 million to 1.5 million --

MR. CONINE: Yes. I know that.

MS. CRAWFORD: -- in administrative costs.

MR. CONINE: I know that. But as a percentage, is it -- does that go from 3 percent to 10 percent? Or does that go from --

MR. GERBER: It goes to five.

MR. CONINE: It goes to five?

MS. CRAWFORD: It's --

MR. GERBER: It goes from three to five, because on

Round 1, the Board -- we didn't think we were going to get more funds. And so the Board, for both us and for ORCA, authorized less administrative funds be available to us so that we could -- you put more of the dollars into real services.

MR. CONINE: As I seem to recall, when we approved Round 1, we pushed it from five to three. So this is just kind of getting back to where we were basically from a time in a reality standpoint, as opposed to what we thought.

MS. CRAWFORD: Right. It didn't work out the way we had originally planned it to work out.

MR. GERBER: Right. It's just cost us more, particularly after we -- when we sent 30 staff members out to one Council of Governments in particular. That really blew the budget.

MS. CRAWFORD: That was a $100,000 operation.

MR. GERBER: Yes.

MR. CONINE: Okay.

Do I hear a motion?

MS. RAY: Mr. Chairman?

MR. CONINE: Ms. Ray.

MS. RAY: I move staff's recommendation.

MR. CONINE: Motion for the staff recommendation to do both of the increases. Do I hear a second?

MS. ESCAREÑO: Second.

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

(No response.)

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

(A chorus of ayes.)

MR. CONINE: Any opposed?

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: Mr. Chairman, I would just also add the Kelly and Bill Dally, who is, unfortunately, not with us today, but -- they've been watching the budgets very closely. And our hope is that -- while things are kind of shifting a little bit and we're doing some -- we need the increase to the 5 percent, our hope is that on the back end we will have some administrative savings and be able to put those savings again into direct services for folks.

But we're watching the budgets pretty closely. And our hope is to be able to do that, because we know that there's a lot of need and we're not going to be able to fulfill it all.

Kelly, do you want to -- why don't you lay out 7.c?

MS. CRAWFORD: 7.d?

MR. GERBER: 7.d. I'm sorry.

MS. CRAWFORD: It's a request for an amendment to CDBG disaster recovery multifamily rental under Round 2. There was an imperative to utilize the funds and provide needed rental housing units in the Rita-damaged areas of southeast Texas in a timely manner. The Board approved as a condition of the award a 12-month deadline for the single family lots under this award to have been properly platted and fully improved with infrastructure or the funds would be deobligated.

The applicant has been unable to meet the Board-approved condition and timeline for platting and infrastructure. The applicant has proposed an amendment or extension request so that the funds are not deobligated on September 13 of this year.

The applicant requests that the loan closing occur without meeting the September 13 platting and infrastructure condition. The loan closing would proceed, and infrastructure development costs for a Phase One 40-acre tract would be incorporated in the Board-approved development plan.

Infrastructure costs would be reimbursed throughout the development. And the applicant has requested that an additional two lots be added to the original four lots that will house the community facilities.

We recommend Board approval of the applicant request conditioned on the requirement that the loan closing occur no later than 90 days from the date of today's Board meeting, and this would require that, no later than 30 days prior to loan closing, the applicant must submit and staff must approve all required loan closing documentation including documentation from the city of proper platting that reflects the correct boundaries.

The full conditions are included in the Board write-up. And additionally, the real estate analysis underwriting report addendum and the full applicant request is attached for reference.

MR. CONINE: Okay. We've got some public testimony, public comment. I have -- one, two, three, four -- five witness affirmation forms; only three of you can speak. So Bill Fisher, Melissa Adam, Mark Viatore, Sharon Adams and Celia Quesada?

MR. FISHER: If I can, Mr. Chairman, Ms. Adam is yielding her time to me. And then Ms. Adams, who's the chairman of the housing authority, will speak, and Mark Viatore, who's here from one of -- the Southeast organization.

MR. CONINE: Okay. By my calculations, you've got five minutes, and everyone else has three.

MS. ADAMS: Well, I hope to finish within two, I think, or two-and-a-half.

MR. CONINE: Okay. Good.

MS. ADAMS: And I'll give you some of my time.

Is that okay?

MR. CONINE: That's fine.

MS. ADAMS: Thank you. I'd like to --

MR. CONINE: State your name just so we'll have it for the record.

MS. ADAMS: I will.

Good morning to the Board of the TDHC and to Mr. Michael Gerber and the disaster recovery division and to Ms. Kelly Crawford for all of her hard work as deputy executive director. I am Sharon Adams of 3733 Platt Avenue, Port Arthur, Texas.

And I sincerely and honestly support File Number 07903. And we plea to you to grant us our amended plan for the CDBG disaster recovery funds for Brittany Place Homes.

I am chairman of the Port Arthur Housing Authority, a wife, a mother and a retired educator. I also am proud to say that I've lived in this area where the proposed development is being built. I live about three blocks away from it. And Brittany Place is 100 single family homes for low-income to moderate-income families and is needed.

Today I would have with me more supporters, but, from southeast Texas, we had to evacuate for the hurricane. And they're not with me, because they had to go back. Okay?

Now, on a personal note, it is my belief we must provide not only to feed the hungry, but we must provide shelter for the needy. I know first handedly the grave needs of the homeless and the working poor, because, in Port Arthur, we are going to have an increase in this population, because people are coming to us.

Because -- we have Motiva that's expanding. We have Valero. However, when they get there, they're going to find out they are unskilled laborers. And the working poor will have jobs, but these jobs will be at McDonald's and restaurants. And we need these people, too, but these people need affordable housing, and the homeowners of Port Arthur have reached a ceiling where rent is just beyond the expectations of the poor.

And as I said, I know these reasons first handedly because I serve as a commissioner on Jefferson County Tourist Commission and we allocate the HOT tax funding. And at Ford Park, which we govern, the convention center, we housed Katrina victims. These poor people were there, and I volunteered to help them, as I do in all causes like this.

I've worked with the Port Arthur Beautification Commission, Valero. And working together, we have repaired homes for the poor -- and with my church.

MR. CONINE: I need to ask you to wrap it up, please.

MS. ADAMS: Oh. Wrap it up? Okay.

MR. CONINE: Yes, ma'am.

MS. ADAMS: Well, I do want to say that you're going to hear from some people who are opposing the project, but I do want to say in all the land that I own in this area, the first home that I rented to the poor, a family -- it was destroyed during Rita. But the first disaster to the house came in the 50s when a cross was burned in their first night that they moved into this house.

So you will hear voices, loud, but it's a minority group saying, We do not want Brittany Place. And they will switch from the burning cross to the high-tech way of saying it's an environmental reason. You know, we can change the issues to fit the need.

So today I say please help me to find a place for the 2,500 people who are on Port Arthur Authority's waiting list for homes. And also, keep in mind we will have approximately 2,500 when these people go and look at their homes again in New Orleans and migrate to Port Arthur because they think they're going to find a good job.

I sincerely pray that you will hear the lowly voices of the beaten and the low income, who are saying, Help, we need a home. Please, harden not your hearts and grant them the amended request for number 07903. We need Brittany Place for our 2,000-plus families on our waiting list. Sincere thanks to you, Mr. Gerber, and Board. Thank you.

MR. CONINE: Thank you.

MR. GERBER: Mr. Chairman?

MR. CONINE: Yes.

MR. GERBER: If I could just interject to Ms. Adams? We appreciate her leadership at the housing authority. And we've talked to Mayor Prince extensively, and we know of her commitment to restoring Brittany Place.

And it was because of the strong community input that this Board made the decision more than a year ago to go and provide these funds for Brittany Place. The issues, of course, that we're talking about today are really centered around the finance structure of it, and I know we'll get to that in just a few moments.

But it's very nice to know the community support endures, and we appreciate you being here.

MS. ADAMS: Thank you.

MR. VIATORE: My name's Mark Viatore; I'm chairman of the Recovery Coalition of Southeast Texas. I also was the coordinator for the Sabine Pass Rebuilding Initiative.

And we're grateful, first of all, that Hurricane Gustav decided to pass us by and go another direction. Also, we're grateful for and appreciate the work of Kelly Crawford, Mr. Gerber and the TDHCA for Round 1. And also, we're grateful to TDHCA for granting the funds for the Sabine Pass Rebuilding Initiative, the home assistance program and the rental replacement program.

I'd like to say that we still have a need for housing in southeast Texas. And the Brittany Place project is a project that I've dealt with with the City of Port Arthur and with the builder or -- the developer of this project. We've had some complications with the land. And the landowner was not able -- they were supposed to do the development. They were not able to perform.

And I would like to speak and just say to you that I'd like to speak in favor of and ask you to grant the extension and the amendment for Brittany Place Homes. Thank you.

MR. CONINE: Thank you.

Any questions?

(No response.)

MR. CONINE: Mr. Fisher?

MR. FISHER: Good morning, Board members. Bill Fisher, Odyssey Residential. I'll try and be brief this morning.

Status wise, we have cleared environmental clearance. So we've got HUD clearance on this particular site.

We have accomplished a lot in the last year. We have done all the engineering. There's a letter in your packet that was just passed out from the City of Port Arthur that indicates that we do have preliminary platting and that the site had been approved already for commencement of construction, including a special permit that was passed by the City of Port Arthur for an oversized detention facility.

This change is simply putting the developer in charge of the entire development. The original structure involved the land seller doing lot development and delivering us completed lots. They've been unable to do that. We're certainly able to do that.

It does not contemplate any change in the sources and uses of funds; it simply empowers us to move forward with the approvals that we have to install 106 lots, which will allow us to build 100 single family homes and a clubhouse and community amenities for the property.

The primary change in the site is a use of the lots. Originally, the lot developer was installing 239 lots and we were buying 106 of them. At this point, the city's allowing a phasing of the development. So we are buying the first 40 acres of the property, installing the lots ourselves and building the houses.

For those Board members who are new, you know, I've been involved in the program since 1996 and have produced over 7,000 housing units. So we're fully capable of performing and will perform.

Ms. Adams mentioned some environmental issues that have been raised by the community, which we have addressed, even though we already had HUD clearance. And we will continue to work with staff if any additional questions are raised.

We are in a position to proceed. We will not need 90 days unless there is something that surprises us. We would hope to close here in the next 30 days because I think we're able to demonstrate our approvals from the city that we're ready to proceed. And if you have any questions, I'd be happy to answer them.

MR. CONINE: What was the picture we were looking at there?

MR. FISHER: This is the type of community clubhouse that will be put in place to serve the 100 families that will live in the homes out there. It's a 5,000-square-foot community center -- pool, fitness center, playground, sports courts -- that are all available for use by the families that will live there.

The plat. I also had a picture of the actual site so that the Board members -- again, you have a picture in your packet -- could understand that we're not some remote location. We're an infield development surrounded by existing single family and a middle school to our south. The area right next to us is the ball fields for the community baseball area.

And the last one is just an example of, you know, we've done quite a few single family homes working with housing authorities over the years. These are three-bedroom, two bath, minimum-1,500-square-feet-of-living-area homes with garages and all-brick exteriors. And so we'll deliver quality homes for this area that on average are twice the value of the homes in the current area.

MR. CONINE: Any other questions of the witness?

(No response.)

MR. CONINE: Thank you.

MR. FISHER: Thank you.

MR. CONINE: Do I hear a motion?

DR. MUÑOZ: Well, I'll move staff's recommendation, which is to approve the amendment.

MR. CONINE: Motion by Dr. Muñoz to approve the amendment per staff recommendation. Do I hear a second?

MR. CARDENAS: Second.

MR. CONINE: Second by Mr. Cardenas. Any 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.

Okay. We're moving on to --

MR. GERBER: Item 7.e, Mr. Chairman.

Kelly, 7.e?

DR. MUÑOZ: Mr. Chairman?

MR. CONINE: Dr. Muñoz.

DR. MUÑOZ: Do you mind if I just take a bit of liberty? I've been down in that area. I'm in west Texas, Lubbock, which is up in the panhandle. But I had the pleasure of being down in that area of Beaumont/Port Arthur, camera hunting. But when you're driving there -- for me, this was an easy decision, having seen the necessity first hand.

MR. CONINE: All right. Thank you.

Kelly?

MS. CRAWFORD: Mr. Chair and Board members, Item 7.e is Southeast Texas Regional Planning Commission's request for an amendment to their contract to reallocate $3,275,500 from their rehabilitation line item and $365,750 from their demolition line item to increase their reconstruction line item by $3,641,250.

Although this reallocation would reduce their required number of beneficiaries to be served by 58, they've exceeded that number they were required to serve under the terms of their contract prior to this amendment request. It's towards the end of the contract. They know now that per population, they're allocating funds to the area that they need to serve. That's what this is for.

MR. GERBER: This puts more money going into rehabs, less going into the other.

MS. CRAWFORD: Actually, more for reconstruction.

MR. GERBER: Oh. I'm sorry. Reconstruction.

MS. CRAWFORD: Yes. They're doing less rehabs than they anticipated.

MR. CONINE: Okay. Any other questions of staff?

(No response.)

MR. CONINE: Do I hear a motion?

MS. RAY: Mr. Chairman?

MR. CONINE: Yes, ma'am.

MS. RAY: I move staff's recommendation.

MR. CONINE: Moving the staff recommendation to make the modification and amendment to the contract. Do I hear a second?

DR. MUÑOZ: Second.

MR. CONINE: Second by Dr. Muñoz. 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.

Where do we go next?

MR. GERBER: Mr. Chairman, with the Board's indulgence, we'd like to go to the --

Is Jeannie around here? Yes? Great.

We'll go to the HOME rule.

MR. CONINE: Okay, which is Item --

MR. GERBER: Item 3.e.

MR. CONINE: 3.e. Back to 3.e.

MR. GERBER: And after that, we'll go to the QAP, which is Item 3.g, which were the two rules that remain to be completed.

MR. CONINE: Okay.

MR. GERBER: The draft rule, Mr. Chairman, proposed by staff ensures compliance with all statutory requirements and incorporates public input from the recent HOME program rule roundtable. It formalizes existing policy and guidelines contained in the HOME program application and submission procedures manual and includes recommendations for revisions of necessary policy and administrative changes to further enhance the HOME program's operations.

Jeannie, why don't you briefly walk through some of the more significant changes that we've made that we think reflect that we've really heard what the community has said, particularly with respect to the OCC program.

MS. ARELLANO: Okay.

Good morning, Mr. Chairman and Board members. Jeannie Arellano, director of the HOME division.

The significant changes that we've made to the rule are summarized in the action item, but I'd like to just highlight the ones that may be presented in public comment. At least, this is what we've received information on from the public during our roundtable session.

One of the changes that we are recommending is an increase in the amount of assistance for the owner-occupied housing assistance program. There's an -- we've received lots of comment from the public regarding the amount of construction costs that have increased for this program.

And also, because of some changes that we've made in the open cycle process for this program, demolition costs are not necessarily always provided by the communities that receive these types of contracts or awards. So staff has made an initial recommendation to increase the maximum amount of assistance by $5,000 to, hopefully, cover those demolition costs and/or any increased construction costs.

I do believe that you will hear more public comment that those amounts should be increased even further. And we have received quite a few examples and samples of bids from various areas of the state. And we do intend to do some more research on this over the public comment period to see if we can come up with a more reasonable mount.

Additionally, the other significant change is a change to the two appraisal requirements again in the owner-occupied housing assistance program. We've been trying to follow some of the best practices that are performed by the other state PJs and even local PJs, and there are significant costs that are associated with requiring two appraisals.

And we've also been before the Board with a couple of amendments for contracts that have had difficulties where we've had difficulties in determining what the loan amount should be, because the initial appraised value was more than the amount of assistance.

So we are recommending to eliminate the two-appraisal requirement and allow the loan amount to be determined by the amount of assistance, the actual amount of HOME dollars that are provided to that unit, with a reduction for the soft costs that are associated with the project -- delivery costs that are related with providing that unit to the homeowner.

Another significant change is because of the HOME task force last year. And some comments that were received from a former Board member and Mr. Conine were to increase the limits for the homebuyer assistance program. We have taken a tiered approach to let it apply -- to recognize the median income level of the household itself and also the size of the household.

We've received some feedback from some of the organizations that provide this funding that it's difficult to serve large families if we're limited to $10,000 in homebuyer assistance. So we've taken a tiered approach with that.

We've also incorporated some of the requirements that we put in our last NOFA to address the foreclosure issues and also sub-prime lending. So we've put some of those restrictions in place for the first lien requirements under the homebuyer assistance program.

We're also asking that with -- the HOME division has moved toward providing all of our funding through open cycle NOFAs. And we've done this so that we can better address the needs in the various areas of the state instead of having a competitive cycle that's only open for two months out of the year, so that we can address and respond to the needs out in the communities quicker by providing funding throughout the year.

What that brings up for us, though, is that, if an organization has applied for finding and received an award, they might not be able to apply for funding again until the following year. So we've included a provision that would allow an organization to apply for funding if they have committed all of their funds from the contract that they already have in place for the same activity.

That way, if a community served five households and has additional need to serve another five households, they'd be able to come back in and apply for funding as long as we can confirm that they've already acted on their original contract.

I think last but not least is -- we've listened to the consultants and organizations, communities and cities and counties that have been involved in our owner-occupied housing assistance program and really tried to take a hard look at the administrative and soft costs associated with the program. We've recommended some increases.

We've also recommended a significant increase for tenant-based rental assistance program administrators to allow them 4 percent in administrative funds per year of their contract. This is mainly due to the fact that they cannot draw soft costs to conduct their programs. The 4 percent, we've heard feedback from the community, is not enough for them to run these programs.

And I think that covers the most significant changes.

MR. CONINE: And so staff recommendation is to circulate these changes for public comment?

MS. ARELLANO: Yes, to be able to publish the draft.

MR. CONINE: And, after it's published it in the *Texas Register*, come back to us in November?

MS. ARELLANO: November.

MR. GERBER: At the November meeting. That's correct.

