TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS

BOARD MEETING

Thursday,
December 17, 2009
10:45 a.m.

Capitol Extension Auditorium
1100 Congress Avenue
Austin, Texas

BOARD MEMBERS PRESENT:

KENT CONINE, Chairman
GLORIA RAY, Vice Chairman
LESLIE BINGHAM ESCAREÑO
TOM H. GANN
LOWELL KEIG

STAFF PRESENT:

MICHAEL GERBER, Executive Director

I N D E X

Approval of the Homeless Housing and
Services Program (HHSP) Award
Recommendations for City of Dallas,
City of Houston, City of El Paso,
United Way of Tarrant County (on behalf
Of City of Fort Worth), and Mother
Theresa's Shelter (on behalf of City of
Corpus Christi)

G) Presentation, discussion, and possible
Approval of the Program Years 2010
Community Services Block Grant (CDBG)
Annual funding allocation

H) Presentation, discussion, and possible
Approval of PY 2010 Community Services
Block Grant (CSBG) state discretionary
Funds distribution and notice of
Funding availability

I) Presentation, discussion, and possible
Approval of an ARRA WAP Award to South
Plains Community Action Association for
The 6 county service area of Caprock
Community Action and to Institute for
Rural Development for Duval County

J) Presentation, discussion, and possible
Approval of the reallocation of
Unexpended Program Year 2008 and 2009
Emergency Shelter Grants Program
(ESGP) funds

K) Presentation, discussion, and possible
Approval of the PY 2010 Comprehensive
Energy Assistance Program (CEAP)
Awards

Disaster Recovery:

L) Presentation and report on homes
Considered and reviewed by the
Executive Director for services for
Accessibility requirements that
Exceed the established cap of $15,000

M) Presentation and report on homes
Considered and reviewed by the
Executive Director for services for
Municipal requirements that exceed the
Established cap of $10,000

P R O C E E D I N G S

MR. CONINE: Good morning. And welcome to the Board meeting of the Texas Department for Housing and Community Affairs for Thursday, December 17.

Let me figure out how I call the roll. Tom Gann?

MR. GANN: Here.

MR. CONINE: Leslie Bingham?

MS. BINGHAM ESCAREÑO: Here.

MR. CONINE: Gloria Ray?

MS. RAY: Here.

MR. CONINE: Lowell Keig?

MR. KEIG: Here.

MR. CONINE: Kent Conine. We're all here. Juan Munoz is absent. I will say Dr. Munoz had some -- his son had some unexpected surgery this week. We haven't heard the results of it yet, but we hope that everything's fine and if you'd keep him in your thoughts and prayers that would be very special. And we hope everything works out fine and to see him again next month.

We do have a quorum. As most of you know the public comment period we have both in front of the meeting as well as during the particular agenda. We have several people who have signed up to speak here at this period of time, so we'll go ahead and get started with them. First one being John Henneberger.

MR. HENNEBERGER: Good morning. My name is John

Henneberger. I'm the co-director of the nonprofit Texas Low Income Housing Information Service. And I've provided you each a copy of a little booklet on the Texas Grow Home Project.

The organizations listed on the back page of your booklet are -- have carried out a project in partnership with TDHCA to design a new and a better model for single family affordable homes called the Texas Grow Home Project. And we're here today to give you a report on that project.

The Texas Grow Home Project is based on five objections. Number one, to get low income disaster survivors out of FEMA trailers and into -- and other temporary housing and into permanent housing as quickly as possible.

Second, to reduce the money that the government must spend on temporary housing and to invest those savings into permanent.

Third, to employ good design by Texas' best architects to make the home an asset to the homeowner and an enhancement to the community and neighborhood.

To build with modular and panelized construction so that a lot of homes can be built very fast while the quality remains very high.

And, fifth, to push the limits on green building and energy efficiency.

To do all of this to goal is to be able to deliver a two-bedroom home at $65,000 and a three-bedroom home at $75,000.

And in order to try to figure out how to do all of this we partnered with the Texas Society of Architects and held the largest affordable -- the largest residential design competition in Texas history. 83 teams of Texas architects submitted designs to be considered. Judging was held here, and one of your former Board members was one of the judges.

MR. CONINE: Who was that?

MR. HENNEBERGER: Shad.

MR. CONINE: Oh, okay. Good.

MR. HENNEBERGER: TDHCA provided funds to build one of each of the three winning designs to test out whether these objectives could be met. And the houses were built in Port Arthur on the lots of people who lost their homes to disasters. And these were all extremely low income homeowners.

Two of the homes have been finished and the third is under construction. We look forward to sharing the knowledge and the experience that we gain through designing and building these homes with TDHCA's forthcoming Disaster Housing Commission. The Committee, as you know, is charged to develop new and improved housing designs and construction approaches to the huge disaster rebuilding challenge that Texas faces.

With your permission I would like to introduce architect James Gleason do give you a two-minute tour of the green and energy efficient home that he designed and that has been built and turned over to the homeowner. And following Mr. Gleason architect Myriam Camargo will show you the extraordinary home which she designed and which has now also been turned over to a Rita disaster survivor.

And, finally, Stephen Fairfield of Covenant Community Capital who oversaw the construction of the houses will summarize the costs and our findings about this effort and will talk a little bit about some of the lessons that we learned through the Texas Grow Home Project.

This is an interim report. Thank you for your partnership and participation in this project. And we look forward to making sure that these homes inform the state's future disaster rebuilding needs. Thank you very much.

MR. CONINE: Thank you, John. James Gleason?

MR. GLEASON: Hellow. I'm James Gleason. I'm president and the architect for Gleason Design Group. And we entered this competition on kind of a fluke -- didn't think we'd ever win anything. But the three members of my firm sat down and decided that we're going to give it a shot.

So we put our heads together and came up with an idea that we wanted to provide a home that would fit into the neighborhood -- that looks like it's been there for a while. And we wanted to build a home that was green.

So we put our heads together and started the design work, submitted it -- somehow we won something. Well, I mean, we won part of this competition along with four other architects.

Let me tell you just a little bit about the house. Like I said, we -- it's an honor, first of all, to do -- provide a housing for disaster victims. I think it's a real passion that all of us ought to have all the way through the state of Texas.

We virtually made it green. The first part of green is making it durable. We designed it so that the outside and the interior materials would be long lasting with little maintenance. And then I guess the next part of it that we looked at was to make it healthy. So the materials that we selected and the way they were put together -- we really worked hard to help better the indoor air quality of this home.

And then the third thing that -- part of our green program was make it energy efficient. We took in -- used some special insulations, some high performance air conditioning and heating, special water heating, we used quality windows and doors, applied passive solar to the design, and we anticipate this home to run probably less than $40 a month on utility cost. It may be a little higher depending on how the people treat it.

And I guess the last part of this is we wanted to be friendly to the environment. So we were real conscious about the material that was delivered -- where it came from and how it was applied, eliminating waste, and actually using our waste products back into the house and landscaping.

So those four features we really pushed hard in this home. And along with Green Eagles Development, which was the contractor on it, they did a wonderful job of communicating and working directly with me to make sure all these things happened.

I guess probably the nicest part of this home -- we provided a home for a mother and a child to move back into. They were living in a nine-by-twelve storage building on the back of the property during the time that we were building this house. And they moved directly from that storage building back into the house.

This home was built within the budget that was required. So what we did was provide a decent design, built it green, made it energy efficient, and kept it within the budget. Thank you.

MR. CONINE: Great. Any questions of the witness?

(No response.)

MR. CONINE: Margo I think?

MS. CAMARGO: Good morning. I'm Myriam Camargo, and I am the founding partner of Camargo Copeland Architects. We are a firm that does quite a bit of commercial work, and we recently completed the Homelessness Center in Dallas. And, of course, that certainly gave us the incentive to enter this competition, because we believe that design really does make a difference in the lives of people.

I'm here to present the Camargo home design. And our design is based on two main goals: quality of design at all levels and rapid deployment capability.

Our desire to provide and infuse quality at all levels of the design solution dictated a streamlined plan and use of quality materials to achieve quality in the fabrication and delivery process.

Satisfying the rapid deployment goal to deliver all building materials to the site in a single flatbed truck led us to the concept of using a series of modular elements and modular building systems.

Clustering of the programmatic spaces resulted in the design of a central core containing kitchen, laundry, pantry, storage, and bath facilities, which can fully be assembled or prefabricated in a controlled environment, including electrical, plumbing, and mechanical systems.

Two equal modules turned at 90 degrees on either side of the core module provide a balance of the square footage. The modern plan maximizes privacy, efficiency of circulation, daylight, and outside views within a very compact footprint.

It also provides great flexibility for expansion through an add-on owner suite. High volume spaces have a quality of space and achieve an open and airy feeling. The exterior design is based on traditional architecture, using elements of scale, massing, and generous front and side porches to integrate the house within the neighborhood context and create rich indoor and outdoor spaces and relationships which then add value to the overall neighborhood.

Green strategies include the use of natural ventilation, which is achieved through the use of high volumes of space and fenestration; daylight harvesting reduces artificial light use even on cloudy days; an optional rainwater collection system facilitated by the gable and flat-roof design composition to have an above-ground cistern, and the use of structural insulated panels, or SIPs, which provide high energy efficiency and indoor air quality.

They are extremely fast to assembly, therefore reducing labor and cost. They have excellent structural quality and stability as these panels can be engineered to withstand winds in excess of 120 miles per hour, which is very important in these disaster-prone areas. Thank you very much.

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

(No response.)

MR. CONINE: Thank you. Stephen Fairfield?

MR. FAIRFIELD: My name is Stephen Fairfield with Covenant Community Capital. We're a Houston nonprofit. And it's been a privilege to be a part of this initiative for I remember what it was like to lose our family home in the '79 Wichita Falls tornado, which left 20,000 homeless and killed 45 and injured 1,700.

And that storm rewrote the book on what happens in a tornado, leading researchers to dismiss the old advice of opening windows, and leading FEMA instead to create a new policy of creating safe rooms. And it's my hope that the Grow Home Project and initiatives like it will likewise help rewrite the book on how to get families back home.

We received bids from manufactured, panelized, and stick homebuilders, and the winning bid for all three homes was Green Eagles Development of Waxahachie.

I think you'll be pleased with their work as you've seen in the photos and I hope they'll have an opportunity for other home projects in the disaster work because they're committed. And we need to create the capacity of groups to be flexible and work around the state with projects of variable demand.

As you've heard, they're also green builders. And these homes were brought in at $65,000 each, excluding demolition, fencing, and landscaping. And Kevin and Mick with Green Eagles are here right here: if you guys will wave and be recognized.

We're going to give you a final report when we finish the final home with the lessons that we've learned. But three general areas have found the need for flexibility based upon site and neighborhood conditions, to have plans that, based upon opportunities, can either be panelized or manufactured or stick built, can go piers on masonry or slab on grade, to be flexible.

The need for capacity building to process families and prioritize them, to get plans inspected and reviewed, the need for volume; and we hope that that would be the next stage.

We want to thank the Department for your desire to test new ideas and find ways that we can respond to the ongoing need we have in our state to help families affected by disaster, not just big hurricanes but the tornadoes and floods of smaller scale.

Thanks to Christus Health and Chase Bank for helping to finance us to get us to the construction stage and Southeast Texas Interfaith for helping to connect us with these families.

You've got some very happy families in these homes that you've seen in those booklets, and happy local officials. I know the mayor of Port Arthur is very happy and would like to see more of this in their community. And it's our hope that you can then go to scale to the next stage with this and other work like it.

So thank you very much for the opportunity to participate in this project.

MR. CONINE: Mr. Fairfield, let me ask a question. You may have stated this, you know, and I missed it or something, but I just want to explore a particular area with you. And you can answer this or you can turn it over to John and he can answer the hard question.

It's been my experience with disaster relief housing and trying to do something quick and fast that there's been some resistance at the municipal level, either from, you know, the city councils of a particular community or whether it's the fire chief or the building official that has issues with the type housing that gets proposed.

And I'm wondering if you can elaborate some on your work with city officials, because you have multiple cities, multiple counties that disaster typically happens. So it's hard to make one thing fit a bunch of different folks. Can you tell us -- or elaborate on some of those discussions?

MR. FAIRFIELD: Absolutely. And that goes to our first point of flexibility. When we brought the plans for permitting, for instance, we had a local city council member that saw that they were on piers and he objected. And he said, Well, a decent house is slab on grade. And I think that's because in the neighborhoods old houses are on piers and newer houses are on slab on grade. I think it really depends on construction. Many times piers are superior.

But there's that experience that newer is better. And so in the neighborhood context in the first home -- the January home -- most of the houses in that neighborhood are on piers. And so it was very acceptable to the local officials to put another house on piers there.

But the second -- and the third house actually that we're permitting now is all slab on grade in that neighborhood and they did not want a house on piers in that neighborhood. Likewise, because that particular plan was the most rapidly deployable and had the shape of a modular type home there was some objection in the planning process to the massing of that house relative to the other houses.

And so the reason we haven't finished that house is that, although they agreed to let us build it in the end, we decided that we could cut the back half off, hinge, and swing it around and gave it a fuller massing in the front without compromising any of the spaces. And so we redesigned that with the swing around and it's in permitting now.

And so that has been an experience. I think with these particular plans -- take the Gleason plan for instance -- it's designed -- it can be split and put together so that you've got the massing there that works in the Camargo with the three pieces.

But I think without them being able to see pictures of how it works in the end you do have local acceptance issues which are always going to be something to overcome. And it might be that the state could have a pre-disaster program where you have plans and local cities can opt in for a rapid deployment eligibility and so that kind of our pre-advance approving some of these issues to participate. And that might help with some of the issues down the road.

MR. CONINE: Okay. That's where I was headed with this, is if -- and I know this is an interim report for you guys and appreciate the work that's been done so far. But it seemed to me here that the target is the Texas Municipal League and other associations around -- you know, county officials that actually have to deal with this on a case-by-case basis. And it's not just those that are on the coast, because you mentioned the Wichita Falls disaster was plenty example enough that stuff happens inland.

So if we can target or focus some statewide effort into some sort of statewide pre-acceptance, as you call it, or whatever the case may be I'd love to see -- or have your thoughts on that and see from the group what the next steps would be to get that done, because it's -- we are trying to pre-plan for the next disaster; that's why we're doing this. And appreciate all your hard work and efforts to this point.

MR. FAIRFIELD: Great. We will include recommendations for all this in our final written report.

MR. CONINE: Great. Any other questions of the witness? Mike, did you want to say anything?

MR. GERBER: I was just going to mention that [inaudible] Housing Trust Fund and [inaudible] would be Round Two of Hurricane Disaster Funds. We had recommended that that plan include $6 million to be three $2 million test runs of construction along the lines of what Stephen talked about in communities that are embracing [inaudible] Hurricane Ike and Hurricane Dolly. Appreciate your leadership on this.

MR. FAIRFIELD: And thank you for your support.

MR. CONINE: Dan Allgeier?

MR. ALLGEIER: Thank you. I'm Dan Allgeier. I'm with New Rock Companies in Irving, Texas. I'm here actually to discuss something related to Item 3(B), forward commitments for 2010 tax credits.

I want to speak in favor of an '09 application -- 09129, Napa Villas. This is a 123-unit seniors project in Plano, Texas. It's a little bit unusual for a tax credit application, because the location's within sight of Stonebriar Mall. It's in north Plano. It's on a -- it's got tons of shopping around it and it's got a bus stop adjacent to it. It's got tons of retail services within walking distance, extensive medical facilities. It's got a park area across the street.

It's a very excellent location. And market studies shows it will support the rents, it's got both mixed -- it's got market rate units as well as very low income unit. There's no other affordable senior facilities in the area.

There's a lot of senior facilities in this neighborhood. They're very expensive -- some of them. We're talking 3- and $4,000 a month for some of these facilities -- very nice. And there's no other affordable seniors -- there's no other affordable housing in the neighborhood.

The facility's an urban plan. It's built around a parking garage. The city's taken into account the fact that it is a seniors facility. They've cut back the parking required. It's got retail adjacent and, frankly, could put retail in it if we chose, but we chose not to.

The developer's New Rock Companies. We're one of the largest affordable housing developers in the country. That's important because we can get this deal done. This location is one that needs community reinvestment. We can sell the credits at this location and we can also get loans in this location. We can close this deal.

You're going to consider possibly an appeal on another seniors project in Plano. If that one doesn't get done then be aware that we have another application that can get done in the area.

And, finally, we do have the support of the local officials and the property is properly zoned. Thank you.

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

(No response.)

MR. CONINE: That concludes all the public affirmation forms I have for the beginning of the meeting. So we'll now move on to our agenda.

The first item of business is the consent agenda. Board members, you can take a look at these items that have been presented on the consent agenda -- Items 1(A) through -- is it (R)? -- all the way through (R).

MR. GERBER: Mr. Chairman, can I identify a couple of quick things on here?

MR. CONINE: Sure.

MR. GERBER: One is Item 1(B). This is a recommendation to the Board to approve us to go and enter -- to issue an RFP to potentially apply for a project-based Section 8 voucher contract. The Department of Housing and Urban Development is proceeding with issuance of contract-managed and project-based voucher portfolios in each of the states.

They're giving a strong preference, it appears, to housing finance agencies. And we have been -- while we are exploring the portfolio, we do not know whether or not the quality of the portfolio is one that we feel like we could capably manage. And there are also strong partners here in Texas already who are helping manage that portfolio, and we don't necessarily want to change that up to the potential detriment of those who are serving those properties already.

But if we don't do procurement, we won't have talent we need to be able to make that evaluation. And so this is enabling us to, at no risk to go and procure that help, should we decide at a later day to come back to the Board and ask you also to enable us to do that work, or we'll report back to you whether or not we feel it's in the [inaudible].

The second item that I want to mention to you is Item 1 tab, which is the awarding of several million dollars to the city of Dallas, El Paso, Fort Worth, and Corpus Christi for those homeless housing and services program dollars. These are general revenue dollars, and these are among the eight cities that are eligible to apply. And these are designated agencies who will use these funds for a variety of things, from construction to casework, to outreach and other services. And we're excited to have these funds and hear your comment on what those cities submitted to us that we'll be able to monitor them well and see real, tangible results that we'll be able to report back to the Legislature for next session.

I also want to present to you Item -- point out to you Item 1(G), which is our annual Community Services Block Grant annual funding allocations. As you know, the community-action agencies that participate in the CSBG generally receive funds through a formula, and these are really evergreen funds, as designated by [inaudible] partners, and they support community-action agencies that serve all counties in our state. So the allocation that you would make today will be to award

$30.1 million in those funds.

And the next item after that is -- there's a discretionary pool for Community Service Block Grants, and what we're asking you to do is approve a Notice of Fund Availability that we can take out to allow really a lot of creative ideas from around the state to come into the department, serving a variety of needs, including [inaudible], everything from tax centers that are helping to help Texans draw their earned-income tax credit dollars to individual [inaudible] accounts. These are going to be used hopefully to get more people toward self-sufficiency. So a lot happening today on CSBG.

The last thing I wanted to point out to you is the Emergency Shelter Grants Program funds, which were also going to be -- I'm sorry. Let me stop there.

The last thing I want to point out to you is the state low income housing plan annual reports, which annually has to go to the Governor, Lieutenant Governor, and State [inaudible] Oversight Committee [inaudible] for public comment and then it will come back to you [inaudible].

Those are some of the highlights, if you all have any questions. You'll notice there are many HOME awards that we're doing as well. We have representatives from Montague County who have had critical disaster needs from fires that they've had. We have county judges here; we appreciate your coming.

Similarly, [inaudible] needs of disabled vets [inaudible]. So a lot of volume in the awards going out today.