MR. CONINE: Okay.

MR. GERBER: They'll be subject to the six public hearings we'll have.

MR. CONINE: We have some public comment testimony.

Judy Langford?

MS. SISCO: Judy wasn't able to be here today.

MR. CONINE: Robin Sisco?

MS. SISCO: Good morning, Mr. Chairman Conine, members of the Board and Mr. Gerber. Thank you for allowing me to be here today. My name is Robin Sisco, and I represent Langford Community Management Services. And we work in the HOME owner-occupied program.

First I'd like to express our sincere appreciation for the staff's time and effort spent on preparation of these rules. Thank you to Mr. Gerber, to Jeannie and to the staff.

For those homeowners that we serve, we are particularly pleased about the proposed rule to retroactively apply loan forgiveness upon death of the homeowner to all open contracts. Other very positive changes also included are the elimination of the appraisals and title insurance, which will allow these funds to be used for the construction of the homes.

Allowing the executive director the authority to approve some of the amendments without Board approval will streamline the process, and the extension of the contract term to 24 months will allow the time needed to construct the houses and manage the projects without the need for further extensions.

Even though staff has been working diligently to set appropriate funding levels for the reconstruction of houses, with the cost of construction skyrocketing, this has been very difficult to do. We have not taken bids on new construction since February of this year, but, at that time, the base cost of a house was up to approximately 54,000, an increase from 48,000 the year before.

We have requested updated bid prices from the construction companies that bid on our projects in the spring, and you can see those letters there in your packet. These show a significant increase in the price of construction. And please keep in mind that the homes built under these new rules will not go to bid until late 2009, when construction prices will likely be even higher.

One note. Our figures to not take into consideration the need for new septic tanks. Some people that are building houses do need to include those. We have only worked in cities that have had sewer lines available for the homes, so our projects don't include the need for a septic tank.

Per the attached HOME OCC scenarios, you can see that even though staff has recommended a $5,000 increase from last year, the total amount per house still does not cover the cost of managing the projects or adequately overseeing construction.

So our recommendations are to allow for the price per house to be set at the time of the NOFA, not as part of the rules making process; this would allow staff latitude to make changes as necessary due to the rising construction costs. The price per house should be set at at least 75,000 per house in order to take into account the increase in construction costs. And we also would recommend to make the proposed rules for admin retroactive to all open contracts.

Thank you. I'll answer any questions if you have them.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you, Robin.

MS. SISCO: Thank you.

MR. CONINE: Appreciate your input.

MR. GERBER: Mr. Chairman, before -- I'm sorry. Go ahead.

MR. CONINE: I was going to say let's move to Item -- before we go to 3.g, let's go to Item 8 if we could.

MR. GERBER: Well, Mr. Chairman, could we -- if we could, could we get a motion by the Board?

MR. CONINE: Oh. Yes. I guess we ought to. I was moving right on through.

(General laughter.)

MR. GERBER: But that's good news for the public that before we do go to the QAP, we are going to go first to Item 8, which are the bond division items, including the first-time homebuyer program and Program 71. And then we'll come back to the QAP and other issues.

MR. CONINE: Okay.

Do I hear a motion on Item 3.e?

MR. CARDENAS: So moved.

MR. CONINE: Moved by Mr. Cardenas for staff's recommendation. Do I hear a second?

MS. ESCAREÑO: Second.

MR. CONINE: Second by Ms. Bingham. 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.

Go on to Item 8, Mr. Gerber.

MR. GERBER: Mr. Chairman, if I could just interject real quick? Jeannie and Lora Lange and Sandy Garcia -- and there's others in the HOME division -- and Veronica and those others here -- have done yeoman's work on these rules.

These have been among the trickiest of the rules that we've presented to you this year. And I hope this represents good strong management, high expectation for performance, but, also, some consensus about the direction we need to go in order to make this program be the nationally recognized one that we all aspire for it to become. So I just want to thank them for their work.

MALE VOICE: Your three minutes are up.

MR. GERBER: Yes.

(General laughter.)

MR. GERBER: Item 8 is the bond finance items. The first one is a presentation, discussion and possible approval of Resolution 08-030 authorizing the issuance of TDHCA single family mortgage revenue bonds draw down facility.

Matt Pogor, why don't you come on up and walk us through that?

MR. POGOR: Good morning. Matt Pogor, director of bond finance. I apologize for not being earlier with the audit request, but --

MR. CONINE: Well, you might want to go ahead and do that first, if you'd like, just because it's fresh on our minds.

MR. POGOR: Okay. I'd be glad to do that.

MR. CONINE: Would you respond to the -- what I wanted was a staff response to the suggestions that the state auditor's office had for us in the mortgage revenue bond program and what staff is doing to either implement those changes or not implement those changes. And I'd like for you to speak to that, as well as Mr. Machak, our financial advisor, if you could.

MR. POGOR: Okay. The audit request. There was -- you've been through the overview, I guess, that the Board write-up has in it. The first one talks about there was $250,000, a 1 percent error, that was brought about. That was an accumulative number of $250,000.

What that was -- and that has already been corrected. What that was was a -- Countrywide looks at reports, and they send those reports to our trustee, and the trustee sends those reports to the House.

We did a reconciliation between -- and starting in 2006 with Countrywide, our trustee and us on purchases. What we were not doing is taking a look at the prepayments and repayments that Countrywide was sending over to our trustee and to us. We started to do that.

And as we looked back into the three items that -- there was three issuances that they had. We looked at not just the three. We looked at all the issuances that they were -- should have covered, I guess. There were a total of nine issuances open.

There was no additional items that were found that had this problem. So this is really an item that's really been closed as the reconciliation that our bond finance group is doing now, currently.

The next item talks about our swap policy, where the auditor has requested that we add additional language into our swap policy to cover such items as forward-starting swaps, fixed notional and knock-out options. In looking at that, we did come back to our Board early in January of this past year. We updated our swap policy. In that swap policy, we've tightened it all up.

One thing we did not do was to get to a point where we define specific swap options that are in there. So we left it open so that it is allowable for us to do these types of swaps.

And what we probably will do is come back to the Board in January of next year and add some language in there that yes, we have the authority or the Board has the authority to enter into these swaps. So it was just an item that was left out, but it is nothing that we can't correct in January of this coming year.

The other item has to do with the swap diversification. Okay? One of the things we have -- right now, we have three swap counter parties. We were looking at adding a fourth swap counter party with this coming structure. That probably will not happen. But what we will do is also -- even if we stay with our three remaining swap counter parties, we will still diversify.

Currently as we stand, Bear Stearns has a 66 percent portion of our swap portfolio. Okay? UBS has 25 percent, and Goldman has 9. By going into this new Program 71, which I'll present later on, and doing a swap with Goldman, our swap diversification will now go from 66 percent at Bear Stearns to 55 percent. UBS will drop from 25 percent to 21, and Goldman will go from 9 to 24. So we're kind of diversifying with those three pools, helping that out.

Also, I'm going to be bringing to you today a request for an RFP for underwriters. Going forward into 2009 and beyond, we'll be looking at a new group of underwriters. And with those, we'll also be looking at bringing to the Board new swap counter parties. So we'll be adding to -- just those three. We're adding several more to that to help diversify more of that swap portfolio for you.

So I think we got some positive notes that are going forward that will help out and will take care of these audit requests.

There was an item in there concerning Countrywide and that we need to go to Countrywide on like an annual basis and review the portfolios that they put together, the securitization of the loans and the pools. They auditors wanted us to make sure that all of the loans were intact, they had the right criteria related to closings and all of the documents were in there.

What we're going to be doing is coming back to the Board. Probably Eric Pike and his group will be coming back to the Board in November with an RFP. We probably will come back also, too, sometime in the January time frame to the Board, selecting an auditor to go back out to the field to Countrywide and do this type of audit that's requested by the state auditor's office.

In their review, the state auditor's office did not find any errors with Countrywide, but they're still recommending that we go there and visit them on an annual basis.

MR. CONINE: Okay.

Gary, can you -- I'd ask you if you concur, I guess, with what Matt has told us. And in light of the turbulent nature of the capital markets, as we know, are we still able to pull off what the state auditor's office has suggested?

MR. MACHAK: Okay. Thank you, Mr. Chairman and Board members. Gary Machak with RBC.

I concur with the suggestions that Matt and the actions that the Department staff will be taking with regards to the audit. The market is very turbulent out there.

Matt mentioned diversification. Your -- the Department in terms of diversification has gone through what other issuers have gone through. When you start to work with counter parties, you put your first swap on, basically. And when you look at it, you have no diversification, because you will have that swap with one.

As you are adding on swaps and bringing others in, you're going to have more and more diversification. It's almost like if you were starting a stock portfolio and you invested in one stock and then you got other money to invest later, and then you'd be adding more diversification later. That's what we're working towards.

In terms of some of the other usages that they've mentioned -- knock-out swaps, forwards -- certainly we've considered those. They're not useful to us at this point, but we can put them in their policy.

Knock-out swaps are something that other agencies have used, but given our assets that are protecting these swaps, it's something that we probably would not consider at this point.

The monitoring and the fixed -- he mentioned something about fixed notional. All of our swaps have what we call par termination rights. So as the assets in our indenture, the mortgages, prepay, we could also terminate those swaps at par; we do not have to take market risk with any type of termination payment with those swaps.

So in terms of the market, there's been a lot of news lately. There's been -- one firm has exited the municipal market -- JP Morgan -- in terms of doing swaps with municipals. There's been a lot of consolidation, as you know. Bear Stearns, who was one of our main counter parties, was taken over by JP Morgan.

Throughout that whole process, our credit -- our counter party actually maintained its triple-A ratings -- Bear Stearns financial Products -- and actually came out with even a stronger credit because, in addition to that backing of Bear Stearns Financial Products, which was triple-A by both rating agencies, there is also now a guarantee by JP Morgan Bank which wasn't there when we first entered into those swaps with them.

Another counter party, UBS, a large municipal counter party, has exited the market, too. So -- but as Matt said, there are others out there. There are others that are looking at this. If I could maybe plant a seed and a suggestion looking forward?

If it's all possible with the legislative session coming up, one thing that would help in the financial markets and especially with swaps, which would help to bring lower interest rates for the homebuyers of Texas, is to consider some sort of -- whether it's appropriate to ask for on a portion of any new debt maybe an authorization of GEO [phonetic] backing of some kind.

Some other state agencies have that, and it makes it easier for them to access these types of financial products. We can talk about ways where that may make it easier for the legislature to consider that.

MR. CONINE: Would that make the pool of investors larger? Or would you venture to guess a basis point reduction in our debt cost based on a GEO backing?

MR. MACHAK: I think it would do two things. I think you would get more interest in terms of investors. You would get a reduction in interest rates when you went out into the market place, and you would get more comfort ability from the counter parties that were entering into swaps with you.

MR. CONINE: A reduction in interest rates in the --

MR. MACHAK: Depending on the market and depending of course on the GEO rating of the state. It could be anywhere from, you know, two to three basis points to five to seven basis points.

MR. CONINE: Okay. That helps.

MR. MACHAK: One thing that these other agencies have and that you can also offer is that it would not be revenue that the state would not -- these would be self-supporting debt. So the state would not have to appropriate to pay this.

MR. CONINE: Now, the GEO backing is just another backstop for the investor to look at?

MR. MACHAK: That's right.

MR. CONINE: Okay.

MR. MACHAK: It would be. You would have a double-barrel credit.

MR. CONINE: We'll put that on the list to talk about internally to see if our friends over in the legislature might consider that.

Any other questions of Gary?

MALE VOICE: Fees?

MR. MACHAK: Yes, that's right. As Matt mentioned, the fees that we would pay counter parties and other entities with the GEO backing could be helpful.

MR. CONINE: Any other questions of Gary?

(No response.)

MR. CONINE: Thank you for working with staff to respond to the state audit. And as we go through the agenda here, hopefully, we'll weed through the new challenges of the market place.

MR. MACHAK: Okay. Thank you, Mr. Conine. I'll be happy to answer any other questions.

MR. CONINE: Thank you.

Okay. Matt, back up for 8.a, please?

MR. POGOR: Mr. Chairman and Board members, Item 8.a is requesting approval for Resolution 08-030 authorizing the issuance of TDHCA's single family mortgage revenue draw down bond facility.

On May 8, 2008, the Board approved issuing a request for proposal for underwriting services for investment banking firms interested in developing a draw down program for TDHCA's single family mortgage revenue bond recycling program. The draw down bond program would replace the existing commercial paper program which currently serves this purpose.

On June 26 of 2008, the Board approved Morgan Keegan & Company as underwriters for the TDHCA draw down bond program. Today staff is requesting approval of a $400 million bond draw down program, which will allow TDHCA to capture and preserve tax-exempt lending authority over the next three or four years for use in future single family programs.

MR. GERBER: Hey, Matt, let's stop there and ask them if there are any Board questions regarding that. Otherwise, we'd be seeking a motion to approve that draw down.

MR. CONINE: Any questions of Matt?

(No response.)

MR. CONINE: Do I hear a motion?

MS. RAY: So moved, Mr. Chairman.

MR. CONINE: We're approving Resolution 08-030. Is there a second to Ms. Ray?

MS. ESCAREÑO: Second.

MR. CONINE: Ms. Bingham has a second. 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.

8.b?

MR. POGOR: Thank you. I just want to make one extra comment. With Morgan Keegan, the bond structure will be going very smoothly. And it's working out very quickly for us, and we really appreciate all their help on it.

MR. CONINE: Go ahead.

MR. POGOR: Everything has been going really smooth. So I'm very pleased with it. It's been one of my pleasures so far.

The presentation, discussion and approval of a request for an RFP for investment banking firms interested in providing investment banking services as senior manager and co-manager for one or more proposed single family mortgage revenue bonds starting in 2009.

In the bond market, a syndicate of bankers is needed to market structures. The number of bonds available for sale typically dictates the size of the syndicate needed at the time of pricing. With TDHCA's structures at or over 100 million, a pool of bankers, which includes a senior underwriter, a co-senior manager and four co-managers, has proven successful in marketing the Department's bonds.

Staff is recommending a change that would allow the Board to select four senior managers who will work as underwriters to structure our bonds and eight co-managers that will work in conjunction with sales of our TDHCA single family mortgage revenue bonds. By selecting four senior managers, TDHCA will broaden our base to help diversify our swap counter party position.

To ensure synergy, the next senior manager in rotation would be the co-senior manager for the position of the bond structure. Both the senior manager and the co-manager will work in rotation. The eight co-managers would be divided into two groups of four in a rotation to help market our structure.

The response for the RFP will be reviewed, analyzed and scored by bond finance staff and TDHCA's financial advisor, RBC Capital Markets, and will be coming back to the Board for oral presentations in November. Staff is recommending approval of Item 8.b.

MS. ESCAREÑO: Move to approve.

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

MS. RAY: Second.

MR. CONINE: There's a second.

My question would be, Is there 12 folks still left out there that we can call upon?

(General laughter.)

MR. GERBER: I think there are just 12. And they're all good.

MR. CONINE: I -- you know, just as a comment, I see a bunch of our friends sitting in the audience and appreciate their attendance and attentiveness to the Department's needs.

And for the rest of the Board, I think in years past what we've done when we've gone through the RFP process related to our bond finance division -- it's helpful sometimes to receive the oral presentation that Matt referred to in his presentation from each of the firms so that you get an idea of their capacity and some of the nuances to each individual firm.

So we might want to plan again at the November meeting to come in a day early and try to do that the day before so we can get the full flavor of the 12 folks or however many folks we end up wanting to interview.

And I would encourage the investment banking communities to put on your best dancing shoes.

Any further discussion or questions?

(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. POGOR: Item 8.c. Mr. Chairman and Board members, Item 8.c is requesting approval of Resolution 08-033, authorizing application to the Texas Bond Review Board for reservation of HR 3221 single family private activity bond authority.

The Housing and Economic Recovery Act of 2008, HR 3221, signed into law on July 30 of 2008, provided $11 billion in new tax-exempt volume cap authority for single family and multifamily housing throughout the country for use through the end of 2010. Any unused new authority allocated in 2008 can be carried forward, but only for housing issues.

The state of Texas is projected to receive $770 million for use over the next two-and-a-half years. Staff has had working group meetings with the Texas Association of Local Housing Finance Agencies, the Texas State Affordable Housing Corporation and the Texas Bond Review Board to help draft rules related to the disbursement and use of this $770 million.

The Texas Bond Review Board conducted a special-called meeting on August 29 to discuss rules relating to the distribution of this new volume cap. TDHCA is confident that we can utilize a portion of this additional volume cap over the time allotted to finance additional affordable mortgages.

Staff anticipates using $60 million of this new authority in Program 71 along with 69.6 million from the 2008 volume cap. The remaining 2008 volume cap of $60 million will be warehoused under the draw down bond program. Staff is recommending approval of 8.c.

MR. CONINE: Any questions, or do I hear a motion?

MR. GERBER: Mr. Chairman?

MR. CONINE: Yes, sir.

MR. GERBER: I would just interject that it's exciting because the Department will be the first to take advantage of the additional new volume cap that's been provided to us by House Bill 3221. So we're taking $60 million, and that money is different in that we have to originate those loans within 12 months, as opposed to the usual time frame which we have, which is 42 months.

We feel confident in and have been working closely with Eric Pike, who has to go out and actually move that money to make sure that he's right there and our lender network is ready to go. But we feel confident, and we're excited to be the first out the door, hopefully. So we ask for a motion.

MS. ESCAREÑO: Move to approve staff's recommendation.

MR. CONINE: And Resolution 08-031?

MS. ESCAREÑO: -033.

MR. CONINE: -033. Excuse me. I got one ahead.

Any -- there's a motion by Ms. Bingham. I need a second.

MS. RAY: Second.

MR. CONINE: 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.

MR. POGOR: Good. The reason I was late this morning a little bit -- we were having a little working group meeting. And I'm glad to say that I think we got our working group meeting all worked out, and I'm ready to present Item 8.d to you.

MR. CONINE: Good.