MR. CONINE: Okay. Thank you, Mike. I'm going to pull Item O, because we've got some public comment on that. So we'll pull Item O. Everything else is still on the consent agenda. And any other requests from any Board members to hear any of these others?

(No response.)

MR. CONINE: Otherwise, I'll entertain a motion.

MS. BINGHAM ESCAREÑO: Move to approve the items on the consent agenda with the exception of Item O.

MR. CONINE: Thank you, Ms. Bingham.

Do I hear a second?

MR. GANN: Second.

MR. CONINE: Second by Mr. Gann. 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 right. Moving back to Item O, we have -- you want to say anything before we have public comment?

MR. GERBER: No.

MR. CONINE: Okay. Wade Bienski?

MR. BIENSKI: Good morning, Board. My name is Wade Bienski. I'm the director of Affordable Care and Housing.

Just really here to answer any questions that you all might have on this amendment. And also I would like to take the time to thank the staff that has been working with me on this amendment: Atricia Allen and Sylvia

Mendez; they really work hard with me with this TBRA program.

It's a lot of work but, you know, they're always there to answer any questions I had. But really just here to answer any questions that you all might have on this amendment.

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

(No response.)

MR. CONINE: Seeing none, I'll entertain a motion for approval --

MS. RAY: So move, Mr. Chairman.

MR. CONINE: -- or disapproval. Thank you, Ms. Ray, for approval.

Is there a second?

MS. BINGHAM ESCAREÑO: Second.

MR. CONINE: Second 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. Thank you. Moving on to Item 2.

MR. GERBER: Mr. Chairman, Item 2(A), there no -- moving on to Item 2(B), which is presentation, discussion, and possible reinstatement of three Housing Tax Credit applications.

Compliance-monitoring rules allow this board to reinstatement an application that's been terminated through previous processes if four criteria are met. The four criteria are, first, that a new award would be in the best interest of the [inaudible]; two, that the award would not present undue increased programmatic financial risk; three, that the applicant is not acting in bad faith; and fourth, lastly, that the applicant has taken reasonable remedies for the cause of termination.

There are three applications for your consideration today. The first is Harris Manor, application number 08260. This application was terminated because of material non-compliance. However, with the adoption of the new compliance-monitoring rules which changed material compliance that the points for collected non-compliance data on the property's record from three years to one year, the property is no longer in material non-compliance, so staff is recommending the reinstatement of this application.

The other two properties, Magnolia Trace and Tuscany Villas, are both owned by United Housing Foundation. In the request for reinstatement the applicant did not clearly demonstrate how they meet the four criteria. Staff is recommending that it's not in our best interest at this point to award funding for material non-compliance when there are, again, other applicants that [inaudible].

Our recommendation to the Board is, again, to recommend we reinstate it for Harris Manor and uphold on the other two properties, Magnolia Trace and Tuscany Villas.

MR. CONINE: Okay. Let′s take them separately. First --

MR. IRVINE: I would just like to clarify also -- this is Tim Irvine for the record -- that it′s not simply for the Board to approve or take other action on the requests for reinstatement and the recommendation, but you would -- if you do reinstate, you would need to make the four affirmative findings on the record regarding the points in the --

MS. RAY: [inaudible].

MR. GERBER: What Tim's saying is that the Board would be to affirm those four items that the new award would be in the best interest of the state, they would not present an undue financial risk or programmatic risk; then you would have to find that the applicant has taken reasonable steps to address the [inaudible]. And it's an element in your funding and your motion approving that.

MR. CONINE: I think he's saying we have to follow the rules, from what I could tell. Okay.

First one: Harris Manor, Cynthia Bast.

MS. BAST: Good morning. Cynthia Bast of Locke Lord representing the property owner for this request. Because staff has recommended this matter for approval I will be as brief as possible.

This property was built in 1968 and first received tax credits for rehabilitation in 1992. It reached the end of its first tax credit compliance period and reapplied for credits under the at-risk set-aside for another round of rehabilitation in 2008. The credits were received but it was unable to syndicate those credits and therefore it applied for exchange funds.

During the review of the exchange funds application, the staff found that that property itself was in material noncompliance and terminated the exchange funds application. The material noncompliance score was largely due to an inspection in 2008 that found a number of physical deficiencies, many of which had to do with items that were anticipated to be rehabilitated in this planned financing.

So all of the repairs have been made to correct the deficiency items. The property's compliance score has now reduced below the material noncompliance threshold, and with that reduction it is appropriate to seek reinstatement of the property's application for exchange funds under this new compliance rule.

As was indicated, the purpose of the compliance rule is to allow a project to proceed with financing when you believe it is in the best interest of the state without taking undue risk and without the applicant acting in bad faith.

And we believe that that is the case here. At 40 years old, this property is definitely in need of rehabilitation. The exchange funds are critical to accomplish that. The owner has taken the steps necessary to correct the deficient items and is working to comply with TDHCA's rules and certainly understands the compliance rules and obligations going forward.

So we ask you to approve staff's recommendation to reinstatement the exchange funds application for Harris Manor. And I would note that we have several representatives of the management company here in the audience so that if you have any questions about the 2008 inspection or the noncompliance findings we can address those. Thank you.

MR. CONINE: Thank you for your brevity, Ms. Bast. Any questions of the witness as she walks away?

(No response.)

MR. CONINE: Do I hear a motion?

MS. BINGHAM ESCAREÑO: I'll make a motion for reinstatement of Harris Manor Apartments and that all four criteria are met: that it is in the best of the state, that it doesn't present undue increase program or financial risk; applicant wasn't acting in bad faith; applicant has taken reasonable remedies.

MR. CONINE: Thank you for that motion, Ms. Bingham. Do I hear a --

MS. RAY: Second.

MR. CONINE: -- a second -- by Ms. Ray. Any further discussions?

(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. Item -- the next item I've got on Magnolia -- does staff want to make a presentation first?

MR. GERBER: [inaudible].

MR. CONINE: Okay. I have one, two, three, four witness affirmation forms on this particular item. As the rules of public testimony go, we can only take three. So I don't know which three would like to come: Clifton Phillips, Linda Rawls, Brad Kyles, or Cynthia Bast. I'm sure there's some sort of batting order predetermined, and if you need some extra time they've got at least one to give them extra time.

MR. KYLES: Okay. Good morning.

MR. CONINE: Morning.

MR. KYLES: My name is Brad Kyles, and I'm the general manager of the Unified Housing Foundation in Dallas, Texas. Unified Housing is a not-for-profit corporation organized in December of 1997 with a primary objective of providing high-quality affordable housing to low and moderate income families. Unified Housing's developed and operates affordable housing properties in Texas, Arkansas, and Mississippi.

Unified Housing currently owns 22 apartment communities in Texas consisting of almost 5,000 units. Of these 22 properties 19 are operated as affordable housing communities with 40 percent of the units occupied with residents at 60 percent of the median income, and the remainder of these units are serving as market rate units.

As part of our mission at these 19 properties we provide financial assistance, senior discounts, and various other social and educational programs as well.

The other three communities built by Unified Housing fall under the low income housing tax credit program. All three are beautiful communities which provide affordable housing for residents in the Dallas-Fort Worth area. We are very proud of our track record and the results achieved at Bella Vista Apartments in Gainesville, along with Plaza at Chase Oaks in Plano.

Plaza at Chase Oaks in Plano has maintained occupancy around 99 percent since we opened and became fully occupied in 2005, and currently have a waiting list for available units that totals at this moment 142 people for a one-bedroom unit and 80 people for a two-bedroom unit.

There's a tremendous demand for senior housing in this sector of Plano and we need your help in allowing us to build this much needed second phase. Although we are very disappointed with the inspection results at Blue Lake at Marine Creek, based upon our history of performance and compliance, we have made the necessary changes at this property to ensure that this anomaly does not occur in the future. I call this an anomaly because we have always received very good ratings from HUD and/or the TDHCA at our other 21 communities.

In closing, we believe that we have demonstrated over the years that we are a dependable and dedicated partner of the Department and the State in providing quality affordable housing for residents of Texas.

We have always acted and operated in good faith and, as noted above, we have made a number of management related changes to Blue Lake at Marine Creek to ensure that the things that are done that you and I both expect at this property will remain in full compliance as have our other 21 properties. Thank you very much for your time and consideration.

MR. CONINE: Any questions of Mr. Kyles?

(No response.)

MR. CONINE: Thank you. Cynthia next?

MS. RAWLS: Linda.

MR. CONINE: Linda next?

MS. RAWLS: My name is Linda Rawls, and I'm president of Bristol Properties, Inc. Bristol Properties is a fee management company that is based out of Overland Park, Kansas. We also have a regional office in Dallas, Texas.

Our group manages approximately 6,000 apartments units, 1,641 units of which are under the tax credit program. Bristol Properties is located in Texas, Kansas, Nebraska, Missouri, and Arkansas.

One of our properties, the Terrace of Marine Creek, which is owned by Unified Housing, received a file audit by the Agency staff on October 30 of 2008. The letter of findings and corrective actions was dated February 17, 2009. Responses were due on or before May 18 of 2009.

While we were not in complete agreement with some of the findings in the audit, we do understand that there were issues at the property, and we took immediate steps to correct these concerns. We provided our corrections to the Compliance Division on May 14, 2009, meeting with the required deadline.

A few of the submissions by the Department stated -- Department staff stated the need for additional information on three households. The information was provided in November 2009, and at that point all of the findings were corrected.

In addition to the file audit the property received a physical inspection on December 8 of 2008. All health and safety items notated in the inspection were corrected within three days, by December 11 of 2008. Any other items that were noted were provided to the Agency by the appropriate deadlines.

A confirmation that all items were corrected was sent by Manual Pena on August 30 of 2009. This notice also thanked our group for the prompt manner and organization of our response and stated that it had been a pleasure reviewing our corrective actions.