MR. POGOR: Mr. Chairman and Board members, Item 8.d is requesting approval of Resolution 08-031 authorizing the issuance of TDHCA's single family mortgage revenue bond, 2008 Series A and 2008 single family variable rate mortgage revenue bond, 2008 Series B, Program 71.

On June 26 of 2008, the TDHCA Board approved Resolution 08-025 authorizing application to the Texas Bond Review Board to draw down $129.6 million in remaining reservation of TDHCA's 2008 single family private activity bond authority and approval of the underwriting team for Program 71. As of August 28, 2008, 92 percent of $161 million, or $149 million, of Program 71 lendable proceeds have already been purchased or in the pipeline to be purchased.

TDHCA wants to provide stimulus to the Texas housing market by doubling our normal amount of down payment assistance from

30 percent to 60 percent and increasing our down payment assistance to families with income up to 80 percent AMFI. Staff has surveyed our lenders, and there remains a demand for our product as long as we have an attractive market rate.

Our proposed unassisted target mortgage rate is 5.75 percent, which is currently approximately 85 basis points below market and is expected to be 100 basis points below market by the time Program 71 starts in mid-October. Current market mortgage rates around 6.50 to 6.60.

Our proposed assisted target rate is 6.5 percent. TDHCA recommends changing our down payment assistance from 5 percent to 4 percent since we have increased our lendable eligibility to 80 AMFI and doubled the amount of assistance.

Starting with Program 71, staff is recommending that homebuyer education become a requirement. Taking a conservative look at this potential demand, staff recommends issuing $129.6 million of bonds for Program 71. Of the 189.6 million available of volume cap available to TDHCA in 2008, TDHCA has already approved $60 million for use with the MCC program, leaving 129.6 million in 2008 volume cap.

The Housing Recovery Act of 2008, signed into law on July 30, provided $11 billion of tax-exempt volume cap authority.

MR. GERBER: Matt, why don't we --

MR. POGOR: I'm just going to skip that, because we covered that earlier.

MR. GERBER: Yes. Why don't we?

I don't know if there's any other -- questions from Board members or if Elizabeth has anything that we need to add to that. But --

MR. CONINE: Do I hear a motion to approve Matt's staff recommendation?

MR. CARDENAS: So moved.

MR. CONINE: There's a motion by Mr. Cardenas. Do I hear a second?

MS. ESCAREÑO: Second.

MR. CONINE: Thank you, Ms. Bingham.

There's a 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.

Congratulations.

MR. POGOR: Thank you.

MR. CONINE: I think that's been a tough fight for you.

MR. POGOR: It's been a tough road.

MR. GERBER: Very tough. Good work.

MR. CONINE: Okay. We're going to take a ten-minute break so the rest of us can go do what Dr. Muñoz is doing. And we'll take 3.g after that.

(Whereupon, a short recess was taken.)

MR. GERBER: Mr. Chairman?

MR. CONINE: Yes, Mr. Gerber.

MR. GERBER: With the Board's indulgence, we're going to continue to hold on Item 3.g, and we're going to go to Item 11, which are the multifamily division items. And we're going to start with Providence Town Square Apartments, which is Item 11.a.

This relates to the issuance of tax-exempt bonds and the award of 4 percent Housing Tax Credits. This is a Priority 3 bond transaction proposing 252 new construction units in Deer Park; it'll serve the elderly population, and it'll be privately placed with Capital One.

A public hearing was held on July 9, 2008. There were 22 people in attendance, with one individual speaking for the record. The majority of the people in attendance were in support of the development.

There were some letters that the Department received regarding opposition, mostly centered around a high volume of traffic on Center Street that makes it not conducive to apartments and that the development was to be built on or near the most dangerous accident-prone street and intersection in the city of Deer Park. So there were concerns centered around that.

The Department has received a letter of support from Texas Representative Wayne Smith and an e-mail in support from Becky Stockstill-Cobb. The Department's received 15 letters of opposition from the community, also largely centered around the location on a high-traffic volume street.

The applicant is requesting $14,750,000 in tax-exempt bonds and $743,913 in Housing Tax Credits. Staff is recommending an approval in those amounts, and this would be Resolution Number 08-032.

MR. CONINE: Do I have a motion?

MR. CARDENAS: So moved.

MR. CONINE: Motion to approve staff recommendation for 11.a.

Oh. We've got somebody that wants to talk. Let me get a second to the motion first.

MS. RAY: Second.

MR. CONINE: Second by Ms. Ray.

Open it up for public comment.

Chris Richardson?

(Pause.)

MR. CONINE: He's gone?

MALE VOICE: He's gone, sir.

MR. CONINE: What are you doing standing up? Are you going to go get him?

MALE VOICE: Pardon me.

MR. CONINE: I can't imagine he would oppose approving this, but I guess so. Let's give him a second.

(Pause.)

MR. CONINE: He doesn't care? Okay.

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 and Board members, Item 11.b is dealing with Woodmont Apartments. We're asking for approval of Resolution 08-034, which includes the inducement of one tax-exempt bond application: Woodmont Apartments, in Tarrant County.

Upon Board approval, the application will be submitted to the Texas Bond Review Board for placement on the 2008 waiting list. It is possible that this application will be submitted to the bond review board requesting that the allocation come from the additional bond at the time that's been granted under HR 3221.

The Board's previously approved 13 applications for the 2008 program year. The Department received one letter of support from State Representative Lon Burnam and no letters of opposition.

We note that this application, Woodmont, was previously induced at the July 31 Board meeting and initially requested 15 million in volume cap. While their financing structure originally included a taxable portion, with the volume cap limits per application now lifted as a result of the August 15 collapse, they are requesting 18 million as tax-exempt bond proceeds and are therefore being placed back on the agenda for approval.

After an initial Board approval in July, the application was submitted to the bond review board in August; however, the application has since been withdrawn. It should be noted that the approval of the inducement resolution, however, does not assure that the development will ultimately receive approval for the issuance of private activity bonds.

Staff's recommending approval of the Inducement Resolution 8-034.

MR. CONINE: Do I hear a motion?

DR. MUÑOZ: So moved.

MR. CONINE: Dr. Muñoz moves to approve staff's recommendation on Item 11.b. Is there a second?

MS. RAY: Second, Mr. Chairman.

MR. CONINE: Second 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.

MR. GERBER: Mr. Chairman, now we're moving to Item --

MR. CONINE: No. We're going to -- I need a motion to reconsider Item 2, I believe.

MS. RAY: Mr. Chairman, I move the reconsideration of Item 2.

MR. CONINE: Is there a second?

MR. CARDENAS: Second.

MR. CONINE: Any discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: Motion carries.

I know Brooke Boston has prepared a memorandum to essentially memorialize some of what we did yesterday, and then I think there's some minor tweaks to that that the Board would like to consider.

So Ms. Boston?

MR. GERBER: Ms. Boston, has this been made available to the public?

MS. BOSTON: Not yet.

MR. GERBER: Okay.

MS. BOSTON: Not until the Board --

MR. CONINE: Does something with it.

MR. GERBER: Okay.

MS. BOSTON: But I have it ready in case.

MR. GERBER: Okay. Great.

MS. BOSTON: So just to -- you guys each have this in front of you, but I'll just take you through it very quickly.

The 2007 awards that have not closed. Those will have a chance -- well, they will be allocated additional credits from the 2008 ceiling based on an evaluation of their developments utilizing the GAP method and allowing for new syndication pricing letters and a 9 percent rate as applied to qualified basis.

The --

MR. HAMBY: I'm sorry. If the Board has it, the public has to get it, too.

MS. BOSTON: Okay. It's in that folder.

MR. CONINE: What did you say?

MR. HAMBY: If the Board has it, the public has to get it, too.

MR. CONINE: Yes. We have something we're looking at here.

(Pause.)

MS. BOSTON: Should I keep going?

MR. CONINE: Yes.

MS. BOSTON: Okay.

The --

MR. CONINE: Despite what he says, go ahead.

MS. BOSTON: As a technical clarification, I do want to point out that if a development applied in 2007 but was given a forward commitment of '08 credits but they were in the '07 round, they will be handled as '07. So whether they've closed or not closed, they would fit into the appropriate category as an '07.

MR. CONINE: Okay.

MS. BOSTON: And I've put that in here as a clarification.

MR. CONINE: Okay.

MS. BOSTON: For -- and this is a little bit different from what we talked about yesterday, but the write-up reflects that the 2007 awards that have closed and 2008 awards will be treated the same. And so instead of splitting those out and handling them in two different ways, how they will be treated is that they will have an opportunity to turn in new evidence and be re-evaluated.

Any action relating to that re-evaluation will take place at the November Board meeting. The evidence that can be turned in would be new sources and uses, and on the ones that have closed, it would include any final debt and equity as it was closed.

That evidence would be due to us on September 26. That's a little different from what we might have talked about earlier. That gives them a little bit more time to get it to us, but it still gives us time to look at it.

They would -- and I would note that the commitment notice and the fee on the '08 applications would be coming in on November 1 at the same time as carryover. And now that carryover doesn't include site control, I think that that's still doable for the development community.

That would also be the date that the amnesty period ends that we talked about. So either they would return their deal by November 1 or they would turn in their commitment notice, the commitment fee and their carryover.

Just to go over the amendments, we had talked about encouraging people to submit their amendments in time for the November or December meeting for cost engineering purposes. The 1.2 million cap does not apply, nor will the original application request.

The 2 million cap. I did speak in error yesterday, and I have corrected that in the write-up. The 2 million cap would apply from the ceiling that the credits are coming from. So if it's a 2007 application and it's being given an '08 ceiling, the test would apply in '08. If for some reason we use '09 credits for anything over the next couple of months, it would apply from the '09 ceiling.

MR. CONINE: The first error you've ever made, isn't it?

MS. BOSTON: No. It's rare. But --

(General laughter.)

MR. CONINE: It is rare. Go ahead.

MS. BOSTON: The 10 percent test deadline will continue to be as we had had in the original proposal that was in the Board book and then again that we spoke about yesterday. Site control would be moved from carryover to the 10 percent test. They just still need to show that they have control, but they do have to purchase it until the 10 percent test.

We will still move forward with an amnesty period, and that would be for any deals that have had a prior award. And they would have from today or yesterday, whichever way you look at it, through November 1 to turn in without having any penal on scoring in future years.

We -- just as a clarification, I changed a timeline. I put together a timeline, and that shows that the amnesty period begins today, that probably the week of September 15 through 19 we would get commitment notices out for the 2008 deals; then September 18, all evidence would be due, both for 2007 non-closed, as well as 2007 closed and 2008. And the write-up that people have would outline what that evidence can be.

October 1, we will release the new commitment notices for the additional 2007 allocation. November 1, as I mentioned, the amnesty period would end, and commitment notice fees are due -- and carryovers.

And then at the November 14 meeting, there would be Board agenda items for possible action on credit increases for the closed 2007, credit increases for the 2008 transactions, potential action on the 2008 waiting list if for some reason there's credits available, 2007 amendments, as well as forward commitments. And that's a summary of what I have.

MR. CONINE: Okay.

Does everybody understand the changes from yesterday's discussion or have any discussion with Ms. Boston or any other questions of Ms. Boston?

MS. BOSTON: Oh.

MR. CONINE: Did we --

MS. BOSTON: I'd like to clarify that -- when I just mentioned the timeline, I said September 18 is the deadline for information for the '08s and closed '07s.

MR. CONINE: Yes.

MS. BOSTON: And that is September 26.

MR. CONINE: The 26th? All right.

MS. BOSTON: Which I had said prior. So it's the 26th. But for non-closed, it's still the 18th.

MR. CONINE: Right. Okay.

MS. BOSTON: Two errors. Look at that.

MR. CONINE: Well, you did it in a hurry.

MS. RAY: Well, it clearly says 26 September in the writeup.

MS. BOSTON: So it was only kind of an error.

MR. CONINE: Okay. We need a --

MR. GERBER: One other clarification is that it's actually not November 14. It's the 13th. That's the Thursday for the Board meeting.

MS. BOSTON: Oh. The meeting's the 13th?

MR. GERBER: Yes. Mr. Cardenas pointed out that I got the date wrong.

MS. BOSTON: Oh.

MR. CONINE: Are you sure he's on the right year?

MR. GERBER: Yes. It's November 13.

MR. CONINE: The 13th.

MR. GERBER: Thank you for catching that.

MS. BOSTON: Any question?

MR. CONINE: Do the Board members have any other items they want to discuss, bring out, talk about relative to this issue?

Dr. Muñoz?

DR. MUÑOZ: Well, Mr. Chair, before we vote, I just want to point out and underscore that these decisions here and this proposal and some of the concessions on the 10 percent and amnesty, et cetera, I think is a clear demonstration of the Board listening to speakers and the anxiety, given the volatility, and very quickly trying to expedite these resources into the hands of those trying to salvage these deals.

I think it's a clarion demonstration of our willingness and intent to facilitate the maximum amount of resources at our discretion into the hands of those involved in these very worthwhile proposals. And so I hope that people recall these times when we're less receptive.

(General laughter and applause.)

MR. CONINE: Yes. And I'd also like to encourage the syndicator community to try to step up and help.

These are tough times. They're tough on you, but they're also tough on our development community. And now's the time where we really need you, and not the time to execute the muscle of the Golden Rule, which is, Those that have the gold make the rules.

So to the extent that you can as the syndicator community, we really need you to respond and help get these projects underway so that, again, we can do what our mission is. And that's to service of low-income population in the state of Texas in the best and possible efficient manner.

Any other discussion?

Yes?

DR. MUÑOZ: Yes. Just one point for Brooke.

I just want to draw out the line under Point 1. Note new syndication pricing letters and a 9 percent rate apply to qualified basis. No new documentation will be submitted, and no additional underwriting will occur.

So this is again to expedite and get the figures of what they're going to be newly awarded as quickly as possible to these folks who need to move forward.

MS. BOSTON: Yes. And you had asked me earlier. And I would like to say that publicly.

If someone knows their pricing amount and just hasn't gotten us the letter yet, you could call Tom or Diamond Thompson, and they can tell you over the phone what your amount is going to be. We'll still need you to turn it in and will do that, but if you need a number at least in the next few days, we can do that for you pretty quickly.

DR. MUÑOZ: So for those of you that communicated a desire to quickly know the number, there's the answer.

MR. HAMBY: Although, being the attorney, though, the caveat being that that will not be official until you turn in your documentation and we respond to you in writing. But we'll give you guidelines. And just a brief housekeeping matter --

DR. MUÑOZ: That's an extension of the answer.

MR. HAMBY: Just a brief housekeeping matter. What we're doing here is striking the vote from yesterday and reconsidering the proposal that staff has laid before you with her amendments. Is that correct?

MR. CONINE: Thank you for telling us what we're doing.

MR. HAMBY: I'm just making sure that's what you all were intending to do.

MR. CONINE: Yes.

MR. HAMBY: Okay.

MR. CONINE: We need a new motion -- we need a motion.

MS. RAY: Mr. Chairman?

MR. CONINE: Ms. Ray.

MS. RAY: I move the staff recommendation made the 4th of September related to Agenda Item number 2, as evidenced in the hand-out we were just presented at this Board meeting.

MR. CONINE: Even though it says September 3 on this?

MR. HAMBY: With corrections.

MR. CONINE: With corrections.

MS. BOSTON: Right. MS. RAY: But it's September 4.

MR. CONINE: With corrections.

MR. HAMBY: With corrections which Ms. Boston highlighted.

MR. CONINE: With corrections which Ms. Boston noted.

MS. RAY: With corrections as noted, Mr. Chairman.

MR. CONINE: I have a motion. Is there a second?

DR. MUÑOZ: Second.

MR. CONINE: Motion is seconded by Dr. Muñoz. 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.

Moving on to Item 3.g.

MR. GERBER: Mr. Chairman and Board members, this is the draft 2009 QAP. It incorporates a diverse range of changes. Some of the changes are derived from staff in reaction to an internal evaluation of the 2008 cycle, and some are made in response to suggestions at the QAP roundtable that was held in late July.

Changes address green building and energy efficiency initiatives, mixed income developments and income rent levels, development in urban cores or central business districts, an increase in the permissible credit cap for 9 percent applications, cost per square foot calculations, as well as some incentive points and other revisions.

Changes also include the implementation of HR 3221 provisions that have been discussed earlier, including points for historic preservation and energy efficiency, the identification of areas that will be eligible for a 30 percent increase, ineligible basis for 9 percent applications and changes to deadlines.

We would recommend that you take public comment first. And then if you have more specific questions, Robbye Meyer and Brooke would be glad to come back up and visit about those.

MR. CONINE: We will take public comment. We have several.

Cyrus Reed?

MR. REED: Thank you. For the record, my name is Cyrus Reed; I'm representing the Lone Star Sierra Chapter of Sierra Club.

Chairman and members, I was here a few months ago talking about what weatherization and the need to make our existing homes energy efficient, and I'm here today to talk about the QAP rules and ways to make our future homes energy efficient. And really, I'll be very brief.

I wanted to thank the staff for including both in the selection -- I'm new at this TDHCA stuff, so bear with me -- both in the selection criteria and the --

MR. CONINE: I'm new at the Sierra Club, too. So go ahead.

(General laughter.)

MR. REED: But we're on the same page.

Both the selection criteria and the threshold including some green building extra points, and also for taking seriously the Governor's Competitive Council's recommendation of including extra points for all things solar. We think that's going to be very much part of our energy future.

I probably will do some comments on perhaps the values of those points and additional things that you might consider. There are some things in that list that I think are valued too highly and others I think are valued too lowly.

And there could be some things in those lists of energy efficient criteria that I think should really be required, that we've come to the point where some of those are sort of standard. But I'll make those comments at a later time, because I assume there's a public comment period.

You also put in, which is a good idea, and I'm not sure it's going to work, but -- you put in some language about renewable energy tax credits, allowing you to increase the eligible basis by 30 percent. The one -- I think we need to explore that idea.