I felt it important to highlight the above events to show that we clearly recognize the importance of the compliance findings and took immediate measures to correct any missteps and also provide that information needed by the Department.

In addition, we took swift action and replaced key personnel responsible for daily management of the property to ensure that such events do not happen in the future. We also hired Karen Graham and Associates to perform an independent full file audit.

Lastly, in an effort to improve our overall property portfolio we have now implemented new health and safety review standards.

In closing, I would like to assure your Board that we take compliance concerns, our management role, and the health and well being of our residents in serious manner also, as does Unified Housing.

We have always prided our ourselves for operating in good faith with numerous state and financial agencies, as well as with individual owners. This commitment to a higher standard has afforded us the luxury of turning down numerous business offers in essence of maintaining these standards. Thank you for your time.

MR. CONINE: Thank you. Is there any question of the witness?

(No response.)

MR. CONINE: Okay. Next is Cynthia Bast.

MS. BAST: Thank you. Cynthia Bast of Locke Lord representing Unified Housing Foundation and its two affiliates that would own these proposed developments.

You heard that both of these proposed developments received tax credit applications in 2009 and applied for TCAP and exchange funds. The TCAP applications were subsequently terminated due to this event of material noncompliance with respect to another property controlled by Unified Housing called Blue Lake at Marine Creek.

In accordance with the rule, as we have just discussed, there are four criteria that you need to look at to determine whether these two applications should be reinstated.

First, is it in the best interest of the state and the Department to proceed with the award. We believe that indeed it is, in part because these two proposed developments are in sub-markets with demonstrated need.

As indicated in the materials in your Board book and heard today, Tuscany Villas is in Plano, where there have only been two credit developments built since 1998. The tax credit development next door has maintained a high 90 percent occupancy and, as you heard, has a significant waiting list that would fill the Tuscany Villas if it were to be built.

The other development, Magnolia Trace in south Dallas, is located in a sub-market with no other affordable senior development according to Jerry Killingsworth at the City of Dallas.

So if these developments do not move forward, certainly the awards can be given to other potential projects in Region 3, but they would not be serving the needs of these particular sub-markets that we believe do have a demonstrated need.

The second criteria is that the award will not present undue increased program or financial risk for the Department. Again, as expressed, Unified Housing Foundation is a reputable sponsor with significant experience in affordable housing ownership. It has taken responsibility for the issues at Blue Lake and the management company has made changes to ensure ongoing compliance. Therefore, we believe there is no increased risk associated with reinstating these applications.

Third, you must find the applicant is not acting in bad faith. Clearly, again, this is the case. When Blue Lake was found to have noncompliance issues, it immediate corrected them, working with its management company. And, in fact, as you heard, it was commended by TDHCA staff for the prompt and organized way that it submitted its materials.

And the fourth criteria is that the applicant has taken reasonable measures within its power to remedy the cause for termination; again, the cause for termination being this material noncompliance.

The items have been corrected and corrected timely, and moreover, as you heard, the management company has terminated key personnel to ensure that this kind of problem does not happen again.

So for all these reasons we believe that these two properties and applications meet the proposed criteria in the reinstatement rule and we respectfully ask that you reinstate Magnolia Trace and Tuscany Villas so that they can proceed with their TCAP applications and awards. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Okay. Can we get staff -- yeah.

MS. MURPHY: Good morning. My name's Patricia Murphy. I'm the chief of compliance an asset oversight.

The property that's in material noncompliance, as I mentioned, is Blue Lake at Marine Creek. It's a 2003 allocation. The physical inspection that was conducted in December of 2008 the property scored a 69 on a scale of 1 to 100 and had some deficiencies, all of which have been corrected.

In addition, there were several findings of noncompliance during our file review. The property was not providing the promised social services. There were several ineligible households that were over the income limit. Their application fee was in excess of the allowable amount under the program. They had a unit occupied by a full-time student. And they were not complying with the required affirmative marketing procedures.

As they have represented, all of these issues have been corrected; however, they were not all corrected during the original corrective action period; you know that under the compliance rules if you fix everything during the corrective action period then you don't get the material noncompliance score. So since they did not fix everything during the initial corrective action period, they have the points and their score is 36.

MR. CONINE: And how long is that period, just to refresh my memory?

MS. MURPHY: The new compliance monitoring rules leave the corrected points on a property score for a one-year period.

MR. CONINE: No, no, no -- to fix the compliance issues.

MS. MURPHY: Oh, I'm sorry. It's a 90-day period that can be extended for an additional 90 days if they request an extension.

MR. CONINE: And in this specific case what kind of time -- because I heard they got the letter in October/November and they got everything fixed by May? Did I hear that?

MS. MURPHY: Let me see. They said that the review was in October; the monitoring letter was issued in February --

MR. CONINE: February.

MS. MURPHY: -- that they responded in May.

MR. CONINE: Okay.

MS. MURPHY: That didn't clear everything up, and then they submitted the rest of the corrective action in November.

MR. CONINE: November. Okay. I'm not sure if you're the right person to ask this question, but I'm going to ask it anyway. If it's not, we'll figure out who it is. It's customary and it is our current -- well, let me back up. When did -- we changed our rules a couple of months ago. Right?

MS. MURPHY: They took effect like November 30 -- very recently.

MR. CONINE: Okay. I guess my gut is telling me on this one that I have an issue with the timing of the findings, the corrective action that took place -- even though it was longer than, you know, it should have been, let's say -- but at the same time concurrent in 2009 they have a couple of tax credit applications that they've spent lots of money on getting to the point of making those applications, you know, winning the beauty contest, so to speak, yet -- and now at the tail end if we find something on a particular applicant developer -- whatever the relationship is -- then we immediately kick them out at that point anything they've got in the pipeline.

That's -- it's the timing I'm having a problem with, because it doesn't seem like it's fair and equitable, so to speak, that they should lose money on the fact that they -- on something they were probably not aware of to the extent -- they may have been aware that some of those issues -- were issues at that property. But, you know, whenever you get graded by a teacher you never know how the grade's going to come out until you get the test score back.

And so, to me, the fair and equitable thing to do would be to eliminate them from the 2010 round as opposed to kicking their 2009 deals out in order to serve the one-year period.

Can you comment on that or -- I know that's a policy issue and it may be -- this is -- again, this is part of the reason that I want to have the compliance workshop this next spring so we can go over stuff like this to make sure that we're, quote, fair and equitable through the whole process.

MS. MURPHY: Can I comment on that?

MR. CONINE: Well, can you comment on what our rules actually say now? Our rules actually say now that when we come up with the -- you know, even though it's drug on for the whole year in November now we realize there's an issue -- we're supposed to drop the hammer or the guillotine right at that point rather than wait until the next round. Is that what our rules say? I know I'm embarrassing myself by not --

MS. MURPHY: I guess, Mr. Conine, my comment to that would be that, you know, the physical issues that were identified at the property they were probably aware of.

MR. CONINE: Uh-huh.

MS. MURPHY: And that you're always going to have this timing issue, because we're always monitoring -- I'm always signing 8823s to bring things into compliance and bring things, you know, out of compliance.

And that this ongoing cycle -- I think that we've made a big improvement in that we've eliminated that -- if in material noncompliance on May 1 you're out and that now the rules were able to go back and forth with the applicant to -- and if you can get everything fixed before bringing it to the Board then you're okay to go.

But this particular development, it's in material noncompliance and that -- a lot of the criteria that you look at when deciding should I award this property or should I award that property -- you look at financial feasibility and location and who are they serving and all of these other things. And there's limited supply of money and more demand. And that one of the criteria should be is this person in material noncompliance. And this particular applicant right now is in material noncompliance, and they will not be in material noncompliance for the 2010 round.

MR. CONINE: Mr. Gouris, do --

MS. MURPHY: These points will have fallen off their score.

MR. CONINE: Did you want to comment?

MR. GOURIS: Just to echo the -- Tom Gouris, deputy executive director for Housing Programs. Just to echo the concerns with the timing, these folks have had a lot of time to correct these violations and have been -- have known about them and been able to work through them.

They sometimes are able to slip through the timing -- I mean, the timing becomes a -- the fact that we provide so much time for correction provides them with the opportunity to slip through the cracks of a funding.

In this case it was primarily because of the TCAP funding that this issue re-raised its head. And as we're moving forward providing additional sources of funds that we are taking on additional risks, we should be, I think, more concerned about the ongoing compliance of existing properties that are still doing business with the Department in these new forms that we have.

MR. CONINE: Any other questions of the witness?

MR. KEIG: Yes.

MR. CONINE: Yes, Lowell?

MR. KEIG: Are administration penalties an option for us?

MS. MURPHY: Yes. Administration penalties are an option. And at this point the Compliance Division is only referring for administration penalties those owners that we cannot get to come into compliance. So my typical procedure is not to refer a property that has complied for administration penalties.

MR. KEIG: But it would be an option, is what you're saying. Instead of precluding them, we could go with administration penalties as an alternative.

MS. MURPHY: There's a committee of Department staff people that it would go to and that would make a recommendation for administration penalties or not that would ultimately --

MR. KEIG: So it couldn't happen today, in other words.

MR. IRVINE: This is Tim Irvine speaking. I do not believe it's posted in a manner where the Board could take action with respect to administrative penalties. We certainly at staff level always have the ability to enter into negotiations to resolve things in that manner.

The situation you've got here is you've got a rule that has a very automatic application. It says if you are in material noncompliance, your application is terminated.

This flexibility that's been created with recent rule revisions enables the Board to say, Understand all that, but I've weighed everything, I've looked at all of the specific factors laid out in the rule; I don't feel constrained by the fact that they're in noncompliance; I still think that they should be reinstated.

If you can make those four findings, you certainly do have that ability within the rules within the statute.

MS. RAY: Mr. Chairman?

MR. CONINE: Yes, Ms. Ray.