You talk about an application. The trouble as I understand renewable energy tax credits is you really do those after the fact, after you've constructed. So we may need to play with that language and figure out a mechanism so people wanting to put solar water heaters or photovoltaics on and getting tax credits for it -- there's a process that you guys that's happening, because I'm not sure that process exists at the stage where you do the application.

We may need to work on that issue a little bit and, frankly, consider, you know, the tax credit, the renewable energy certificates, the rebates that some places like San Antonio, Austin and Brazos Electric Co-op offer, and see if we can work with those existing inducements so that developers are more likely to do that in this QAP process.

So maybe we'll come up with some suggestions and work with others to see -- because I think the ultimate goal is to see if we can get developers to put solar on and make it cost effective so it meets you-guys' criteria. And we may need to work with some of the language that's been put.

But I just really came to say thank you for including that. I think it's a good first step.

Another good idea that came out of the roundtable was perhaps those in the green building/energy efficient advocates. We should form a working group. And even if we can't get it in the 2009 QAP, basically we need to answer that question: How can we make buildings more energy efficient but also cost effective for low-income folks? How can we get the fact that people are going to be less on their utilities kind of into the underwriting?

And it's a difficult problem. But maybe if we set up some sort of outside working group specifically on that problem, we could help solve it, maybe not by the time you do these rules, but by the time the next one comes around.

MR. REED: So I'm offering those up in the spirit of working with you guys. Thank you.

MR. CONINE: Thank you. Appreciate your testimony.

Any questions of the witness?

(No response.)

MR. CONINE: Michael Hartman?

Ryan Keethley will be next after Michael.

MR. HARTMAN: Good morning, Mr. Chairman, members of the Board and Mr. Gerber. My name is Michael Hartman, with Roundstone Development.

First off, I'd like to say a big thank you to the staff from Mr. Gerber on down for working with all of us in the community. The 2009 QAP had a lot of changes that it needed, because of the new law. They had very little time to do it, and I think they did a great job in implementing this.

A couple of questions and a couple of comments that I had, very briefly. With regard to the 30 percent boost under 49.6 (H)(4)(a), we're proposing to give a 30 percent boost to rural developments that are in a census tract that has not received credits or bonds in the previous five years.

My question was, Should we also apply this to urban areas? If an area hasn't gotten something in the last five years, maybe that's one of the reasons it hasn't. And if we're going to do it for rural, maybe you also apply it to urban areas.

One thing that I wanted to echo was a comment that Tony Sisk made yesterday about the ex-urban points that have been removed in 49.9(I)(17) and ask that -- echo his comments that they be reinstated. I think the green building points are also important; I'm not saying to remove them, but just that we also add back in the ex-urban points.

My final comment is on the first two bonus points, which would give people a point for getting their site control earlier than will be mandated by the QAP and for filing their 10 percent earlier than is mandated by Section 42.

The only thing I would say is that this potentially provides a road block for new developers trying to enter the business, because if they're trying to enter the business, they can't get those two points, because they don't have a development from a previous round. And therefore, they start off at a disadvantage compared to other developers.

So -- and I know that one of the goals of this Department has been to try to diversify the developer base, and I think that will provide an impediment to that goal. Thank you for listening to me. And if you have any questions --

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you.

MR. HARTMAN: Thank you.

MR. CONINE: Ryan Keethy -- Keethley? Excuse me.

MS. DAI: Ryan Keethley has a family emergency. Ryan has asked me to take his place.

MR. CONINE: Excuse me?

MS. DAI: Ryan Keethley has a family emergency.

MR. CONINE: Oh. Okay. So he's not --

MR. GERBER: She'd like to take his place.

MR. CONINE: You want to take his place? Sure. Come on up. I need to ask you to fill out a witness affirmation form after you finish, though.

MS. DAI: Okay. My name is Fei Dai, with Catellus Development Group. And we're the master developer for the Robert Mueller Municipal Airport. And thank you for the opportunity to present. We have two comments to the QAP. And then, before that, we would like to give a quick overview of the project we are working on.

The Mueller development is located at I-35 and Airport Boulevard; it's about 700 acres. It has about 3 million commercial uses and 4,600 residential units planned. Some of the major features include: it's mixed use; it's urban infield, transit oriented and high density. It also has a very high architectural standard.

Mueller is unique in terms of its large scale urban infield, brownfield development. And the other uniqueness of the affordable requirement. We have a 25 percent affordable goal. And for sale, it's about 80 percent AMFI. And then on the rental side, it's targeted to families with a household income at or below 60 percent AMFI. For the 4,600 units, it translates into 1,150 affordable homes.

To date, as the master developer, we try and order everything we can to make sure that affordable program is truly successful. On the for-sale side, we have implemented the shared equity program, which is applied by the City of Austin in some cases. But in terms of large scale and in the larger scope, I think our is the first in Texas.

And on the rental side, we have the Market Ridge development, and our affordability requirement is 50 years.

But the Mueller story is not unique, because that represents what many cities wanted to do, which is higher density, urban core development. And now it's cheaper for the city to densify urban areas, but it's also more affordable for the affordable buyers or renters because it's closer to public transportation locations. And also, it's more efficient in terms of green building features.

So for us, when we read the QAP and session, we're very excited by all those changes made by the staff members and all those efforts. So we thank you for the efforts made on that. And we have two additional comments on that. One is about the construction costs.

We would like to see it changed to either exclude the parking garage outside of the eligible base or maybe include the parking garage square footage into the total square footage calculation, because density comes with a price and it's expensive to develop in the urban area. So we would like to have the staff members look into that area.

And also, in terms of the urban core definition, we would like to suggest changing it to a high opportunity area with a population of more than 100,000 people so that would be consistent with the definition of the 130 percent boost. So those are our two comments, and we thank you for the opportunity.

MR. CONINE: Thank you for your testimony. Again, please sign up on a witness affirmation form if you would.

MS. DAI: Okay. Thank you.

MR. CONINE: Charles Price?

MR. PRICE: Mr. Chairman, Board members, Michael Gerber. Charles Price, housing program manager, City of Fort Worth. I'm not a developer. I just want to say thank you to the staff of TDHCA.

Two years ago, we basically came to the conclusion that we couldn't use tax credits for basically any kind of mixed use or mixed income properties in the city of Fort Worth. We came down and met with the state, and over the last two years, we've come up with a good solution.

They have proposed changes in the QAP which will eliminate that problem, which makes mixed-income properties on the same playing field as 100 percent low-income properties. So we can have low-income people live with high-income people, which is what we want to do. That is the continuum of housing that we want to have throughout the whole state, and I know the City of Fort Worth is really behind that.

And we just want to say thank you for doing that, because back in 2001, when we did have mixed income, we did apply for two. We had two developments in downtown Fort Worth. One, called the Historic Electric Building is truly a mixed-income, high-rise, adaptive reuse of the whole historic building that has a nice 40 percent set-aside for low-income families.

We also have the Hillside Development, which has a lower percentage of 20 percent of 50 percent of area median income. And it's a very nice duplex development on the east side of downtown Fort Worth. And if you drove through it right now, you'd probably say, This is beautiful. And it's still working today.

So we want to continue that kind of development around our downtown, our urban villages, which are mixed-use-type developments, and our transit-oriented developments which we're getting in 2012. So we just want to say thank you for that.

MR. GERBER: Thank you, Charles.

MR. CONINE: Appreciate it. So Fort Worth is hopping now with the Barnett Shale.

MR. PRICE: Thank you.

MR. CONINE: So he's smiling.

Sunshine Mathon wants to talk to us about green building.

MR. MATHON: Good morning. My name is Sunshine Mathon, and I work at Foundation Communities with Walter Moreau; he's not able to be here at this moment, so I'm here for him, in part. I'm a designer and project manager at Foundation Communities, with a strong focus on green building.

Similar to most of the folks here, we all wanted to say that we're pleased and excited about the addition of the green building and conservation-minded eligible basis criteria for the 30 percent increase in tax credits. I think it's a really important step.

Given the rapidly increasing cost for utilities, utility bills faced by both property owners and income-limited residents, the additions of conservation criteria are a welcome tool to addressing these costs in the long run.

Foundation Communities has been utilizing such strategies for the last five years in some of our developments, some of which are tax credit properties and some of which aren't. And we've been seeing really pretty important benefits that benefit our bottom line and also the residents whom we serve. In the long run, it just makes simple economic sense for both owners and residents.

We do believe that the text that's laid out there currently throughout the QAP needs a little bit of retooling on the green building side. Overall, it's a great start, and there are a few pieces that I think need to be weighted a little bit differently, as has been said before, as well.

We sent some preliminary comments earlier. And we look forward to working with the Board and with other developers to really retool those and make those really solid and working for both developers and the residents in the future. So I thank you.

MR. CONINE: Thank you.

MR. GERBER: Thank you.

MR. CONINE: Appreciate working with you.

Diana Lewis?

(No response.)

MR. CONINE: Diana's gone.

Sarah Anderson?

Diana McIver'll be next after Ms. Anderson.

MS. ANDERSON: Good afternoon. My name is Sarah Anderson, and I'm here representing S. Anderson Consulting. We are a tax credit consulting firm that specializes in the 9 percent tax credit round. I do have comments for the Board, and I've already given these to staff yesterday, because I had no idea when we were going to be coming up.

As a consultant, my job often is to dig into some of the minutiae and to dig through the words and to interpret for the good of my clients, and usually to the detriment of competing clients. So the comments that I have are going to be very specific about language.

I'm going to leave the high-brow policy issues for TAAHP, who's taken a lot of our comments already. And I'm not going to go through the whole list here, because I think they're pretty self-explanatory, and I've given staff specific language for them to consider.

There are three items, though, that I do think are very important to cover. The first one has to do with some changes in language related to proof of notification by the applicant.

It used to be that proof of delivery was sufficient when it came to the notification that we had to do to school boards and public officials. Language that's been added now talks about that evidence of proof of delivery is demonstrated by signed receipt for mail or courier delivery and confirmation of receipt by the recipient for faxes or electronic mail.

Now, I don't know exactly what that means per se to staff, but I can say when I read this, it means I've got to get something in writing -- on e-mail back from whomever I send it, on e-mail back from whoever I fax things to. And I can tell you for that is going to be for the ten to twenty people we have to notify almost impossible to get, written confirmation back, for some of these things.

And the consequence of this is that technically if someone refuses to confirm that I've sent them something and somebody then challenges my deal, my deal is dead. So I don't know if that was the intention, but the language just reads that way. And I guess I would ask for some clarification as to what exactly that means.

The second item I think has already been touched on -- which has to do with the scoring bonus. Again, I think that there are some intriguing ideas about having cleaner deals. Certainly, we want things to be easier on staff.

I am adamantly opposed to only '08 deals getting scoring bonuses for that they're supposed to do. Again, I mean this isn't even about excluding new developers; it's about excluding good developers that have worked with the Agency before but who just don't have '08 deals. And so, you know, I would ask that those be removed.

Also, just quickly, the scoring advantage that comes back to whether or not you have clean applications. I think I'd like to see additional language on how that will be handled, because I think it could be problematic.

And lastly, the scoring bonus. Six points out there that I and nobody out here can tell how our opponents are going to score is very dangerous when one points makes a difference in winning an application. And if I can't gauge who's going to get up to six points on bonus, it takes away all of our knowledge up front of how the deals are going to lay out.

So if you have any questions --

MR. CONINE: Any questions of Ms. Anderson?

(No response.)

MR. CONINE: Thank you for your testimony.

MS. ANDERSON: Thank you.

MR. CONINE: Diana McIver?

Granger McDonald's after Diana.

MS. McIVER: Oh, wow.

MR. CONINE: That's why I put her first.

MS. McIVER: Thank you. Diana McIver. And I'm actually here today representing TAAHP, the Texas Affiliation of Affordable Housing Providers, as a past president.

First off, I just want to tell you all as Board members that your staff did a magnificent job in a short period of time of really listening to not just the development community, but the communities where this housing exists and hopes to exist, and really working within their legislative authority and their legislative confines to really develop a QAP that is much more responsive with what's going on in today's development world. And I just have to tell you what they have done is incredible.

The TAAHP comments as a result are very few. One is that we would like to work with staff on the urban core definition, because we think it needs a little tweaking. And, you know, TAAHP has been very active with the cities of Fort Worth and Austin and Corpus and El Paso to try and honor that commitment to have housing downtown, particularly as gas prices go up.

In that vein, TAAHP has supported the omission of the ex-urban points. We have had the ex-urban points now with us for at least four rounds, and it does not leave us with a level playing field for these urban cores that really would like housing coming back in.

The credit amount. We support the staff in their move to a million-four; we'd be comfortable with it at a million-five. And actually, after hearing what's going on in the investment community the past few days, we'd probably be comfortable without a cap at all. If someone just wants to do one deal for $2 million and they can get an investor, go for it.

The 30 percent basis. TAAHP does support the same position as Michael Hartman has, and that is that rather than to just confine that 30 percent boost to rural projects in areas that have not been served with tax credits in five years, make that available to all projects, urban and rural, as that 30 percent boost.

Another idea we have that came up in the working group is to allow that 30 percent boost to those first tier -- I call them the hurricane cities, but the first tier wind storm cities, where housing is much more expensive to develop. I think those counties would be better served by having the 30 percent boost than the little $2 we give them extra on the cost side. So that would be our recommendation for one of those 30 percent categories.

The commitment of development funding by local political subdivisions. We strongly support the staff recommendation of the lower percentages for rural, but we would also support lowering those percentages for the non-participating jurisdictions. Those are the communities that don't get their separate allocations of HOME funds.

The other things we very much support: staff's treatment of rent level units, of the development costs per square foot. And again, as Sarah said, we have a little confusion, too, on the bonus points; we think it's a great idea, but we'd like to work with staff to clarify some of those.

And I thank you for your time. And while I have the podium, on behalf of TAAHP, I want to thank you also for revisiting Item 2, the 3221 stuff and for clarifying and making it a little broader this morning. Thank you.

MR. CONINE: Thank you.

MR. McDONALD: Just two quick points I'd like to make in support of -- on page 20, the increase of the 30 percent set-aside, the 30 percent boost. I'd like to see that done in any census tract that hasn't had a deal in the last five years.

Y'all are constantly being bombarded with the idea that y'all have concentration of housing in one specific area; this would help push it into any census tract that hasn't had a project in the last five years. I think it would be very beneficial and help in many categories.

I also speak in favor of the bonus points. Anybody who survives 2008's ought to get something.

(General laughter.)

MALE VOICE: Say your name, please.

MR. McDONALD: Oh. Granger McDonald.

MR. CONINE: Chris Richardson?

(Pause.)

MR. CONINE: Man, you've lost a lot of weight. You look good.

MR. RICHARDSON: Well, thank you, Mr. Chairman.

Good to be here in front of you guys. It has been awhile. My name's Chris Richardson, Blazer Residential. And I attended the roundtable and felt like it was very good. We appreciated all the comments and found that in particular, the energy efficiency lead certification items that were discussed are very good.

A lot of these things need to be looked at closely because of the potential cost increases and things, but we're in agreement with that and what -- we'd like to investigate those things, give any input we can as builders to get those as efficient as possible. But overall, we feel like we've got a very good building, you know, good roof, good windows and good insulation, et cetera. And our program has very good building.

Some of the things I think could be done is to implement site conditions that would be more energy efficient: close proximity to mass transit, close proximity to work areas, to hospitals and to shopping, you know, so people aren't using their own automobiles so much, so we can, you know, use some of the other things that are available in the area. So I think site classification incentives there would be a big boost to help our residents save money.

The urban core comments. I think, you know, we should level the playing field and go back in census tracts that haven't had a deal in five years and consider letting some of them back in some areas that already had some, but hadn't had some in a period. And several other comments have agreed with that.

That's all I have. Any questions?

MR. CONINE: Any questions of the witness?

(No response.)

MR. RICHARDSON: Thank you.

MR. CONINE: Thank you.

That concludes the public comment I have on this particular agenda item. Does staff have a follow-up to something we've heard?

(No response.)

MS. RAY: Mr. Chairman?

MR. CONINE: Yes, ma'am. Hang on. Let me make a couple of comments, if I might, before you potentially do something.

I want to remind the public that, again, the QAP's going out for comment.

MS. RAY: Exactly.

MR. CONINE: There'll be six public -- six roundtables and public hearings: Houston, Austin, Fort Worth, Lubbock, El Paso and Brownsville, over the next thirty days. It's easier for us as a Board to make a change in the QAP when it comes back for final approval at the November meeting if you comment on it, and especially if you comment on a particular item in writing.

Our General Counsel gets a little wacko if we try to do it without any public comment. So help us, if you will, to continue to --

MR. HAMBY: I have to make a clarification in the record here. I don't go wacko.

MR. CONINE: And I don't want to take a vote on that.

(General laughter.)

MR. CONINE: Staff took notes today from all the public comments. So we'll have, obviously, the court reporter comments. So help us by continually refining the QAP.

I think I would agree with a lot of the comments I heard. Staff has done a wonderful job in juggling several different balls that are going on right now. And I can tell you that the TAAHP letter, being a two-page letter, sets a record as far as I'm concerned, as they've never been that short.

But again, help us in the public hearing side. And we'll attempt to tweak and modify the QAP when it comes back in November for final approval.

Is there any further discussion amongst the Board on this item?

(No response.)

MR. CONINE: And, Ms. Ray, I'm sorry I usurped you. Go right ahead.

MS. RAY: I was going to say exactly what you said, Mr. Chairman.

MR. CONINE: How about a motion on top of what I would have said?

MS. RAY: Mr. Chairman, I move that we approve the draft 2009 qualified allocation plan, the rules, for publication to receive public comment.

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

DR. MUÑOZ: Second.

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

(No response.)

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

(A chorus of ayes.)

MS. RAY: And, Mr. Chairman -- I'm sorry.

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Ms. Ray?

MS. RAY: I would also like to commend the staff and the leadership of TDHCA for working so collaboratively within the development community. You make us look good. We appreciate it.

(Applause.)