MS. RAY: Just for emphasis' sake, I'd like to reread those determinations. It says that the Board may consider reinstatement of the application only in the event that they determine after consideration of relevant material facts and circumstances, which we have heard, that it is in the best interest of the Department and the state to proceed with the award; the award will not present undue increased program or financial risk to the Department or state; the applicant is not acting in bad faith; and the applicant has taken reasonable measures within its power to remedy the cause for the termination.

Given that set of criteria -- those four sets -- I move that we reinstate the applications based on those four premises.

MR. CONINE: The two applications.

MS. RAY: The two applications based on those four premises. I do not believe -- I believe it's in the best interest of the Department and the state, the award will not present undue program or financial risk to the Department or the state, the applicant is not acting in bad faith, and based on the remedies that were outlined by the applicant it is my opinion that the applicant has taken reasonable measures within its power to remedy the cause for the termination.

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

(Pause.)

MR. CONINE: I'll second it to move it along. Any further discussion?

MS. BINGHAM ESCAREÑO: Questions?

MR. CONINE: Yes.

MS. BINGHAM ESCAREÑO: So there -- is there not an opportunity to deny applications in the 2010 round based on the noncompliance?

MR. CONINE: Counselor?

MR. IRVINE: This it Tim Irvine again. In the 2010 round, assuming that these things have all been corrected and that the required compliance period has run, this would not be an issue.

MS. RAY: And it was my understanding, listening to the testimony, that the noncompliance issues have been resolved and the score at Blue Lake is 30-what?

MS. MURPHY: 36?

MS. RAY: Oh, it's 36.

MR. CONINE: Mr. Irvine, let's assume that the issue is still open and they haven't resolved the noncompliance and it drug over into 2010. Then Ms. Bingham's question would be applicable --

MR. IRVINE: Absolutely.

MR. CONINE: -- to any 2010 applications --

MR. IRVINE: Correct.

MR. CONINE: -- that might be coming in.

MR. IRVINE: Yes.

MR. CONINE: Okay. Any other questions?

MR. KEIG: I'm against reinstatement when we have no consequences for people dragging their feet when it comes to compliance issues. If we had this as condition that they were going to have penalties associated with it I'd be interested in reinstatement.

MR. CONINE: Can we address the administrative penalties issue that Mr. Keig brought up earlier? What's the process --

MR. IRVINE: Well, certainly administrative penalties involves a lot of procedure because of due process issues and so forth. And we could certainly take Board direction given the situation to initiate administrative penalties to the extent permission by the law and by our administrative penalty procedures.

But, you know, without some direction on the motion to tell the staff to do that -- this would generally not be the kind of situation where we would initiate that process. You know, I think that we use administrative penalties and that process primarily as an attention getter, because what we really want is not penalties by compliance.

And I think what I heard the Chair saying is you would really like for staff to revisit this rule and make sure that it's not a process that lets people drag their feet but it's a process that lets people work through the give and take of responding to findings and maybe not getting your response entirely right but not get the death penalty because you -- you know, you're still working on it in good faith.

MR. CONINE: And, to me, the appeal process on the tail end of that, and that can be a very long period of time.

You know, I understand and I'm maybe especially sensitive to this since I had the pleasure of going on a property inspection in the last two weeks for the first time in my 12 years I've been on this Board. But I saw things there that, you know, made me realize what some of our properties have to go through and be in order to get under 30 points. And I'm -- so I'm sensitive to that right now.

But I also am sensitive to the developer -- or in this case the nonprofit -- having the time to go through the appeals process to appeal whatever the staff ends up ruling and also the money that this physically costs to participate in the game of the 9 percent credit round, because they're quite obviously trying to put more affordable on the ground in two places where, you know, we need some.

MR. IRVINE: Right.

MR. CONINE: And staff's already agreed that those two projects are worthy and they're approved and, you know, they're ready to rock and roll. So I'm sensitive to Mr. Keig's administrative penalty sort of admonition, and I don't want to say that there isn't something that needs to happen to these folks.

So I'm wondering if maybe an amendment to the motion may be to ask staff to go back and bring before our next Board meeting in January a recommendation for administrative penalties in this specific case -- and if that might be in order or -- Mr. Keig, if that --

MR. KEIG: I'd so move that as an amendment to the main motion.

MR. CONINE: Okay.

MS. RAY: Mr. Chairman, I would accept an amendment to the motion. And I would like to say that my concern on these two applications primarily has to do with the affordability in a very high income area of Plano and Dallas for these particular projects and how difficult it is to get affordable projects approved in these areas. So I would certainly be in favor of accepting --

MR. CONINE: Okay. The maker of the motion has accepted that amendment. Any other questions? I don't to ignore you two down here.

There's a motion -- or amended motion on the floor. Staff have any questions as to what the amended motion is?

MR. IRVINE: We don't have any questions. I just want to point out the obvious: that administrative penalties do take time and have procedures. We can certainly develop it at the recommendation stage, or perhaps we can enter into discussions and come up with some sort of resolution, but we will bring back something that addresses the issue substantively to the Board.

MR. CONINE: Okay. Any other conversation? Discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Item 2(C). Mr. Gerber?

MR. GERBER: Mr. Chairman, there are no [inaudible] items under Item 2(C) nor are any for Item 2(D), nor are there any for 2(E). And Tom has confirmed there are none for 2(F).

MR. GOURIS: They're suspended till next month.

MR. CONINE: Let's -- hang on just a second. Should we -- let's take a -- are you all real, real hungry, or do you want to work a little while longer? I don't think we need a executive session during lunch today. We need a short one, but not a working lunch like we normally have. So let's take a five-minute break right now, and then we'll work a little longer.

(Whereupon, a short recess was taken.)

MR. CONINE: Mr. Gerber, I found three witness affirmation forms that I inadvertently looked over. And I want to call their names and make sure -- this is only -- this is on Montague County on Item 1(N), and I didn't -- and I call on Ron Brown, Judge Ted Winn, and Clint Brown. Are any of those guys still here and want to speak to the Board?

VOICE: Mr. Chairman, they have left.

MR. CONINE: They already left. Okay.

VOICE: They left and --

MR. CONINE: Would you tell them I apologize for doing that? Thank you.

On to you, Mr. Gerber.

MR. GERBER: Mr. Chairman, I did talk to the Judge and I know he was very appreciative of the Board's help, and I gather they really got no other federal assistance to assist them for the wildfires. So they were very pleased.

And this is an example -- TDHCA's Disaster Recovery

Programs through HOME kick in as really sort of the financial help of last resort. When nothing else has worked, our program kicks in. We make folks aware of it immediately, but it's really after a declaration comes from the Governor of a disaster.

But then we don't make them able to access those funds for 90 days, and then they can apply for those dollars, because oftentimes, you know, federal and other state resources have given out or they're just unavailable, and we can oftentimes make them work, so take a moment to mention that.

MR. CONINE: Okay.

MR. GERBER: Moving from -- let's hold on Item 3 and go to Item 4, which is a Disaster Recovery item. This item involves recommended awards for eleven multifamily developments: three of which are in Galveston, two in Houston, two in Humble, one in Center, one in Nassau Bay, one in Angleton, and one in Orange that have applied under the $58 million Ike/Dolly NOFA.

All eleven developments will be rehabilitated. The three developments in Galveston are 2101 Church Street, which is requesting $5 million to rehabilitate one residential consisting of 83 units; Champion Homes at Bay Walk, who's requesting $5 for a 14-building residential complex comprised of 192 units; and Champion Homes at Marina Landings, which is the rehabilitation of 12 residential buildings holding 256 units and has requested $10 million.

I think that's really important given this Board's particular interest in Galveston: the significant investment of $20 million total for those three deals going into that community out of that 58 million.

The two developments in Houston consist of Fountains of Westchase and Towers at Clear Lake. Fountains of Westchase is requesting 2.3 million for the rehabilitation of 15 buildings totaling 288 units. The other Houston transaction, Towers at Clear Lake, is requesting 5 million for the rehabilitation of two seven-story apartment buildings holding 196 total units.

The Humble is comprised of Colony of Humble and Countryside Village Apartments. Colony of Humble has requested 6.3 million for a 25-building, 200 unit, apartment complex. Countryside Village Apartments is 22-building, 182 unit, complex requesting $7.26 million.

We are very pleased with these funds, with the awarding of this total of $58 million. We will be fully subscribed to all of the available funds on Round One. And I know I left some of the properties out, like one in Orange and others, but just in the interest of time they are provided on the list for you.

But I think it's important to note that TDHCA will at this point have fully committed all of its single-family rehab dollars, all of its multifamily rehab dollars to specific projects, and so our work over 1.3 billion -- that housing task, which for us totals about $650 million, 100 percent will be obligated.

So we are excited to be bringing these forward. There's still some outstanding issues that I know we're working through, but we feel confident in being able to bring the properties forward and ask for a motion to approve the awards that are provided in your Board books. Tim, anything I let out?

MR. IRVINE: I'd just like to clarify that four of these deals -- Fountains of Westchase, Towers at Clear Lake, Balboa, and Countryside -- are still in underwriting review, so these approvals would be subject to satisfactory completion of that underwriting.

I would also like to point out that this is a real kind of unusual step, in that this is really under a $58 million NOFA, and we would in effect be overcommiting that NOFA. We have confirmed that we can fund this overcommitment by taking money out of project delivery dollars. I mean, this is all about disaster recovery, and this is the best place to put it.

MR. CONINE: Thank you. Just to add on to those two comments, Mike and I went to Washington, D.C. on Tuesday to visit with HUD relative to Round Two funding for disaster relief. And suffice it to say that, Round One, the plan that we submitted was approved by a different administration than what's currently there.

So we're working through the new sheriff in town up at HUD and I suspect -- it was a very amicable meeting, very cordial. They offered a lot of help. But for the Board's perspective, the message I want to pass along is they want to be a lot more detailed in what they see I guess coming from us in the Round Two application. And we're going to jump on the multifamily piece of this right quick so we -- because we run that program at a state level instead of the local COG level, so I think probably next month you'll be seeing some of those issues coming forth.