MR. GERBER: Madam Vice-Chair, I would just add to it that the hard work really was done by a lot of people, but especially by Brooke Boston and Tom Gouris and Kevin Hamby and Robbye Meyer and so many others who have been a part of this process. And we've very -- I'm sure I've left some out, but it's important to know, you know, who really got their nails dirty on this, and they worked very, very hard.

MR. CONINE: Okay. Moving on to a guy who won't get applause, Tom Gouris, real estate analysis.

(Laughter and applause.)

MR. GOURIS: Thank you.

MR. CONINE: Item 6.a. Mr. Gerber, go ahead.

MR. GERBER: Harris Manor. Go ahead, Mr. Gouris.

MR. GOURIS: Mr. Chairman and Board members, I'm Tom Gouris, real estate analysis. And deputy -- I mean -- I'm sorry -- and senior program director.

Item 6.a. is an appeal of the underwriting condition for Harris Manor Apartments, Project Number 08260. The application was awarded an allocation of $725,011 in annual Housing Tax Credits from the 2008 competitive ceiling for the acquisition and rehabilitation of a project at the July 31 meeting.

During the underwriting the Department or -- the staff recognized that the development had units that were going to be renting at less than the 50 percent rent, but they were calling them 60 percent units. Our rules require those units to be defined as 50 percent units for rent purposes.

We made a condition in our underwriting report that is being appealed today that says that in addition to being 50 percent rent units, they need to be 50 percent income units, in other words: targeting 50 percent households. And the reason for that recommendation is because it follows a trend in the Board and in the statutory changes that have occurred over the last number of years.

There's some clarifying language in the QAP to address this issue, but the real issue is that of if they're targeting 50 percent rents, they should be targeting 50 percent households so that they don't have a competitive advantage over other transactions that have to target 60 percent incomes but with the 60 percent rents.

So that's the bulk of their appeal. I think they're here to speak on behalf of their appeal.

MR. CONINE: And the staff recommendation is to do what?

MR. GOURIS: Staff recommendation is to maintain the 50 percent rents at 50 percent incomes.

MR. CONINE: I have a couple of public comments on this particular item.

George Littlejohn and Etan Mirwis.

MR. MIRWIS: Thank you. My name's Etan Mirwis. I'm going to just introduce myself and provide my time to George Littlejohn.

I'm the president of Rockwell Management. We manage this property; we've been managing it for approximately the last 14 years and are going to be involved with the renovation and the continued management of the project. And I'm here to answer any questions that you might have about the particular application.

MR. LITTLEJOHN: Chairman Conine, members of the Board, Mr. Gerber, my name is George Littlejohn; I'm with Novogradac and Company. We are a CPA firm. We're representing the applicant for Harris Manor Apartments, TDHCA Number 08260.

In short, to give you a short timeline of what occurred, this application went under Section 50.9(i)(3), as Mr. Gouris discussed, and requested points for agreeing to restrict 40 percent of the development for a combination of 50 percent rents and incomes.

When you look at that section, it is a scoring and selection criteria section. And it talks about, to qualify for these points, you have to agree to rent restrict and income restrict the units. It also talks about the units that the applicant selects on the exhibit. The applicant absolutely is going to live with that commitment.

During underwriting, Mr. Gouris and the underwriting department determined from the market study and the proposed rents that the actual rents in this area are at or below the 50 percent AMGI limits. And the real estate guidance, the real estate analysis rules, state that unless the applicant accepts the underwriter's recommendation that all restricted units be restricted to rents at or below 50 percent, it would be considered infeasible. We have no problem with that criteria.

We have agreed -- the applicant has agreed to restrict all of the one- and two-bedroom units to 50 percent AMGI, but there is no language in the real estate analysis rules that deal with income restrictions. Please note that this development was and is an existing tax credit development. It received credits in 1992. It finished its first compliance period and is going back in for another 30 years of affordable housing.

There's no question that the applicant wants to limit the rents and will agree to limit the rents and live up to all the commitments. They're just asking for relief on the income restrictions, because that is not stated in the underwriting or real estate analysis rules.

In effect, the Department will do what exactly what this program is designed to do: limit rents and make them extremely affordable. We're asking that the development allow us to service the tenants that this program is designed to serve, which is people at or below 60 percent.

We respectfully request that you grant this appeal, that the underwriting recommendation be changed to remove the rent restriction, as it is not documented in the real estate analysis rules and is not relevant from the QAP, as the QAP section that has been cited only deals with selection criteria. Thank you.

MR. CONINE: Mr. Gouris, your response?

MR. GOURIS: Well, the underwriting rules that he's referring to do speak to the rent levels. It has been the policy of and been the practice of the Department to restrict -- when we restrict rents, we also restrict income levels. We had another transaction earlier this year that had the same issue, came before you and was decided in favor of restricting both the rents and incomes.

It has been in the past that -- the two have been divorced in the past. And we found that that has had a bad impact on the developments in the area.

If you'll recall, years ago, the Priority 1 bond transactions were allowed to do 50 percent rents and 60 percent incomes, and that had a deterius effect on the ability to develop new 60 percent units in those markets that those transactions were done.

This transaction's already serving those households at 50 percent; they're coming back for additional credits to do additional rehab. It makes sense that they identified and they have agreed to rent at the 50 percent level.

So we should be able to get as much out of these units as possible, which is to rent to those folks who need it, not those folks who already get a bargain at -- you know, the 60 percent households are already getting a bargain at other developments. They would be taking up slots at this transaction to get those 50 percent rents.

So it's a consistent policy of the Department to move forward in this direction. That's been the direction that we're going. That is -- in fact, the clarifications in the QAP are being contemplated because this issue came up twice this year. And so we're just reconciling that issue.

MR. CONINE: I hear what you're saying, but what you've said about it being in the specific language and what he's saying about it not being in the specific language bothers me a little bit. So could both of you clarify just one more time where you're deriving the language from?

MR. GOURIS: Well, it's true that the real estate analysis rules only deal with the rents. That's true. We make it a feasibility condition that the rents below 50 percent -- if the rent is reflected as below 50 percent, then the rent --

MR. CONINE: Will you connect the dots for me one more time on why it's bad for a 60 percent income person to move into a 50 percent restricted apartment?

MR. GOURIS: Because in the market, there'll be 60 percent units that we've already funded that are restricted to 60 percent, to be affordable for households at 60 percent.

So if that person -- that 60 percent household goes into a 50 percent unit, they're taking up a slot that's only affordable to a 50 percent -- that may be the only one that's affordable to a 50 percent household. Otherwise, that 50 percent household would have to go into a 60 percent unit, so they'd have to pay more. So --

MR. CONINE: Assuming there's a bunch of other tax credit deals around it, but if it's in an area that doesn't --

MR. GOURIS: Correct.

MR. CONINE: If it's in a census tract that doesn't have one, that theory doesn't necessarily apply.

MR. GOURIS: That's true. But, you know, this is an urban development. And --

MR. CONINE: And have we -- in our proposed rules and/or QAP, have you fixed the language that would tie the income restrictions to the rent restrictions?

MR. GOURIS: I believe we did. Yes, we did.

MR. CONINE: Okay.

MR. GOURIS: So it was a clarifying --

MR. CONINE: It's currently -- not in existence now, though.

MR. GOURIS: It was -- it's been the policy and the practice of the Department. And it's consistent with the trend in statutory behavior and Board behavior. The language precisely was not -- did not keep up with those two trends. So the language in the QAP and the language in the real estate analysis rules currently would allow this potential exception.

MR. CONINE: Okay. All right. I hear what you're saying, I think.

Counsel?

MR. HAMBY: Well, I think, Mr. Conine, to bring it -- we normally try to do the rules as clear as possible. Whenever these problems come up, then we do jump in there.

Just because it's not specifically stated in the Rule, if the Board has had a practice and policy and the Department has had a practice and policy, if it's not clearly stated in the rule but it is consistent with the interpretation of the rule, that would not necessarily have a problem in the Board either limiting the two or tying them together. And that's why we did clear it up, as they said, because we've had two issues come up.

So that means the rule may be a little bit unclear, but it's not inconsistent with our practices.

MR. CONINE: Okay.

Mr. Littlejohn, would you like to respond?

MR. LITTLEJOHN: Yes, just to clarify. It is an underwriting condition. So we'd like to expect that it follow the underwriting guidelines. But most importantly, the thing to concentrate on: this is an existing development. This is not going to change anything that's happening in that market.

Right now, that current development probably -- based on the last survey, probably 69 percent of the tenants probably qualify for 50 percent incomes. The other 31 percent would be at between 50 and 60.

We're just asking to continue to serve the same tenant population that this project has served for 15 years. Nobody wants to wait in two years, clean up this place, get it nicely painted, rehabbed, and then have somebody at 50 percent AMGI walk in, think they've got a place to live and be told they make too much money.

MR. CONINE: Or in effect, somebody planning on coming back and living in the same unit --

MR. LITTLEJOHN: Yes.

MR. CONINE: -- would have to leave.

MR. LITTLEJOHN: Yes, sir.

MR. CONINE: Okay. Thank you.

Any other questions of the witness?

(No response.)

MR. CONINE: Do I hear a motion?

MS. ESCAREÑO: Mr. Chairman, I move to grant the appeal.

MR. CONINE: Motion by Ms. Bingham to grant the appeal. Is there a second?

MR. CARDENAS: Second.

MR. CONINE: There's a second to the motion by Mr. Cardenas. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MS. RAY: Aye.

MR. CONINE: Aye.

All opposed?

(No response.)

MR. CONINE: Motion carries.

Item 6.b.

MR. GOURIS: Item 6.b is with regard to the additional allocation of credit, the 14 percent credit allocation, for San Gabriel Senior

Village, Application Number 05195.

This transaction received an allocation of $712,154 in July of 2005 and then received that additional 14 percent increase. The increase, however, was based on an amendment to the application that was approved by the Board which effectively corrected or adjusted their cost to be able to remain viable.

So the amendment amount provided them with a higher -- around $64,000 worth of higher additional credit allocation. Had we allocated based on the original request, they would have received about $54,000 in additional credits.

The original policy that was proposed was very clear as to how we would identify an increase in credit. And unfortunately, because we based it off of the higher, amended eligible basis number, they only approved from that point a much more modest amount of cost increase or cost overrun, which would only avail them to about $15,000 of the additional credits. We're not recommending anything more than that, because we believe that, you know, we need to follow the policy.

But should the Board decide to relook at that policy and revert, then it would be the $54,000 amount that would be the appropriate amount, because that would have been based on the original allocation.

And I believe they're here. I think Cynthia's here to speak to us.

MR. CONINE: I do have a couple witness affirmation forms: one yielding time to Cynthia Bast.

You've got five minutes.

MS. BAST: Good morning, Board. I'm Cynthia Bast of Locke Lord, representing the property owner for this request. The developer is Denison Development, and Mr. Colby Denison is here to respond to questions, as well.

I spoke to you about this issue briefly at the last Board meeting, and I sincerely appreciate you giving us the time today to have special consideration for this particular situation. As Tom indicated, the question that I'm asking you to determine is the amount of tax credits, additional tax credits, that should be awarded to this development.

To briefly restate the scenario, the project received tax credits in 2005 based on a development budget of approximately $4.8 million. Then Hurricanes Katrina and Rita hit, and construction costs skyrocketed. A little over a year later, in October 2006, this Board took action to award additional credits to all 2005 applicants provided that they could prove up the costs associated with those additional credits at the time of cost certification.

However, in that meantime before the Board made its decision to provide additional credits, this particular developer was trying to be proactive; he came in with an amendment to revise his site plan so that he could build his project within his original tax credit application. He was trying to make his deal work.

So at the time he submitted that amendment, he submitted his updated costs to prove up the need for the amendment. And, of course, per TDHCA procedure at that time, a new underwriting report was prepared.

And so today we have a project that is completed with a total budget of $5.8 million. That's a million-dollar increase, almost 22 percent, even considering the cost savings that were implemented with the amendment that was approved by this Board.

Yet despite this cost increase, as Tom indicated, the developer is not able to receive the full amount of the additional credits that he would have received had he not come in for this amendment. And I think this is because of an unintended consequence of the policy.

What the policy says is that in awarding the additional credits, you look at the difference in cost between the final costs as submitted at cost certification and the last underwriting report. Well, for virtually every other project owner, the last underwriting report is going to be the one that was prepared in conjunction with the original application, but, because this developer was being proactive, to try to reconfigure his site, and coming in with an amendment, the last underwriting report was the one that came in with the amendment.

And so what you have is an application, and then the underwriting report showed an 18 percent increase at the time of the amendment. And then from the amendment to the final costs, you only have a 4 percent increase.

So the credits now are only being awarded on that 4 percent. And we would like to see this developer treated in the same way as its peers and be able to enjoy the full benefit of the additional credits that were awarded by this Board in its policy in 2006.

To my knowledge, this is the only developer from this round that is suffering from this situation, from its own proactivity, in this scenario. What I'm asking then is that you waive the provision of the 2006 policy that says that you calculate the additional credits based upon the last underwriting report so that this particular project can enjoy the full benefit of the entire amount of credits of $54,454.

I think that we have shown that despite all the best efforts, this is a project that has had a 22 percent increase, justifiable, real costs, for its construction. And therefore, we do need those extra credits to help the project. And we appreciate your consideration of the question.

MR. CONINE: Thank you, Ms. Bast.

Any questions? Any further questions, maybe a follow-up of staff, or anything?

Tom?

MR. CONINE: I mean it seems like here we've got one person that just by accident slipped in a new underwriting report as from the prior -- the rest of the applicants, which had all of their underwriting reports with the application. Is that --

MR. GOURIS: No, that's not exactly correct.

MR. CONINE: It's not?

MR. GOURIS: And we did this policy in '06. And so there were '04 transactions and '05 transactions that had come back and done amendments. And what we wanted to make sure we recognized or what the policy was supposed to do was say, Okay, what number are we going to base this change off of.

This 14 percent increase needed to be based off of something. And so the policy was written and approved to be based off the last thing that the Board approved. And because the last thing the Board approved was something that was viable -- they agreed that it was viable, and we agreed it was viable, so from there forward, the adjustment would be made.

That's how the policy worked. Unfortunately, you know, in the '04 deals, there weren't any that popped up as having this issue.

This is the only '05 deal that I recall that submitted an amendment and had gotten Board approval before the policy went into effect. So it's the only one that's popped up as having this issue, although it might not have been the only one that could have had the issue, if that makes sense. There are other '04 deals that it may have happened to, but they didn't bring it to our attention in this way.

MR. CONINE: Okay. Thank you.

MS. RAY: Mr. Chairman?

MR. CONINE: Ms. Ray.

MS. RAY: I move that the Board approve an allocation of $54,454 from the 2008 ceiling.

MR. CONINE: Motion --

MS. ESCAREÑO: Second.

MR. CONINE: Motion to approve the higher amount, the $54,000 number, on this particular project, seconded by Ms. Bingham. 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.

We're going to go to Agenda Item Number 9.

MR. GERBER: Mr. Chair and Board members, Item 9.a is the HOME Fund balance report. It's prepared monthly, and it's the Department's internal tracking of available balances of HOME funds, including deobligated funds. Since the reorganization of the HOME division, staff has worked intensely with HUD to reconcile these balances.

The current fund balance report provides a grand total of HOME funds available for programming after mandated set-asides, Board-approved awards and published open NOFAs that have been reserved.

The current report reflects 6.8 million available for programming at this time. Staff is not making recommendations for the programming of this balance, in order to allow time to analyze the subscription rate of the various open NOFAs and anticipated disaster relief funding aids, given all the storms that are coming.

On March 24, 2008, the Department received its funding approval and grant agreement from HUD, which included 40.043 million for the Department's program year 2008 HOME allocation. With the exception of the Colonia model subdivision program and the approximate 6.8 million available balance for programming, I'm pleased to report that all HOME funds, including the 2008 allocation, are programmed, awarded or available in open NOFAs.

And again, I really want to commend Jeannie and her team for their intense efforts to reconcile these balance reports, as well as to quickly program those dollars.

9.b is a series of HOME program award recommendations. These are awards for contracts from all active NOFAs that are reflecting multiple activity types, and they're combined into this one action item.

The awards include a contract for LaSalle County for $500,000 to serve seven units for disaster relief, as well as 2 percent of project funds for program administration. There's also a contract for FUTURO Communities for $300,000 to serve 30 households with homebuyer assistance, and they are based in Uvalde.

There's also a contract that we're recommending to you all for the Center for Health Care Services to serve 12 households with tenant based rental assistance. And they are based in San Antonio.

Jeannie, is there the Sierra --

Well, then we'll move to Sierra Ridge. So we're asking for a motion to approve those three items at this time. And we're very pleased by these awards being recommended to you.

MS. RAY: Got any public comment?

MR. CONINE: No. No public comment.

MS. RAY: Mr. Chairman?

MR. CONINE: Ms. Ray.

MS. RAY: I move staff's recommendation to award resources to a disaster relief award to LaSalle County, homebuyer assistance award to FUTURO Communities, and tenant based rental assistance award to the Center for Health Care Services.

MR. CONINE: Is there a second?

MR. CARDENAS: Second.

MR. CONINE: Any further discussion on the motion?

(No response.)

MR. CONINE: Seeing none, all 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, this last item, which is Sierra Ridge, which is on the agenda has been pulled.

MR. CONINE: Okay.

MR. GERBER: So we're going to move to Item --

MR. CONINE: I'll tell you what. Let's go ahead and break for lunch, I think. And then we'll come back and take up Item 10.a and c, which I think is all we have left. Let's go ahead and -- because we've got a lot of public comment on those, let's go ahead and break for lunch.

MR. HAMBY: By lunch, do you mean break for an executive session?

MR. CONINE: We're going to go to executive session.

MR. HAMBY: Okay. Good.

MR. CONINE: Do we have another executive session to read?

MR. GERBER: Yes, we do.

MR. HAMBY: Two things, Mr. Chairman. We need to read the disclaimer.

MR. GERBER: Yes.

MR. HAMBY: And do you have an estimated time of return?

MR. CONINE: We'll be back at 12:45.

MR. GERBER: On this day, September 3, 2008, at a regular meeting of the Governing Board of the Texas Department of Housing and Community Affairs held in Austin, Texas, the Board adjourned into a closed executive session. The Board chairman announced the Board will begin its executive session today, September 4, 2008, at 11:55 a.m.

The subject matter of this executive session and deliberation is as follows:

A.) 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.

B.) The Board may go into executive session pursuant to Texas Government Code 551 for the purposes of discussing personnel matters, including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee; review and possible pay increase for the Director of Internal Audit, Sandy Donoho, C.) Consultation with attorney, pursuant to Section 551.071(a) of the Texas Government Code.

D.) Consultation with attorney, pursuant to Section 551.071(a) of the Texas Government Code:

1. With respect to pending litigation styled Sims v. TDHCA, filed in Federal District Court;

2. With respect to the litigation styled Inclusive Communities Project versus TDHCA, et al, filed in Federal District Court;

3. With respect to any other pending litigation filed since the last Board meeting;

4. Potential sale of real estate and/or loans.

(Whereupon, at 11:55 a.m., the Board went into executive session.)

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

(Time Noted: 12:55 p.m.)

MR. CONINE: Okay. We want to --

MR. GERBER: Let's go to Item --

MR. CONINE: -- 10c?

MR. GERBER: -- 10.c, if we can. Those are --

MR. HAMBY: Mr. Gerber and Mr. Chairman, I believe that -- I didn't hear you say that no action was taken in the executive session.

MR. GERBER: No action was taken.

MR. CONINE: We didn't do anything in there, just talked about the weather.

MR. GERBER: 10.c is housing tax credits associated with mortgage revenue bond transaction by other issuers. The first is Park Shadow Apartments. This is a tax-exempt bond application requesting 4 percent tax credits from the Department. Jefferson County Housing Finance Corporation is the issuer of the bonds. A priority three application proposing acquisition and rehab of 150 units that'll target the general population.

The Department has received a letter of support from the county judge. Staff noticed that the development was presented to the Board in December of

2007 and March 2008, and was approved. However, the applicant was unable to close the bond transaction due to timing issues with the financing parties.

Pursuant to the QAP outstanding documentation had to be submitted to the Board -- to the Department at least 60 days prior to the Board meeting in which the decision to issue a determination notice would be made, unless a waiver is requested by the applicant.

As a result of the changes that were proposed since the Board approved the application in March 2008, the Department required the applicant to resubmit the entire application which would need to be re-evaluated and underwritten. The Volume 3 and third-party reports were not submitted by the required 60-day deadline, and therefore the applicant is requesting that the Board waive the 60-day requirement for the receipt of the Volume 3 and third-party reports.

The expiration of the current bond reservation does not allow sufficient time for the application to be presented at the next scheduled Board meeting in November, and still close before the expiration date. The applicant is requesting $458,728 in housing tax credits.

Staff is recommending approval of the

credits in that amount, as well as waiving the 60-day rule. And we're asking for a motion on that, to that effect.

MR. CONINE: Do I hear a motion from this Board?

MR. CARDENAS: Mr. Chairman, I move that we approve.

MR. CONINE: Mr. Cardenas makes a motion we approve. Is there a second?

DR. MUÑOZ: Second.

MR. CONINE: Second by Dr. Muñoz. 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, Board members, Seville Row Apartments is a deal that's almost exactly the same. Jefferson County Housing Finance Corporation is the issuer. It's a Priority 3 application proposing an acquisition and rehab of 90 units that will target the elderly population.

They have the same issues with submitting part of their document, so we're asking for the allocation of credits in the amount of $288,807, and a waiver of the 60-day rule.

MR. CONINE: Do I hear a motion?

MS. BINGHAM ESCAREÑO: So moved.

MR. CONINE: Motion by Ms. Bingham to approve.

MS. RAY: Second.

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: The motion carries.

MR. GERBER: The next item, Board members, is City View Apartments. It's a tax-exempt bond application requesting 4 percent credits from the Department. San Antonio HFC is the issuer of the bonds. This is a Priority 3 application proposing the new construction of 245 units that will target the general population. The Department has not received any letters of support or opposition.

The proposed total unit mix includes 111 one bedrooms, which violates the maximum percentages allowed pursuant to the 2008 QAP by 15 percent. It should be noted that when the plan for City View Apartments was conceived in 2000 and HUD granted the HOPE VI funds in the amount of approximately 6.3 million, the unit mix was compliant with the QAP.

This development, which is part of a larger redevelopment of the Durango Street area in San Antonio must be structured with the unit mix as proposed because of a covenant that was initiated in 2000 between the partnership of the development and the US Department of Housing and Urban Development in order to secure the HOPE VI funds.

In addition, the HOPE VI funds must be expended by September 25, 2008, or they will be recaptured by HUD. So the applicant is requesting a waiver of the section of the rules to allow the development to maintain the percentages that are proposed.

Due to the unique nature of the development combining a long-term plan that received HOPE VI funds, which are very hard to get, based on the current configuration, staff believes it's in the best interest of the state for the Board to consider approval of the issuance of the determination notice of $318,785 in housing tax credits for City View Apartments, and recommends that the Board waive that provision of the 2008 qualified allocation plan to make -- as this plan was consistent with the QAP at the original time of conception in 2000. So we're asking for a motion in that effect for the waiver, as well as the approval of the tax credits.

MR. CONINE: I have public comment. Jeff Fulenchek.

MR. FULENCHEK: Mr. Chairman, Board, Mr. Gerber, thank you for your time. I'll be really brief because I know it's been a long couple of days.

I really just want to take time to thank staff for all the work they put together to get through this very difficult, complicated transaction, and just make myself available for any questions that you may have.

MR. HAMBY: Identify yourself for the record.

MR. FULENCHEK: Oh, I'm sorry. Jeff Fulenchek, Carlton Residential Properties.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you.

MS. RAY: Mr. Chairman, I move staff's recommendation.

MR. CONINE: Moves staff's recommendation, Ms. Ray. Is there a second?

MR. CARDENAS: Second.

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

(No response.)

MR. CONINE: Hearing 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: The last item, Mr. Chairman, is the Artisan at San Pedro Creek, which is a tax-exempt bond application requesting 4 percent tax credits from the Department. San Antonio HFC is the issuer of the bonds. This is a Priority 3 application proposing the new construction of 252 units that will target the general population. The Department has received two letters of support from the community, and no letters of opposition.

Staff notes that this application was

originally approved by the Board on January 31, 2008; however, as a result of changes in the equity market, they were unable to close on the original bond reservation, and subsequently had the reservation of allocation reissued.

They submitted to the Department a new Volume 1, which reflected changes in total development costs, expenses and a lower tax credit request than was originally approved. A new underwriting report is included in the presentation -- in your Board materials. The applicant is requesting $1,105,744 in housing tax credits, and staff's recommending the award in that amount.

MS. RAY: So moved, Mr. Chairman.

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

MS. BINGHAM ESCAREÑO: Second.

MR. CONINE: Second by Ms. Bingham. Any other further discussion?

(No response.)

MR. CONINE: Hearing 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: Go back to Item 10.a, Mr. Chairman, which are multifamily housing tax credit amendments. And Robbye Meyer, our director of MF, will walk us through those.

MS. MEYER: Robbye Meyer, director of multifamily finance.

Chairman, Board, this owner -- the first amendment we have is for the Pegasus development, it's 03184. This owner is requesting approval to increase the number of tax credit units from 124 to 129, and reduce the number of market rate units from 32 to 27. Along with that they are requesting to reduce the net rentable area by 9,621 square feet, and this approximates to about 62 square feet per unit. They've certified that their common area has increased by 5,502 square feet.

Through this change up that they've done with the reduction in units, or the increase in the restricted units, we're actually getting one 30 percent unit, two additional 50 percent units, and two additional 60 percent units. The changes would not have changed the award recommendation in the beginning, and the development architect has certified that washers and dryers were installed in all the units.

This amendment he does compensate for the deficiencies in the development as built, and as noted in your Board materials. It should also be noted that the final number of parking spots was reduced from 316 to 294, but this was approved by the City of Dallas.

And staff recommends approving the request because of the substitute of amenities, for the laundry equipment in each of the units is compensatory to the reduction in the -- well, try this again -- that the substitute amenities of the laundry equipment in each unit is compensatory for the loss in the square footage, along with the additional low income units and low income targeting as presented. And staff does not --

MR. CONINE: I've got public comment from Twilla Revelle, if necessary.

Is it necessary at this point?

MS. REVELLE: Yes, sir.

MR. CONINE: Okay. Thank you.

Any other questions of staff?

MR. GERBER: No, she wanted to speak.

MR. CONINE: Oh, you did want to.

MS. REVELLE: Yes.

MR. CONINE: I'm sorry.

MS. REVELLE: Yes, sir.

MR. CONINE: Go ahead.

MS. REVELLE: Thank you, Board and members. I'm Twilla Revelle, I'm with Wachovia. We're the investor/limited partner for the Pegasus, and I represent -- I'm coming just on behalf of Wachovia, the investor/limited partner.

We've been working with our general partner to finalize getting the 8609s and working through some housekeeping issues on this project. And as part of that we've been working with the staff at TDHCA and they have been great, always very responsive and very proactive in trying to assist us in resolving outstanding issues. Through this process is kind of how we realized that the applicable fraction of 80 percent, there was a change in the calculation methodology on calculating the square footage.

And so that's kind of the -- what prompted this requested amendment. And so one of the things that has come out through this is the change in the number of units, the five units to -- from market to tax credit units. I would ask that, at this time, rather than changing all the units under the structure that TDHCA is proposing, that they all be at 60 percent area median income rather than two at 60, two at 50, and one at 30.

Part of the write-up also shows that the project has suffered operating shortfalls which we, as the limited partner, have been funding, further decreasing the units from market rate to even more restricted affordable just exacerbates the problem of kind of the cash flow of the property. And if it -- so we would just like a slight change to their amendment.

And then there was also the question on that our management company had -- or Wachovia's management was on the penalties that would be assessed for this. Can I just have some clarification on that?

MR. CONINE: Staff want to respond to her?

MR. GERBER: Has those requests been previously made to the Department?

Robbye, you want --

MS. MEYER: What she's proposing has not been proposed to staff as of yet. I mean the way we have it is, they proposed an additional 30 percent, two additional 50s, and two 60s. What she's requesting is to have those five units be 60 percent units instead of the one 30 and two 50s. That's -- they're just now proposing that to us. That was not in the original request.

MR. CONINE: Yes, I would suggest that maybe a tabling of this one and a resubmission of your request would be in order because I'm assuming the general partner or somebody made the initial request, which staff considered, and now you're presenting something a little different.

And I'm not sure staff has enough time, or the Board has enough time, to do it from the podium.

MS. REVELLE: Okay. The request that was made, we understood it to be all the units at 60 percent. And so when we got the -- saw the Board package, the change was where -- and at that point it was -- there was obviously some miscommunication through -- just through our general partner, so.

MR. CONINE: Is that the case? Did they submit an all 60 request and this is --

MS. REVELLE: I think it's amendment 11(a), that exhibit, there was confusion over that exhibit, so.

MR. CONINE: Okay.

MR. GERBER: Do you have a letter that -- you know, with you today that reflects that request that you sent to the Department?

MS. REVELLE: I don't have that with me today.

MR. GERBER: Okay. Have we received such a letter making the request?

MS. REVELLE: (No audible response.)

MR. GERBER: Okay.

MS. MEYER: What we have is I presented.

MR. GERBER: Then staff would ask that we receive a letter from the applicant, Mr. Chairman, and have an opportunity to vet it through the proper process.

MR. CONINE: I think it would be appropriate to table this one till the next meeting --

MS. RAY: Mr. Chairman, I move --

MR. CONINE: -- and get the right request in front of everybody.

MS. RAY: I move that Item 10a for Pegasus be tabled.

MR. CONINE: Till the next meeting?

MS. RAY: Till the next meeting.

MR. CONINE: Motion to table. Is there a second?

MR. GERBER: Mr. Chairman, would it be --

Robbye, do we need to get an answer on this part of the question, or do you want to just table the whole --

MR. CONINE: No, no, no, no, no, the --

MR. GERBER: The whole thing.

MR. CONINE: Yes, the whole thing.

MR. GERBER: Okay.

MS. RAY: I move.

MR. CONINE: Is there a second on the motion --

MS. BINGHAM ESCAREÑO: Second.

MR. CONINE: -- to table? Ms. Bingham seconds. Any -- no discussion. All those in favor of the motion to table signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MS. REVELLE: Thank you.

MR. CONINE: See you next time.

MS. MEYER: The next amendment is from Mariposa Apartments. The owner is requesting approval to change the site plan, unit mix, and the number of units. The owner is requesting to make a substitution for self-cleaning ovens and microwave ovens that were proposed in all the units, but were not actually installed. They're also requesting elimination of one -- of a secondary fireplace in the club house.

The last request is to approve the deletion of covered balconies or porches from 54 of the units. Offsetting the deficiencies, the documentation indicates that the development was built with some features that exceed the original proposal and the additional features were R-15 insulation in the walls with R-30 insulation in the ceilings, and 30-year architectural shingles. Other additions, they indicated that the owner included an entry ramp into the pool, a dog park, a sun room with complimentary tea and coffee area, a recreation room with card tables and pool tables and a television, rose garden and a community garden with a walking trail.

The owner also requests approval to change the unit sizes. The average unit size for one bedrooms increased by five square feet, and the two-bedroom units they decreased by 51 square feet. The unit sizes remain above the scoring minimums, which were 550 square feet and 750 square feet. The owner stated that the site plan was changed to improve the original design and in part by including a central courtyard and adding two one-bedroom units.

Although the owner is requesting to make some changes in the parking spaces as needed approval, the 105 covered parking spaces certified by the architect as built exceeded the 100 covered parking places that were proposed. There's 135 open spaces built that do not -- while the 135 open spaces built do not match the 180 spaces proposed, this is an elderly development and has 240 spaces that is sufficient.

The development was awarded tax credits in association with tax-exempt bonds, and the changes proposed would not have affected the recommendation for the award. It should be noted that the owner first made the amendment request in July of 2006, and the owner retracted that request until after the 2007 application round was over, and continued with the amendment at that time.

And they renewed their request, and submitted on March 31 their cost certification. Staff is recommending denying the request because the changes negatively affect the future tenants. They also recommend the owner provide additional amenities to compensate for the reduction in the square footage in the two-bedroom units and the lack of the microwaves in the units. Staff does not -- does recommend appropriate penalties for this request.

MR. CONINE: Public comment, Stuart Shaw.

MR. SHAW: Board, Chairman Conine.

Mike -- I'm sorry, Mr. Gerber. May I hand these out first? Thank you.

My name is Stuart Shaw with Bonner Carrington. I live here in Austin, Texas, and I've been developing in the affordable housing community here since 2003.

I want to apologize, first of all, for this even coming before you. This is a 2004 approval. I believe it was in 2005 that the Board began to really focus on these amendments, and I'm not aware of it because we don't do any amendments. I mean this is probably our first one. And I'm just really caught unawares about this.

We have been working with staff, and appreciate what staff has done, for I guess several years now, waiting for 8609 and other things that we had to have before we could bring this to you now.

And there -- so while I appreciate what's been said, and Robbye is very nice and has been nice enough to meet with me about this, I just have to say that I was busy about two weeks ago, being a dinosaur in this industry, closing a bond deal in my home town of Amarillo, Texas. And I didn't know this came out. We were really focused on that; been working on it hard for a long time.

The next week, which was last week, we found out about it. It was the first time we knew that we didn't have some sort of -- we thought we were okay. We thought that we had more than compensated for anything that would be missing. And so I just didn't know that, and I apologize I have to bring this before you.

But I do have to say this, there is an insinuation -- and I've made it known to Robbye, there's an insinuation in this that I pulled this. First of all, we didn't pull it; we've got e-mails to prove that; I've shown them to Robbye.

We're not ever sure with anybody, but I want to take a firm stand of telling you all, I respect you, I respect staff, I respect these rules, and I respect this industry. And I do not do something I shouldn't be doing.

What I do do is I build a really high quality product that I guarantee every one of you all would be proud to see. And that's why I've furnished you with some photographs and with our brochure. Most people don't even do brochures like that. That has a list of the amenities and all the really fine things in this community.

I also want to say that, of my communities, two have to have converted, three more, including this one and my other Mariposa. which is in Georgetown, will convert this fall. I will not have anything other than properties that are under construction that haven't converted. And at that time, or at the same time, all my communities are leased up and we've not had to have anybody step in to save us. Nobody -- we've not had to get funding from our limited partner. We do a quality project.

I would like to ask if I can use -- is that my time?

MR. CONINE: Supposedly.

MR. SHAW: Could I ask if I could use Barry Palmer's time?

VOICE: Bill Walters is after you.

MR. SHAW: Oh, I'm sorry, Bill Walters' time. May I use his time?

MR. CONINE: Yes.

MR. SHAW: I just -- we've got a really high quality community, and I won't do something unless it's real high quality. And so I know that staff has got to, you know, bring this before you and we've got to go through this project.

I'm just sorry we're taking the time on it, because I think that we way overcompensated for this. But regardless, there's three premises: number one, we erroneously filled out, and you've got it in your package, the last page of that handout, we erroneously filled out the application we had. This is when we were new to the business and we had a consultant.

And so if you look at this page, which is, I think, the second page of your handout, the one in yellow is the selection criteria, and that's the selection criteria for a 9 percent deal. That's where you'll find microwave ovens and self-cleaning ovens. We're not supposed to be held to that, we thought, for a bond deal. We just erroneously filled it out. What you are held to for a bond deal is what is in blue. That's called threshold requirements.

In any case, even though we're only supposed to have, you know, 15 points, we would have scored 26 based on what we installed in the threshold points. Even though we shouldn't be held to it, I believe, under the selection criteria, we would have gotten 19 points for what we did install. So, first of all, I don't think that we -- well, I mean, I was not acting out of the "I had to install these."