But I'm especially proud of what we've done on Round One and have cattle-prodded a few folks to -- on the single-family side to make sure we get that up and running at the local level as fast as humanly possible, again, because we have some folks this Christmas that don't have their home because it was destroyed, and hopefully next Christmas that issue will get resolved.

We have -- I have two witness affirmation forms on this agenda item. Bill Fisher?

VOICE: [inaudible].

MR. CONINE: Okay. So we've got no witness affirmation at this point. Do I hear any more discussion or a motion?

MR. KEIG: Can I just get some clarification? I'm a little confused.

MR. CONINE: Yes, sir. Mr. Keig.

MR. KEIG: Church Street is -- staff is recommending approval?

MR. GERBER: Yes, sir.

MR. KEIG: And Union Acres, recommending approval?

MR. GERBER: Yes. All of these projects -- all of these developments are being recommended today.

MR. KEIG: Even the ones with the insufficient funds at this time. Is that --

MR. GERBER: We're addressing the insufficient funds issue by moving project delivery dollars, which are largely administrative dollars, so that in the department we were able to move the small amount that we felt we could do without to actually build --

MR. KEIG: Okay.

MR. GERBER: So we feel pretty good about --

MR. KEIG: So Arthur Robinson and Countryside -- those are all recommend approval.

MR. GERBER: Exactly.

MR. KEIG: Okay.

MR. GERBER: Subject to underwriting --

MR. KEIG: All right.

MR. GERBER: -- issues that may [inaudible] bring to you all today.

MR. CONINE: Let me see if I can state this in more layman's terms. We're borrowing some extra dollars in order to get all the projects funded from our normal admin dollars in hopes that in Round Two when we get the second batch of, you know, 175 million or whatever, we'll replace our admin dollars with program dollars at that point. So is it 7 or 8 million that we're going over? How much are we going over?

VOICE: About 6.

MR. CONINE: How much?

MR. GOURIS: It's very close to 7 I think.

MR. CONINE: About $7 million of the whole thing. Any other questions of staff?

MR. GERBER: I would just add to that, we found that with Rita and Ike that -- with Rita and Katrina we didn't quite need as much in the project delivery and admin side, so we were left -- we'll do a careful evaluation, as the Chairman said, but if we can do it for less and put more money into actual delivery, then we'll -- we're not immediately going to do that swap.

MR. CONINE: Okay.

MR. GOURIS: Can I jump in just to make sure we're clear?

I'm Tom Gouris, deputy for Housing Programs. The -- on the chart -- the second chart in the back, the three that are at the very bottom are zero, and they're not being recommended. They also say not enough funds, but they are the only three that aren't being recommended. They fell into a different group. Everything above that is being recommended.

MR. CONINE: Okay. Any other questions of staff at this point?

(No response.)

MR. CONINE: Seeing none -- no, we need a motion, don't we?

MS. BINGHAM ESCAREÑO: I move to approve staff's recommendation for the Disaster Recovery Program awards.

MR. CONINE: Motion by Ms. Bingham to approve. Is there a second?

MR. GANN: Second.

MR. CONINE: Second by Mr. Gann. 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. Going back to Item --

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

MR. CONINE: 3(A).

MR. GERBER: Robbye Meyer, director of Multifamily Finance, will present.

MS. MEYER: Robbye Meyer, director of Multifamily Finance.

Chairman Conine and Board, the first development we have is the Mirabella, application 09402. This application's been before you a couple of times. The first time you saw it was in April of 2008. It came before you for approval for 4 percent credits. You saw it again in November of 2008 for a HOME award. You saw it also again in April of 2009 to extend that determination and also again in September of 2009 to extend that determination once again.

In September of 2009 you made an extraordinary decision on the approval for that particular determination to potentially award that determination to give them the opportunity to use TCAP funds.

They are again before you today to once again extend that determination again. But they're asking for a couple of waivers today. They had a deadline to meet on November 13 for their determination -- for their reservation.

And they're trying to use the certification under 49.12(f) of the Qualified Allocation Plan, and that is a certification for them to extend their determination notice.

In order for the Board to grant -- or to approve this certification, they would need to waive -- should the Board grant this determination, they would grant a waiver. It would also be waiving the 30-day deadline by which to submit the certification to the Department.

There's also a TCAP application was submitted in October of 2009 and reflected a reduction in the permanent bond amount. However, the determination notice based on 49.2(f) is not eligible to be reinstated due to the changes that they made in the application.

As a result of the application would not be eligible under the TCAP program pursuant to the TCAP policy supplement because it did not -- does not have a valid determination notice by the TCAP eligibility deadline.

Based on the current application log for Round Two of TCAP, the Mirabella application is next in line to be funded in Region 9 after Cevallos Lofts, which was funded in the statewide collapse. It should also be noted that the 4 percent HTC application as presented to the Board and approved on September 3, 2009, was a financially feasible transaction as it was structured with the use of TCAP funds.

MR. CONINE: Was or was not?

MS. MEYER: It was.

MR. CONINE: It was. Okay.

MS. MEYER: Approval of the waiver to change the bond priority from a priority 2 to a priority 3, which you would be waiving under the certification -- approval of this waiver to change the bond priority from a priority 2 to a priority 3, as well as reducing the permanent bond amount from what the Board originally approved will allow the development to continue the existing determination notice and be treated as a 2009 transaction for the tax credit assistance program.

This action would be consistent with the prior Board action to try and salvage an keep the application viable using the TCAP funds. The exact amount of the reduction in the permanent bond funds is still subject to the completion of the real estate analysis report. Staff is recommending the approval.

MR. CONINE: Would you say that last sentence one more time, please?

MS. MEYER: The exact amount of the reduction in the permanent bond funds is still subject to the completion of the underwriting report.

MR. CONINE: Okay.

MS. RAY: Did I -- Mr. Chairman?

MR. CONINE: Yes, ma'am.

MS. RAY: Did I understand you to say that the staff did recommend approval?

MS. MEYER: We are recommending approval for them to be able to use the certification.

MR. CONINE: I have -- any other questions of Ms. Meyer while she's up here?

(No response.)

MR. CONINE: I have two witness affirmation forms. Debra Guerrero?

MS. GUERRERO: Mr. Chairman and Board members, my name is Debra Guerrero. I'm with the NRP Group. And just quickly, because Robbye did go through the entire history of where we are with Mirabella and she'll do the same with Cevallos.

And really what today's action is is we're trying to reconcile getting through the process and the certification form that is required in the QAP which came up because of the TCAP awards.

The bond amount changes because of the TCAP award that we've -- the TCAP award that we have requested and as we continue to go through real estate analysis. And we just couldn't sign the certification because of that.

And 9 percent deals aren't required to sign the certification the same as 4 percent because of what we've done, which is to pull the reservation and then get another reservation. This is where the certification form kind of kicks in along with the priorities.

So we appreciate your continued patience. We're getting it done. By April of 2010 both of these transactions will be closed. So thank you very much.

MR. CONINE: Thank you. Any questions?

MS. GUERRERO: Oh, and thank the staff for working with us to get through this process. Thank you.

MR. CONINE: We're all thanking staff today. Barry Palmer?

MR. PALMER: My name is Barry Palmer, with Coats Rose. Thank you to the Board for the consideration that we've had on this transaction.

As staff mentioned, we have been here a number of time before, which reflects the difficulty of trying to close a 4 percent bond transaction in these times. I think the last I had hear there have been two bond transactions that have closed this year and there probably won't be many more next year.

But these are two that can close in the first quarter of next year. I want to be sure that everybody understands that this change on the priority thing is just a -- you know, a technical thing. There's no change in the income levels of the tenants or the rent levels. This is a priority 2 transaction in terms of income and rent levels. There's really been no change in that regard. That was just a glitch on some timing on getting confirmation to the Bond Review Board that caused that to happen.

And on the financial structure, the last time that we were before the Board talking about our application -- our pending application for TCAP I think, you know, we made clear at that time that the numbers would change -- if the TCAP dollars were awarded that the first lien financing would go down some as a result of that. So we're still working through those exact dollars with underwriting, but with these waivers that staff is recommending, we can proceed through to a closing.

MR. CONINE: Mr. Palmer, these -- I know we're -- I guess we're just talking about the one deal right now. These -- under the new restructured multiple layers sources and uses, this still have those rather large loans from the developer in place in order to get these done?

VOICE: No.

MR. CONINE: They're gone? Here comes Ms. Guerrero back to the stage. I remember that was an issue at one of our --

MS. GUERRERO: Right. But --

MR. CONINE: -- prior Board meetings with your poster boards and the --

MS. GUERRERO: Well, and since that time we have been awarded TCAP, and also we have commitments from the city of San Antonio, both for Mirabella and for Cevallos. We're leveraging City of San Antonio HOME funds and NSP funds with the TCAP awards, as well as the other sources of funding from the state, including Housing Trust Fund and HOME.

MR. CONINE: Okay. But we're -- and real estate analysis is still going through --

MS. GUERRERO: Yes.

MR. CONINE: -- looking at all those and going to sign off eventually. Okay.

MS. GUERRERO: Yes, sir.

MR. CONINE: Any other questions of the witnesses?

MS. BINGHAM ESCAREÑO: Mr. Chair, I'll make a motion to approve the waiver requested, changing priority from a 2 to a priority 3 and also to change the bond amount to an amount that will be decided post-underwriting report.

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

MS. RAY: Second.

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.

MS. MEYER: Chairman and Board, the Cevallos Lofts has the similar situation. You haven't this as often as you did the other one. However, it has the same certification issues and waivers that you would need to approve. It's not eligible to be reinstated because of the bond amount, and staff is recommending approval under the same similar situation.

MR. CONINE: Is there a motion?

MR. GANN: I so move.

MR. CONINE: Motion by Mr. Gann.

MS. RAY: Second.

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.

Next, Item 3(B).

MR. GERBER: Mr. Chairman, Item 3(B) we are --

MR. CONINE: We're going to pull Item 3(B)? I do have some witness affirmation forms on Item 3(B). We probably ought to let these folks speak, but staff recommends we pull Item 3(B), but I'll call these names, and if anybody wants to speak they can speak. How's that?

Dwayne Henson.

MR. HENSON: I'll pass.

MR. CONINE: Okay. Diana Philibert?

MS. PHILIBERT: I'll pass.

MR. CONINE: Steve Ford?

MR. FORD: We'll pass.

MR. CONINE: Joellen Smith.

MS. SMITH: Pass.

MR. CONINE: Thank you very much. Item 3(C).

MR. GERBER: 3(C) is a presentation, discussion, and possible approval of a request from Moore Grocery Lofts.

Ms. Meyer, why don't you outline the issue?

MS. MEYER: Chairman Conine and Board, Moore Grocery Lofts in Tyler, Texas, received a forward commitment in 2007 of housing tax credits which was based on an application that was submitted as part of the 2006 housing tax credit application cycle.

As a result of the HERA Act of 2008, the 2007 and 2008 housing tax credit awardees were awarded additional credits. The Department calculated the additional credits for Moore Grocery Lofts based on an inaccurate rate of 94 cents, which was a blended rate and based on both the historical and tax credit capital contributions.

This was discovered after the carryover documentation was submitted and executed by the Department. The rate should have been used -- that should have been used was .923 cents based on the housing tax credit portion alone, as well as a rate of 70 cents, which represented the price for the additional credits received. While the Department recognized this change and posted the revised allocation sheet on the website prior to the end of 2008, an updated carryover allocation consistent with the adjusted amount was never executed. As a result of this oversight the applicant is requesting the additional credits of $18,186 be issued to Moore Grocery Lofts. Staff is recommending approval.

MR. CONINE: I have one witness affirmation form here from Jim Sory. Here comes Cynthia. Oh, I do have one for you too. I'm sorry. You're busy today.

MS. BAST: I am.

MR. CONINE: Holiday season.

MS. BAST: Trying to bring holiday cheer to all of you.

MR. CONINE: I'm just getting cheered by you being here.

MS. BAST: Thank you. Since we have staff recommendation on this, I will try to be brief again. Cynthia Bast of Locke Lord representing --

MR. CONINE: Wait a minute. You're an attorney.

MS. BAST: -- the owner of --

MR. CONINE: That's an oxymoron.

MS. BAST: -- of Moore Grocery Lofts.

MR. CONINE: Go ahead.

MS. BAST: I did speak to you on this matter at the last Board meeting and appreciate your willingness to put this item on the agenda today.

Last month I showed you some pictures of this beautiful 88-unit property that combined historic rehabilitation with housing tax credits for an adaptive reuse that is now a state award winner.

This property did lose its investor and its lender when it was very far along in the negotiation process. It started back over again, persevered, got it done, and leased it up in 41 days. So we really sincerely appreciate the willingness of the staff to work with this property on this calculation matter and respectfully request your approval of an additional $18,186 of credits for Moore Grocery Lofts in Tyler to come out of the 2009 allocation round.

MR. CONINE: 'Tis the Christmas season, isn't it, Ms. Bast? Any other questions of the witness?

(No response.)

MR. CONINE: Seeing none, I'll entertain a motion.

MR. GANN: I'll make a motion that we approve the credits.

MR. CONINE: Motion to approve by Mr. Gann. Do I hear a second?

MS. BINGHAM 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.

MS. MEYER: Item 3(D), Chairman Conine and Board. Legacy Senior development was awarded tax credits in 2006. In 2009 the Department granted an extension of placement in service due to Revenue Procedure 2007-54 and FEMA Disaster Declaration 1780DR for Hurricane Ike.

The owner is requesting an extension, and we have a legal opinion to the effect that an extension of placement in service deadline would give the development an extension for December 31 of 2010.

Staff has received that opinion and staff recommends the approval of the extension of the placement in service to a reasonable completion date. The development is 95 percent complete and whatever the Board determines is a reasonable completion date in 2010 is what staff is recommending.

MR. CONINE: Okay. We have the pleasure of listening to Ms. Cynthia Bast one more time on this issue. Is this the last witness affirmation form for you today, Ms. Bast?

MS. BAST: This is my last time to speak to you this year.

MR. CONINE: Oh.

MS. BAST: So I'm going to make the most of it.

MR. CONINE: I have a heavy heart.

MS. BAST: For the record, Cynthia Bast of Locke Lord representing the project owner for this extension request.

I am joined here today by Sele Cassada, who is the executive director of the Port Arthur Housing Authority, and Lee Stevens, who is with Sun America representing the general partner and the investor limited partner respectively.

Just to give you a brief bit of background, this development did receive 2006 tax credits. It is located in the Gulf Zone of Port Arthur. After Hurricane Rita came through Congress provided some very specific relief for disaster-impacted tax credit projects. It amended the Tax Code to say that any project that is located in the Gulf Zone that received a tax credit allocation in 2006, 2007, or 2008 would be entitled to retain its tax credit allocation so long as the owner places the development in service by December 31, 2010.

So as a 2006 tax credit recipient in the Gulf Zone the property is entitled to rely upon this relief that was provided by Congress. So we are asking TDHCA to acknowledge that federally-permitted extension.

The owner has received a legal opinion, as noted, from the firm of Ballard Spahr and is relying exclusively upon that opinion in taking the position that the extension in this placement in service date will not have an adverse impact on the tax credits available to this project.

There are several things that I think are worthy of note, both of which I believe Ms. Meyer touched on. First, that even though the extension request is to extend the placement in service date it can be extended up till December 31, 2010, as permitted by federal law. We don't believe that that much time is needed. As noted, the property is 95 percent complete. Remaining items include some plumbing fixtures, some fire alarm equipment, and some finish-out work, and Sun America has committed the funds for that completion.

The second thing I want to note is that although this development did receive an extension to extend its placement in service date until December 31, 2009, previously that's not really relevant here because the owner could have asked for a longer extension under the federal law in the first instance. It just chose to restrict itself to December 31, 2009. And as it turns out that has not been quite enough time, but we're very, very close.

So we respectfully request that you acknowledge the owner's reliance upon the Ballard Spahr legal opinion and the specific language in the Tax Code that permits the property owner to place this development in service in 2010. That will allow the Housing Authority and Sun America to continue their work to provide this housing in Port Arthur.

So Mr. Cassada and Mr. Stevens and I are all available for any questions that you might have.

MR. CONINE: Okay. How much -- Ms. Bast, how much time -- if the state -- if the Board tells us to shorten that window a little bit how much time is reasonable under -- and I think the motivation here from my perspective would be to get the units finished and get them rented to affordable -- you know --

MS. BAST: Absolutely.

MR. CONINE: -- just so that there's no --

MS. BAST: No reason to delay.

MR. CONINE: -- reason to delay. That's exactly right. So what's reasonable in this situation.

MR. GERBER: June 30.

MR. CONINE: June 30?

MR. GERBER: Mr. Chairman --

MR. CONINE: Yes.

MR. GERBER: -- I'd like to ask -- in this project -- maybe I'm wrong -- but there's been some significant public interest in 95 percent of these units being completed and it not being operational and gotten up -- it's in the press. I guess I'd ask how are you responding to those local questions and I guess I'd say what's going to take six months? I know this is an area of pretty high need and I know you all are working in earnest to try to --

MS. BAST: Mr. Stevens or Mr. Cassada will fill out witness affirmation forms.

MR. CONINE: If you wouldn't mind introducing yourself and filling out a form after you finish.

MS. STEVENS: Lee Stevens with Sun America Affordable Housing Partner. We're the investor in the project.

We really think we're going to have the project completed in the first quarter easily. We actually have 44 pre-qualified prospective residents ready to sign a lease. So we're very active in pre-leasing. It's actually getting the certificate of occupancy, which is what tax credit investors need to actually, you know, get the credits and get the investment moving. We think the lease --

MR. GERBER: Is the city not providing that?

MR. STEVENS: So that again?

MR. GERBER: Is the city not providing the C.O.?

MS. STEVENS: Not at this time. And we're working very closely -- my colleague, Mike Myers, who's vice president of construction services, has met with the City five times, including meetings with Sele and the mayor and other major participants in the process. We think we're -- you know, we have construction permits. We just need a few items related to turning on the water to get it done.

MR. GERBER: What are the issues surrounding the water? I mean, I -- just I -- I mean, I've been having conversations every two weeks with Steve Fitzgibbons there --

MR. STEVENS: Right.

MR. GERBER: -- about the pressing need for housing --

MR. STEVENS: Right.

MR. GERBER: -- there --

MR. STEVENS: Right.

MR. GERBER: -- and, you know, we've done everything we can to try to support Mayor Prince in that community. And I guess I'm just wondering what's really taking six months?

MR. STEVENS: I'll defer to Sele to give more intimate feedback with respect to the work with the City Engineering Department.

MR. CONINE: If you could introduce yourself and -- you did fill out a form, didn't you, already?

MR. CASSADA: I have not.

MR. CONINE: You have not? If you'd fill out a form after it's over.

MR. CASSADA: Yes. My name is Sele Cassada. I'm the executive director of the Port Arthur Housing Authority.

The water issue -- apparently the engineer that was of record -- the city went out and did the inspection. This engineer some months ago I think is no longer with this engineering firm. The chief city engineer is saying that the language that certifies the connection -- he wasn't happy with that language.

We have really -- yesterday -- day before yesterday met with the Engineering Department, met with the Mayor, met with the City Manager, and at this point are agreeable that the city's going to go ahead and hook us up with the water in relation to where we are now.

And basically the chief city engineer has accepted that language. We compared some other language that exists in relation connecting that water, and there's just a phrase what was not -- the chief city engineer was not accepting. At this point he's willing to accept that language and we're proceeding forward with that.

MR. GERBER: But you're not aware of anything structurally with that system.

MR. CASSADA: Pardon me?

MR. GERBER: You're not aware of anything structurally with the system that was built.