But that's not why I didn't do it. I didn't install these because we built a better community without them. We didn't -- we were having experience at the time with Cedars [phonetic], my only other community, who didn't want to have a microwave. And there are other issues that were going on. I was trying to make this a much higher quality community than the one I had just finished. And I did.

The site plan that this architect, who I don't use anymore, turned in is on the next page, and it -- I learned the senior business on this community. This site plan atrocious. I changed it and made it dramatically better. We have a courtyard now. That's an architectural style that's been around since Rome, and it's a winning combination.

This is atrocious. This is how you do a health -- assisted living, or a nursing home. And that's what this architect and the people that I was, you know, looking to for advice do. When I build, I don't build a senior community. Yes, it's a senior community, but we call it an active adult community.

And so we make it active. And we included things in the Mariposa communities, which are my senior product, that bring people together in the community, give them places to go hang out, do things. And that's what people do here. Our parking lots are full during the day. Everybody's out moving around, doing things. So we added a lot of space in this, and we added a lot of -- I think we added four or five extra community areas.

I just -- so, first of all, I didn't think we were held to it, and second of all, I think we way over-compensated for it.

Chairman Conine, could I use Barry Palmer's time?

MR. CONINE: Yes.

MR. SHAW: And I will wrap up, and I'm sorry.

But finally, this has been going on for a long time, and, no, I didn't pull this to get favor on my 9 percent application. That is inaccurate. I did not do that.

What I did do, when we were turning this in, is I was trying to make it better, and I increased the size of the these units. And I started out, and I've got it right here, we started drilling down and going back to our files and we found it, and I was showing Robbye this this morning, but 946 square feet is what this two bedroom was going to be. And I changed it and we've got it right here in the write-up that went before you in June of 2004, so it's right here in the staff write-up.

Applicant, I'm going to read it, "Applicant has, by letter, suggested that the" -- "applicant only indicated in a letter sent with the revised plans that they've increased the area of the two/two units to 1,000 to 1,050 square feet." It's 1,000 dash 1,050.

So I guess somebody just picked up 1,050. I was trying to make these units bigger than what I had proposed. Right here is what I proposed, 946 square feet.

Board, and Chairman Conine, and Mr. Gerber, a lot of my competitors were only too happy to build an 850 square foot two bedroom unit for seniors. Or a 900 square foot, or 950. I was trying to make this bigger. Now since then I have made them bigger, in my communities.

So really everything I'm doing, I only am not just trying -- and I don't want to be arrogant about this, but I'm succeeding in building a really high quality community. I don't think you will find a senior community in the State of Texas as nice as this. And today this community, we regularly get people who come in and can't believe it's affordable. It's 98 percent leased and 95 percent occupied today. And we're about to convert it.

So I just want to draw your attention to one more thing. Back to this grid, if you look at the very bottom, the items in orange are things that we don't get credit for. Those are things that there's no a box to check for.

And I don't like to say I'm not a box checker. In this industry, and developers do it, you can go put in a closet and put a treadmill in it and call it a fitness center and check the box. I'm not going to check boxes. I'm going to build real communities with real places for people to go be and hang out and really live their lives. So I've got a real fitness center.

Every one of these items that I did down here, I didn't have to do. I didn't promise it, nobody asked for it, and there's not a box to check for it. And they're all in orange down there. And so I think I just don't fit into the box.

I really am doing the right thing, and I just ask that you all accept my amendment. And I'm happy to show you the community, and I think you'd be proud of it. I would appreciate, if you have any question, letting me answer those for you.

MR. CONINE: Mr. Shaw, it appears to me that you and staff haven't quite got on the same page, because of closing your other deal, and busy, and trying to react the last few minutes here. It seems to me like if we table this particular one as well till the next meeting, you'd have enough time to explain your little orange box to staff; staff could listen to how you've improved the project in ways that you think are offsetting --

MR. SHAW: Yes, sir.

MR. CONINE: -- right now. And you can bring it back to us at the next month's meeting, because right now, after what you just said, and reading staff's recommendation, you know --

MR. GERBER: Mr. Chairman, if I can interject? I had a chance actually on Monday to go and see the property. And while I only went into a model unit, I didn't -- I was very impressed with the property. It's one that I think all of us would be proud to have in the ground.

There's another issue that Mr. Shaw will have later in the agenda. I'm not familiar with that property, but this one, when I was down in San Marcos on Monday, I toured. It's a nice as, if not nicer than many of the elderly properties that we have. I was very impressed.

And I know that we've worked with him other deals, including the bond deal that he referenced in Amarillo, and there's been lots of hoops to jump through on that one.

I think that we've made clear to Mr. Shaw that our expectation is that we want to see amendments before -- we want to see -- we want the opportunity to review an amendment before the work actually gets done.

I think he's fully calibrated to it, and we've had some long conversations in that regard.

But I just wanted to say that, from the staff respective, I think we're -- I don't know that there's a whole lot else that we would be able to really -- that would be the Board needing to consider on our side, unless there's more direction provided by you all that we --

MR. CONINE: Well, if --

MR. GERBER: -- if we want to try that.

MR. CONINE: I guess we can discuss the ramifications of denying the request, which is the staff's recommendation. And I'm not sure the ramifications are something that Mr. Shaw would appreciate.

MR. SHAW: Chairman Conine?

MR. CONINE: Yes.

MR. SHAW: Of course that would hurt me and put me out business for two years, and that would hurt my feelings and I don't think it'd be fair. I'm asking you to override the staff recommendation, and I'm happy to do exactly what the Board directs me to do.

But I'll tell you this, in my discussions, which have been very courteous, and respectful and civil with staff all along, my sense is that we all are trying to meet those standard -- the letter of these rules, and I think that staff really feels compelled to bring this to you because I didn't quite fit into all those boxes.

And there is some disagreement about whether or not my grid is right, and what the value is of all this stuff. It's a very suggestive issue. And I will do exactly as you direct. I would respectfully request that you all override that staff recommendation.

MR. CONINE: Well, Mr. Shaw, I'm having a hard time understanding why the application of award number 07291, Cypress Creek, had anything to do with the changes that you did to this particular project. And that's what I'm looking at in my write-up here.

MR. SHAW: Oh, no, I'm asking about this one.

MR. CONINE: And I need a little better -- you didn't tell me the story, and staff just told it happened, and I read it here, but I don't have any understanding why that has any merit to the discussion.

MR. SHAW: I'm sorry. I wasn't talking about Cypress Creek. I was talking about Mariposa. I'm sorry --

MR. CONINE: Am I reading something wrong here?

MR. SHAW: Chairman Conine, I was just talking about Mariposa.

MR. CONINE: I know.

MR. SHAW: I'm sorry.

MR. CONINE: But in the Mariposa write-up it says, and I'm sure you saw it since it was in the Board book, the owner retracted the request after -- until after the 2007 competitive application round, which the owner received an award of 1,199,797 on Cypress Creek, which, again, I don't understand how that affects you changing the physical characteristics of this project back in 2005.

MR. SHAW: I think the insinuation is I did that so that -- because I was afraid -- I knew that I would get penalized here, and I was afraid that that would keep me from getting that 9 percent deal done, and this is simply not accurate. It's not true, and therefore it cannot be proven. It is not true, Chairman.

MR. CONINE: Okay.

MR. SHAW: That's the insinuation, and I -- really actually I insisted that it be withdrawn. I do resent it. It impugns my character before this Board, and I work really hard to have your respect.

MR. CONINE: I don't think that anybody

doubts that you build a great project and you work really hard. I'm just confused on how this project got so out of whack with the application. You still didn't answer that question for me.

MR. SHAW: I will be glad to answer that question. How did it get so out of whack with the application?

MR. CONINE: Why is it so different today in 2008 than it was in your application in 2004?

MR. SHAW: I would love to tell you, and I'll make it brief.

MR. CONINE: Okay.

MR. SHAW: If you'll look at that site plan that I referred you to --

MR. CONINE: Yes.

MR. SHAW: -- a terrible site plan. After we got into this, we discovered we have to put a pond into this community. Didn't know that. And so we redid it. I've superimposed where the pond is now.

We -- at the time I was reacting to my other senior community using this architect and another group that was advising me, and I was trying to make this better. So I made a number of changes after closing, costing me hundreds of thousands of dollars, but made this dramatically more aesthetically pleasing, more usable for people, I increased the size of my -- I think we just a little unfortunate in accuracy -- I increased the size of the unit. It's in my application. I took it up from 946 square feet to up to 999.

I dramatically increased the area of common area. And the reason I did that is because I know multifamily from a market rate point of view. I had been listening to the wrong people, I figured it out, and I went back and changed it and fixed it with this community. And I did it a lot of work, spent a lot of time, and got -- you know, spent a lot of money on it, because I was trying to make it right.

And we've -- every community we've built since then, we stand on the shoulders of this design, and we try to make it better. That courtyard, Chairman Conine, my residents here, the ones that lease here, you think we've got beautiful views, just by the way of areas that will never be developed, or greenbelts, in Southwest San Marcos, you think people would want those views. Ten to one people want this courtyard. And that's what we were able to come up with. And we put all of our amenities in the courtyard.

MR. CONINE: So you're testifying it just didn't occur to you that you should come back to the

Department to get those changes approved? You just did them?

MR. SHAW: That is right. And that was --

MR. CONINE: Okay.

MR. SHAW: -- in 2004, Chairman.

MR. CONINE: Well, it doesn't matter when it is, if you get a bond allocation and tax credit allocation form an allocating agency, to me common sense, when you make drastic changes, you've got to come back to the agency to get it approved.

MR. SHAW: Let me just say two things. Yes, at the time I didn't know that, but I did know, and fully planned, I thought that I would come back before this Board and show you that I've done a better job. I knew we would come back. I didn't know I needed to do it at the time. I really didn't.

I did know then, quite clearly, that I would have to come back, and I was looking forward to coming back and showing you what I've shown you today. I made this dramatically better.

MR. CONINE: I mean you --

DR. MUÑOZ: Can I ask a question?

MR. SHAW: And so --

MR. CONINE: Yes --

MR. SHAW: -- anyway -- yes, sir.

MR. CONINE: Go ahead, Dr. Muñoz.

DR. MUÑOZ: How does this -- how did the changes negatively impact the future tenants?

MS. RAY: The microwave.

MS. MEYER: Staff's opinion is we have a reduction in square footage, which there seems to be a discrepancy in that, which --

DR. MUÑOZ: Right.

MS. MEYER: -- he said. But they also don't have the self-cleaning ovens, they don't have microwaves, and that's a direct impact on the tenants individually, and most of the things that the development has done has been community-wide and not on an individual basis.

DR. MUÑOZ: Okay.

MS. RAY: So -- Mr. Chairman --

MR. CONINE: Yes --

MS. RAY: -- may I --

MR. CONINE: -- Ms. Ray.

MS. RAY: -- so basically the negative impact, since we do have some differences on the square footage, the basic difference is on the microwave and the self-cleaning ovens. And the staff does not believe that the other community-wide improvements compensate for the individual. Is that what you're saying?

MS. MEYER: That's correct.

MR. CONINE: Anybody else have any questions of the witness?

(No response.)

MR. CONINE: And I would --

You know, Mr. Shaw, you weren't around in the late '90s and early 2000s when this was happening to us over and over and over again where we would grant tax credits and bonds, and people would go out and build something that looked totally different, and come back in and say, I just did it totally different, but it's better, which is essentially what you just took 10 minutes to do.

And I know the ramifications of making the decision that staff has recommended here, and I would think that -- Mr. Gerber has said that staff's gone as far as they can go. I just heard you say that you were distracted and couldn't quite get to it over the last two or three weeks, and thought there may be another opportunity to convince staff that it is a better mouse trap. But if you want us to go forward, I mean we'll go forward. I don't care.

MR. SHAW: Chairman Conine --

MR. CONINE: Yes.

MR. SHAW: -- the other thing I was going to tell you is, I do understand it and it'll never happen again. I stand by everything I just said. I will -- won't back up an inch on anything I just said, because wheat I just said is true.

But I'll be glad to accept your suggestion and table this, and let me visit with staff and I will see if -- there is something I didn't know in my meeting yesterday morning with Robbye, and I since showed it to her and she probably ought to chew on that a little bit. It's the square footage.

But I'm happy to do that, and I appreciate your concern. I'm very concerned about it. I don't take this lightly, and I don't mean to glib about it. So I won't let it happen again. I am -- I do have another amendment here today, but I'm certainly learning, and I won't -- and in answer to your question, no, I absolutely was not around in the late 1990s, nor early -- anytime. I showed up on the scene in 2003.

MR. CONINE: Do I hear a motion from the Board?

MS. RAY: Mr. Chairman --

DR. MUÑOZ: The motion would be to table?

MS. RAY: To table.

MR. CONINE: We haven't heard it yet.

MS. RAY: That's my motion.

MR. CONINE: Motion to table. Is there a second?

MS. BINGHAM ESCAREÑO: Second.

MR. CONINE: Second to the motion to table till the next meeting of the Board. Any -- and no discussion. All those in favor of the motion to table signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MS. MEYER: Chairman, Board, the next amendment is the Melbourne Senior Community, 07203. This owner is requesting approval to change the site plan, the building plans, unit plans, and some amenities. It is of note this is a GP, a general partner, that has taken over for the original general partner. The Department did approve that transfer, so if you can keep in that mind as we go through this.

I'm not going to go through this whole thing, but let me give you the basic changes. They went from 14 buildings to four buildings; they went from 12 elevators to four elevators; the parking reduced from 188 spaces to 165, it still meets city code. They have worked diligently with the city to do this; and the changes would not affect the application for recommendation for award at the time.

We are recommending denial of the amendment; however, we do recognize that it does not negatively affect the development.

MR. CONINE: I have public comment from Larry Buehler.

MR. SHIRCLIFF: Okay. I'm going to go.

Bill Shircliff. Can I step up first? I'm one of the witnesses.

MR. CONINE: Yes. Okay. Go ahead. Sorry about that.

MR. SHIRCLIFF: That's quite all right.

Chairman, Board members, Mr. Gerber, I thank you for the time to give us an opportunity to comment about the amendment. We have worked with staff --

MR. HAMBY: You need to identify yourself.

MR. SHIRCLIFF: Oh, sorry. Bill Shircliff with LBG Development. We are the group that Robbye just mentioned that has come in on this project.

We've worked with Robbye and staff, and I also want to thank staff for providing a lot of what we think is very important information in the write-up for this project to give some background on why the changes have occurred. We are coming to you advance, and moving towards a closing date, we hope very shortly on this project. So we do appreciate your listening to our request today.

There's a couple of things within the write-up that I just want to highlight of importance. First of all, I think really what drives this change is the change in the site plan that takes us from 14 buildings to four buildings. And I think it's important to recognize that there were very specific reasons why the original application was designed with 14 buildings.

That was specifically to design around the City of Alvin's building ordinances, which we, as -- when we came into the deal, the first thing we did was meet with the City of Alvin to try to understand why they had that building ordinance. After our meetings with the City of Alvin, we have been working -- we worked in a very participatory manner.

We took their suggestions, we took -- we asked them, Where in your mind is the best senior project in their area. We actually went and visited that senior project. It's actually a luxury senior project. But we took a lot of those design elements and worked with the city. Mr. Buehler from the City of

Alvin is going to speak next to talk more about that.

But specifically there was a reason why it was originally presented at 14 buildings, and there are many specific reasons why we've come back and asked for the redesign to the four buildings.

I think it's also important that we note that the design changes are enhancements and I know you just heard a lot about design changes. We do think there are some important design changes. We've got some renderings we'd like to show you as well. I think there was information in the Board package.

We believe this will be a far better project as a result of the redesign. I'm going to let the city speak to their perspective on that, but I think they're going to agree with us as well. As Robbye mentioned, the changes have no negative impact and we think actually much -- a very positive favorable impact to the residents and the community that we're going to be serving.

That's the site plan, I guess, that's -- yes, okay. Make sure.

Some of the comments I've heard come up, we have designed this as basically producing much more common green area and space for active adult living. We agree with those comments that were made earlier from another developer. We've added common courtyard, common porches and patio spaces. We've improved accessibility for residents, security for residents, and, again, all of this has been in a very collaborative manner with the City of Alvin.

DR. MUÑOZ: One elevator per building?

MR. SHIRCLIFF: One elevator per building. And we feel that that is sufficient. We've worked with our architects, because from where they are positioned that that is sufficient.

DR. MUÑOZ: Many of whom are going -- you know, their ambulatory condition is going to be constricted, and that's sufficient?

MR. SHIRCLIFF: We believe that it is sufficient, yes.

I heard the bell, so in closing, I just want to, you know, thank you all for the opportunity. This project is -- has received a firm commitment from an equity provider. LBG has not presented any Board amendments to the Board in the past, and we would just appreciate your support of approving this so we can move forward and get this deal closed. Thank you.

MR. CONINE: This is an unclosed '07 deal.

MR. SHIRCLIFF: This is an unclosed '07 deal that we hope --

MR. CONINE: You've been very attentive the last 24 hours.

MR. SHIRCLIFF: And I thank you much for your previous actions for the '07 closed deal. That will help us dramatically.

MR. CONINE: And let me ask you this, did the change in the architectural features result in an overall construction cost decrease?

MR. SHIRCLIFF: We are -- we -- our cost estimates are keeping us in line currently with -- we think the numbers are fine. We obviously have had some savings by reducing the number of building footprints, by reducing some of the numbers of elevators. We have actually increased the net rentable square footage in the project, we've also added a substantial amount of interior corridor space, which obviously costs to build.

So I think on a net to net basis we're about the same. And our goal is to deliver the project under the original application parameters, so.

MR. CONINE: Okay. Thank you very much.

Larry Buehler?

MR. SHIRCLIFF: Thank you.

MR. BUEHLER: Mr. Chair, Board, Mr. Gerber, it's my pleasure as Larry Buehler, Alvin Economic

Development Director, to address you for just a few brief moments today.

What you're seeing before you passed out are letters of support from our Senator, Mike Jackson, and our House Representative, Mike O'Day. We have worked very closely with them as this project has come to fruition. And I'm just going to give you a brief history and then I'll close with a comment from the mayor's letter that came from the city that you already have in your packet.

I think one of the key things that I want to express to you today is the due diligence that the City of Alvin has taken on this project. This was partly an educational experience for us because as typical multifamily developments versus a seniors development, there are different aspects that seniors may like versus multifamily.

One of the things that we have done is that we started in the spring and we held a community-wide open house where seniors from inside our community came together and met with the owner of the property, the developer at that time, and has met with the developer of record today. And we've asked them what are the things that they would want. And we gave them ideas, and the developers presented them with those ideas and we brought them forward. And so those things have been incorporated into that.

We have regularly held pre-development meetings where I've had my fire code marshal, my building code official, my city engineer, the drainage people, everyone in the room at the meeting discussing all the ordinances and all the things that they would need to apply to. The variances there were identified that Bill spoke to earlier, those were brought forward to my city council in a workshop discussion, open workshop discussion. Those items were identified, those variances were granted, and we considered -- and we continued to move forward.

The results of this project, as it stands before you today, that we're asking for your approval of these amendments, result in a better, safer design for our community.

We're very pleased to have this project with the potential of it coming into our community, it is right across the street from Alvin Community College, who has wonderful continuing education life long learning projects and programs that these people will be able to take advantage of.

Again, it's the key about the due diligence that the City of Alvin has taken forward. And I'll close with a brief comment that was right out of the letter from Mayor Gary Appelt: "It was clear that the revised designed from LBG Development over the original designs submitted were going to be a premier product and much better suited for the senior community that will be moving in."

So we understand the processes that staff has to go through, we respectfully request that you approve these amendments, and I'm very pleased that they're here before you before a project is actually built and addressing that with you. Thank you.

MR. CONINE: Thank you, Mr. Buehler.

Any questions of the witness?

(No response.)

MR. CONINE: Barry Palmer.

MR. PALMER: My name is Barry Palmer. I'm with Coats Rose law firm. I just wanted to make a couple of comments on this amendment. I wanted to point out what the QAP says about amendments, just to be clear that we have the context for the Board in reviewing amendments.

And that is that the Board must vote on whether to approve an amendment, and the Board, by vote, may reject an amendment if the Board determines that the proposed amendment would materially alter the development in a negative way, or if it would have affected the selection of the development in the application round.

Clearly this doesn't affect the selection of the project in the application round; staff in its write-up has said that the changes do not negatively impact the a project; the City of Alvin has said that, in fact, these changes are an improvement on the previous design. So we would ask the Board, under those circumstances, to approve the amendment.

MR. CONINE: Thank you.

Any questions of the witness?

(No response.)

MR. CONINE: Do I hear a motion?

MS. RAY: Mr. Chairman?

MR. CONINE: Yes, Ms. Ray.

MS. RAY: I move to approve the amendment.

MR. CONINE: Motion to approve 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.

MS. MEYER: Chairman, Board, the next amendment is Villa Estella Treviño, 07206. You were given an additional handout yesterday, and it was made available for the public's view. Yesterday evening you should have received that.

The owner has amended their original request, and they're actually only requesting three amendments. One is to reduce the common area from 12,748 square feet to 3,630 square feet; reduce the operating budget by eliminating the assistant manager; and moving the entrance from the southeast corner over into the middle of the development. And those are the only three amendments that they're actually requesting at this time.

The owner is requesting a decrease in the common area because they've reviewed other elderly developments and they feel like the size of the common area was excessive and wasn't needed. In the original design they were also planning to support an adult daycare facility in that space. They have proposed to build an adult daycare facility adjacent to this property, but we don't have any documentation or assurance that that will be done; however, they have proposed that.

And the changes that are being requested would not have affected the score or the recommendation of the application. Staff is recommending a denial of the request because of the changes that would reduce the future residents of the property, and we're recommending no penalty be assessed.

MR. CONINE: Okay. I have three witness affirmation forms. The first is Gilberto de los Santos, or somewhere close to that.

MS. RAY: You done good.

MR. DE LOS SANTOS: Mr. Kent Conine, Chairman, members of the Board, Mr. Michael Gerber, executive director for TDHCA, first of all, I want to thank you for moving so expeditiously to do something about the two '07 projects that are in danger due to the economy. Thank you very much for that.

I also wanted to thank the staff for meeting with me and discussing some of the changes in this project. We've actually been discussing this since March of this year, which is almost six months ago.

And we actually were trying to do some cost savings and value engineering to the project because of the economic changes that we've seen that were not anticipated. I can assure you that if the economic changes were not as dire as they were, then we could have built the project exactly the way it was.

The only real change really is the change in the common area. And I would like to say -- by the way, I'm going to pass this to you -- because I think first of all there's a misunderstanding in terms of the square footage for the economic -- for the common area that we're proposing. I think the staff said it was about 3,600.

And I discussed this with Cameron because I didn't see the changes. But I asked my architect to clarify that it is because in the -- you may say the confusion came in as to the corridor space. And the staff was counting -- or deducting corridor space from the 4,710 and my architect said, no, it's net square footage.

So if you look at the handout, the second handout, it shows clearly, and I want to clarify this with the staff because -- that the amenity net area, or the common area, if 4,710 square feet.

Now as other developers have done, I try to build the best, largest, best facility for the money that we have. And so when the economy -- before the economy went bad, we could have done the project with the common area the size that it was. And so now it's a cost reduction effort to make the project work.

But I can tell you that I don't think it hurts the tenants, and certainly it doesn't affect the point system, and we are coming to you before the change. In fact, I have been discussing possible -- value engineering possibilities with the staff for several months.

But if you look at the first handout, if you look at item number 2, and I'm talking about this one right here where it says "Table of Contents", look at number 2, and it's an Excel spreadsheet. I compare the common area, the way we're proposing it now of 4,710, with the common area of six other elderly projects that are '07 that were approved for funding.

And if you look at it, our common area is the largest one. The second largest one is 4,000, ours is 4,710, and the others are smaller. But we are the largest in terms of units too. So I don't think we're comparing apples with apples there. I think a better comparison, and a fairer comparison, would be to compare the square foot, or common area size per unit. In other words, commonize it to a per unit.

In other words, how many square feet of

common areas do we have per unit. And if you look on the right hand side, ours is 28 feet and you look at each one of them, and look at the mean, it's 29 feet. So we are within what I would consider an acceptable range for the other six projects.

And it will help a great deal in terms of the financing of the project. We have a tentative letter of commitment from a syndicator. It's attached to the architectural diagram. And what the letter says is that if we make certain changes in the value changes, that it would be a lot more attractive.

This syndicator is serious, we've been meeting with them, they have an investor who is interested in adding this project to their portfolio, but we have to meet the gap. And so the main reason we're doing this is to meet the gap. So I would ask for your consideration.

MR. CONINE: Thank you.

Any questions of the witness?

MS. BINGHAM ESCAREÑO: I have a question here. How close would you be to closing that? It says in the letter it's about a million dollar gap. How much engineering would you be able to do with this proposed amendment?

MR. DE LOS SANTOS: That's a very good

question. Probably this would save us about 4- to $500,000. And since you have already added some to the two '07 projects, we don't know how much -- we need to find out from Tom how much it's going to be. I think we're pretty close. But we do need this change.

MR. CONINE: Any other questions?

(No response.)

MR. CONINE: Thank you.

Estella Treviño.

MR. DE LOS SANTOS: Thank you.

MS. TREVIÑO: Good afternoon.

MR. CONINE: Good afternoon.

MS. TREVIÑO: Mr. Gerber, Mr. Chairman, and the rest of the Board, it's a pleasure for me to be here again today. I know you're going to get tired of listening to me.

But my name's Estella Treviño, and I'm here on behalf of the Villa Estella Treviño project to be built in Edinburg, I hope, in the near future.

Our mayor was here yesterday to speak on behalf of our project, and so was Representative Peña. And I think we've got some letters of support from our two senators, Senator Lucio and Senator Hinojosa, and also from Ms. Veronica Gonzales.

So they're all in great support and strong support of our development, and we are in dire need of senior housing. And, you know, I had to suspend the waiting list this last year because we were just giving people false hopes. We need the elderly housing very, very bad. And I hope that you will consider approving our amendment so we can proceed.

The Housing Authority has already purchased the land. We bought the 15 acres for this development, and we're just getting real anxious, and I hope that you find it in your heart to approve it.

The mayor told us yesterday that we have over 60,000 people, which is the population for the City of Edinburg, and we don't have but about 122 units of elderly housing in our Housing Authority.

So just give a little short background to the new Board members, I've been running the Housing Authority, or trying to run it, for 37 years. And I'm one of those senior citizens. You know, I just turn 86 years old about three weeks ago. I don't want to quit, I'd like to see this project finished, and I hope that you will help us. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MS. TREVIÑO: No questions.

MR. CONINE: Thank you, Ms. Treviño. It's not --

MS. TREVIÑO: I'd like at this time -- I was getting a little sleepy over here --

MR. CONINE: I know.

MS. TREVIÑO: I stayed up last night listening to that governor from Alaska and I didn't want to go to bed and so today I'm a little sleepy. I'd like at this time to introduce one of the gentlemen that is on our waiting list waiting to move into this development when we do build it.

And I'd like to introduce to you Mr. Froylan Soliz. He will speak in Spanish, and I think somebody will translate for him.

MR. SOLIZ: Yes, thank you. (Testifying in Spanish)

TRANSLATOR: Mr. Chairman, members of the Board, I am Froylan Soliz. I'm on the -- currently on the waiting list for an apartment at the Villa Estella Treviño.

MR. SOLIZ: (Testifying in Spanish)

TRANSLATOR: I am an elderly person, and where I live there are numerous problems. I will like to see that these apartments or projects are done in the City of Edinburg, Texas, which is in the County of Hidalgo.

MR. SOLIZ: (Testifying in Spanish)

TRANSLATOR: The City of Edinburg has an enormous growth. For every 55 year old person, which exceeds over 600 people, we desire to live better and in peace. We all are interested in these projects or apartments that are being proposed at this time. Thank you.

MR. SOLIZ: Gracias.

MR. CONINE: Thank you.

DR. MUÑOZ: (Speaking Spanish).

MR. CONINE: Could you just introduce yourself?

TRANSLATOR: Oh, I'm sorry. Annette Cornier, assistant for the community affairs director.

MR. CONINE: Questions for the witness?

DR. MUÑOZ: Yes, not so much a question, but just a statement. (Speaking Spanish)

MR. SOLIZ: Thank you. Gracias.

DR. MUÑOZ: (Speaking Spanish)

MR. SOLIZ: Okay. Muchas gracias.

DR. MUÑOZ: I thanked him for coming here and speaking in his native language and sharing with us his thoughts.

MR. CONINE: Thank you.

MR. SOLIZ: Thank you.

MS. TREVIÑO: I'd like to thank Mr. Mike Gerber for always returning my calls. I bother him a lot, and I know how hard it is to return calls, because it's hard for me. And to make his staff available. He's very gracious and very helpful. Thank you.

MR. GERBER: Ms. Treviño always picks up my week when she calls, so I'm -- and it's a very worthwhile project and one that the Department and staff has really struggled with and working with Dr. de los Santos and others.

We all know the merits of, and the need for, additional elderly housing. The question is always really centered around just the dramatic change in some of the features that have been proposed with the property. And so it's hard to see some of those being scaled back a bit. We understand obviously the circumstances you're dealing with, and appreciate the background information that you provided to us.

MR. CONINE: I'll remind the Board this is an '07 unclosed deal, and earlier we invited amendments to try to get there cost-wise, so.

MS. BINGHAM ESCAREÑO: Mr. Chair, pardon me --

MR. CONINE: Yes, ma'am, Ms. Bingham.

MS. BINGHAM ESCAREÑO: I just would like to move that we approve the amendments as submitted.

MR. CONINE: There's a motion to approve the amendment as submitted. Is there a second?

DR. MUÑOZ: Second.

MR. CONINE: Second from Dr. Muñoz. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MS. MEYER: Chairman, Board, the final amendment is Cypress Creek, 07291. The owner is requesting a change in the land area and site plan. After the award was made they found out there were wetlands on the property. They're requesting to reduce the number of acres from 10.3 to 9.3, it'll increase the density of the buildings from 12.8 to 14.2, and they're requesting to reduce the number of buildings from 15 to seven.

Staff is recommending denying this request because it does propose a totally new development; however, we do recognize that there's not a negative affect to the development.

MR. CONINE: A couple of witness affirmation forms, Stuart Shaw and Barry Palmer.

MR. SHAW: Again, I'm Stuart Shaw with Bonner Carrington here in Austin, Texas. And we became aware late in the game on this of wetlands on this property. They are highlighted in yellow.

And, no, we did not know there were wetlands. It looks perfectly dry to us, and I mean I didn't know what a wetland looked like. Wetland apparently is spongy soil, it's not where, you know, birds live, or ducks, you know, it just can be spongy soil.

And this is an area of Houston that we have done -- this is our second community, and it's -- we have -- anyway, we're doing a good job we think. But we have overwhelming community support, we're doing a huge benefit for the community. Freedman Town next door that we're -- they will do a lot of stuff to help with bringing waste water there. And it's just one thing after another. We have overwhelming support.

And we had three-story buildings before, we have three-story buildings now; they were beautiful, they're beautiful now; way above average before, way above average now. We simply identified these wetlands, we had them surveyed, and you can see that they're very odd shapes, because we were trying to just get the wetland, we didn't want to take some other area with it.

And I had them platted, surveyed and platted out of the original 10.26 acres. We lost about an acre, a little less than 10 percent. And we thought that that would be within the requirements.

We did not think about the density. The density goes from I guess 12 units per acre to maybe 13 or 14. Most people build 18 or 17 or 20 units per acre, which I don't do. So the density isn't an issue; was not even one that I thought was an issue. This is a very low density.

So the two tracts will never be -- I mean they're outlying tracts, they're designated as wetlands. Can't do anything on them. Nobody cares, and I don't know what to say for today.

But for what it's worth, there is an easement on the southern border of this property that's referred to as Restricted Reserve A and it's an oil and gas pipeline easement. It is -- I own it. I bought it, and I -- I mean I bought -- it's worthless. It was actually given to me. I did it because I want to take care of it. I want to keep it in good shape.

Anyway, before this -- before we ever found out that this was going to be denied, it has nothing to do with this denial, we were already going to use that entire area for playgrounds and stuff for kids, which is okay to do. It's not all the time an easement, so. I didn't even know that we were going to be before you today. And I'm sorry about it. But it's really not much change, and I was already overcompensating for it.

MR. CONINE: Let me ask a question, if I might. In the reduction of the buildings from -- the number of buildings from 15 to seven, I presume you're picking up some construction cost efficiencies by doing that?

MR. SHAW: Yes, sir, we are.

MR. CONINE: And this is an '07 deal that hasn't closed yet?

MR. SHAW: No, it has closed.

MR. CONINE: It has closed.

MR. SHAW: Yes, sir.

MR. CONINE: Okay. And why do you feel the need, other than maybe -- why do you feel the need to release the wetlands from the boundary of the property?

MR. SHAW: Oh, sorry, I left that out. The City of Houston required that we do it, and we --

MR. CONINE: Houston required it?

MR. SHAW: We are -- we received HOME fund dollars for this, or we would never have been able to close.

MR. CONINE: Okay.

MR. SHAW: And it's a non-starter, that deal. You got wetlands on that property, no HOME funds.

MR. CONINE: Any other questions of the witness?

(No response.)

MR. CONINE: Barry Palmer.

MR. PALMER: Barry Palmer with Coats Rose. I'd just like to point out, again, the relevant provision of the QAP on an amendment is that the Board can reject or turn down an amendment if they make a finding that the change would materially alter the development in a negative way.

And here you've got staff on record saying it would not negatively impact the development. You can see from the site plan that these wetlands are really just going to be green space used by the development. So there really is no real reduction in space, it's just a reduction in land owned by the partnership that was necessary because of the HOME requirements from the City of Houston.

So there's really no change for the residents, no negative impact on the project, and we hope that the Board would see it that way. Thank you.

MR. CONINE: Any other discussion, or any other questions?

(No response.)

MR. CONINE: If not, I'd entertain a motion.

MS. RAY: Mr. Chairman.

MR. CONINE: Ms. Ray.

MS. RAY: I move to approve the request.

MR. CONINE: Motion to approve the amendment request. Is there a second?

DR. MUÑOZ: Second.

MR. CONINE: Second from Dr. Muñoz. 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.

Executive director's report.

MR. GERBER: Mr. Chairman, at the back of the agenda -- at the back of your Board book are a list of outreach items, as well as HOME amendments that are being reported to you. And I don't really have a whole lot of additional information to report --

MS. RAY: Thank you.

MR. GERBER: -- other than the next Board meeting is scheduled for Thursday, November 13, or at a time subject to the call of the Chair.

MR. CONINE: Again, I'd like to thank everyone who's been a part of the deliberation the last two days. It's been interesting, to say the least. Thanks, again, to staff.

Mike, you and your staff have done an excellent job in getting us to this point.

And, again, as I said at our last Board meeting, I thought some of the more influential policy decisions that this Board would make would occur at this particular meeting, and I think it proved to be true because of the legislation and other issues.

And, again, I want to thank staff for their yeoman's effort in getting us to this point.

Any other comments by any of the Board members?

(No response.)

MR. CONINE: Seeing none, we stand adjourned.

(Whereupon, at 2:08 p.m., the meeting was concluded.)

C E R T I F I C A T E

MEETING OF: TDHCA Board

LOCATION: Austin, Texas

DATE: September 4, 2008

I do hereby certify that the foregoing pages, numbers 1 through 324, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy King before the Texas Department of Housing and Community Affairs.

09/10/2008

(Transcriber) (Date)

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