MR. CASSADA: No. There is nothing structurally that I'm aware of that is a problem.

MR. GERBER: Well, I'd be very glad to assist in that and try to see if we can break the logjam, because it is a high priority project to the

Department.

And, Mr. Chairman, I would revise the staff's suggestion to be that the extension be granted to the March 11 Board meeting. And we will work in earnest between now and the next ten weeks to really get that C.O. and get that property moving. Because there's a real critical need.

MR. CASSADA: Indeed.

MR. CONINE: Is this a -- the building configuration -- one big building or two big buildings or a bunch of little ones?

MR. CASSADA: Actually there's one large building in the middle, and then there's four or five different duplexes --

MR. CONINE: Okay.

MR. CASSADA: -- quadraplexes that are around this major large building.

MR. CONINE: And are any units occupied at the present time?

MR. CASSADA: Not at this point.

MR. CONINE: Because the city won't give you a temporary C.O.? They only give a permanent C.O. on the whole thing?

MR. CASSADA: Right. I will tell you that we are 95 percent complete. Again, we did meet with the city Monday and everyone at this point is moving forward to hook up that water. And it is just -- we're just at that threshold at this point.

We have a huge need. We have residents -- some elderly folks that -- seniors that can't wait to move in there. They call me on a weekly basis. They're very excited about the developed. It's a beautiful development. And we're just at that threshold to get it completed.

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

(No response.)

MR. CONINE: We have an amended staff recommendation till March 11, which is our next Board meeting, to grant the extension. Any further discussion?

(No response.)

MR. CONINE: If not, I'll entertain a motion.

MS. RAY: Mr. Chairman --

MR. CONINE: Ms. Ray.

MS. RAY: -- I move to accept the staff recommendation to extend the date to March -- to the March Board meeting.

MR. CONINE: Okay. Any further -- do I hear a second?

MR. GANN: Second.

MR. CONINE: Second by Mr. Gann. 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. Good luck.

MR. GERBER: Mr. Chairman, moving to Item 5(A), which is a presentation, discussion, and possible approval of some changes to our definitions within our compliance rules, we're requesting a final. We're adopting amendments to Section 102 and 105 of the compliance monitoring rules.

Section 102 contains the definition of substantial construction. Since the 2010 QAP moved up the deadline for commencement of substantial construction staff is recommending adoption of a modified definition of substantial construction. There was very little public comment that was received, and the definition proposed for adoption does closely mirror that public comment.

Section 105 is amended to comply with Senate Bill 171, which requires quarterly reporting about vacant units. Although staff received public comment opposing this new section of the rule the Department has to comply with our enabling legislation and is not able to accommodate these suggestions from the public.

With that we'd ask for a motion to approve the order adopting these rule changes.

MR. KEIG: So move.

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

MR. BINGHAM ESCAREÑO: Second.

MR. CONINE: Second. I got no witness affirmation forms on this. So 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. Chair and Board members, Items 6(A) and (B) are addressing our operating budget and our housing finance budget to accommodate new Department programs as well as the ICP lawsuit.

On July 2009 the Board approved a $33.3 million operating budget. This budget included funding for base operations as well as supplementary funding to support new activities associated with disaster recovery, the Housing and Economic Recovery Act of 2008, and the American Recovery and Reinvestment Act of 2009.

Since the adoption of the budget the Department's determined that additional resources are necessary to implement these programs in addition to funding for these essential services. The Department has also had to retain outside counsel for litigation defense.

David Cervantes, who is our director of financial administration, is here to present any details that you might be interested in. But we think we've made a fairly square and moderate request.

We are not trying to expand the number of staff at TDHCA. We -- this will support the hiring of some additional temporary assistance only for the period that those federal funds are available. And, as you can tell, with all the new activities we have hired a relatively moderate number of new staff to do that work, all of whom are under the clear understanding that when they come to work and their funds -- and the funds paying for them are ARRA or disaster recovery funds or other federal funds, that when those funds go away, those positions will end, so those are not built necessarily into the FTE account.

David, anything real quickly that you want to highlight in that?

MR. CERVANTES: No. I think that covers it. It has three basic components -- adding six additional FTEs for basically ARRA stimulus-type funding and efforts that we have going on. There's about $23,000 that we're adding for the $8,000 tax credit monetization program. And then the final piece is related to adding some funding for the litigation that we have.

And I think that's the basic request. There is the Housing Finance budget, which is under Tab 6(B). There's about -- there is about a million-forty-two thousand that will come from Housing Finance revenues. So, again, there are two parts to this amendment here. And I think that's it.

MR. GERBER: And, just to be clear, we did pull this Board item down from last month and --

MR. CERVANTES: Correct.

MR. GERBER: -- there was some concern -- I had discussion with some Board members about the FTE account and wanting to be sure that we again don't go substantially beyond it to the extent that we don't have to.

If we need those additional staff, we will, but I think right now operating within our existing FTE cap -- we've had conversations with the Governor's Office and the LBB -- I think we can comfortably operate and manage our staff within the FTE cap, but we will reserve that we may at some point -- just depending upon the flow of work, we may need to come back to address some of those issues. But right now we're going to hang tight with a very conservative budget --

MR. CERVANTES: That's right.

MR. GERBER: -- with the understanding, again, we may need to come back for additional changes as circumstances warrant.

With that, if there's -- we'd be glad to answer any questions, but we'd ask for approval together on Items 6(A) and 6(B), our operating budget and housing finance budget.

MR. CONINE: Okay.

MS. RAY: Mr. Chairman --

MR. CONINE: Yes, ma'am.

MS. RAY: -- I move for the approval of Items 6(A) and 6(B) as they pertain to the operating budget.

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

MR. GANN: Second.

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

MR. KEIG: Yes. I just want to state for the record that I'm not happy about the million dollars in outside counsel fees. Having been, you know, at the Attorney General's Office, you know, we have good lawyers over there that cost a whole lot less, but we're already down that road with this outside counsel, and I wasn't here at the time, so just want to say for the record that in the future we ought to look to other options at the AG's Office.

MR. GERBER: And, Mr. Chairman, I just interject. We certainly will do that if we go to an appeal. In this particular case, unfortunately, we hit a point where the Attorney General's Office really -- they really fast-tracked hiring the outside litigation support because of the sense that there wasn't that capacity.

I think it will be a different ball game, Mr. Keig, if we get to the appeal. And I think that's a point well taken. We could certainly get some savings. I think we'll also have -- well, we have to talk more about this, like I said, in executive session. But point well taken. And we are keeping the AG's Office apprised so that they can carry the ball forward if needed.

MR. CONINE: Any other 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. Item 7.

MR. KEIG: Thank you.

MR. GERBER: Mr. Chairman, Item 7(A) is a presentation, discussion, and possible approval of granting staff the authority to negotiate a liquidity agreement at long last with the Federal Home Loan Bank of Dallas.

We're requesting, Mr. Chairman and Board members, is that you authorize staff to negotiate the liquidity agreement with Federal Home Loan Bank. Staff will come back to this Board for final approval of terms and conditions related to that liquidity agreement in early 2010.

Currently TDHCA has seven variable rate structures supported with liquidity agreements that are provided by the Texas Comptroller of Public Accounts. As one of the liquidity providers the Comptroller's guaranteeing that in case our variable rate bonds are not marketable for some period of time they will purchase the variable rate bonds and hold them until the bonds are once again marketable.

The Comptroller is also providing liquidity for 90 days and extending it until TDHCA can find another liquidity provider. To help diversify our liquidity portfolio staff is requesting authority and to negotiate into a substitute liquidity agreement with the Federal Home Loan Bank of Dallas. Currently we have only one liquidity provider and staff would like to diversify that portfolio to two or more providers.

Matt Pogor is here, as is Tim Nelson, who we'll introduce you to, and Bill Daly's been very active in that, but staff will be working with one of our approved senior underwriters as they prepare and review cash flows to determine release of [inaudible] and cost associated by diversification. Again, we'll come back to you all in early 2010 with an update on liquidity.

So, with that, we're recommending approval of Item 7(A).

MR. CONINE: Okay. Is there any questions?

(No response.)

MR. CONINE: Seeing none, I'll entertain a motion.

MS. RAY: Mr. Chairman --

MR. CONINE: Ms. Ray.

MS. RAY: -- I move approval of Item 7(A).

MR. CONINE: Motion to approve Item 7(A). Is there a second?

MS. BINGHAM 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.

MR. GERBER: I'll let Matt Pogor and Tim Nelson come forward to present 7(B) and 7(C). This is a sad day for TDHCA. It is Matt Pogor's -- is this your last day?

MR. POGOR: My last day today. Yes, sir.

MR. GERBER: Last day today.

MR. CONINE: What's wrong with tomorrow?

MR. POGOR: My wife and I have plans.

MR. CONINE: Oh. Okay, tiger, go ahead.

MR. POGOR: Matt Pogor, director of Bond Finance -- for right now. Item 7(A), Board Chairman, Board members, Mike -- adoption of Resolution Number 10-010 authorizing the Department to enter into a substitute liquidity facility provided by Fannie Mae and Freddie Mac, the GSEs, for the 2004 Series D Single Family Variable Rate Mortgage Revenue Bonds and approving amendments to their supplemental indentures and reoffering documents and amendments to the swap agreements where applicable.

Currently TDHCA has seven variable rate structures supported by liquidity agreements provided by the Comptroller of Public Accounts -- the Texas Comptroller of Public Accounts. As our liquidity provider the Comptroller is guaranteeing that in case our variable rate bonds are not marketable for some period of time they will purchase these variable rate bonds and hold them until bonds are once again marketable.

The Comptroller is also providing liquidity for 90 days and extending it until TDHCA can find additional liquidity providers. To help diversity our liquidity portfolio staff is requesting authorizing authority to enter into a substitute liquidity agreement with Fannie Mae and Freddie Mac, the GSEs, for the 2004 Series D Single Family Variable Rate Mortgage Revenue bond.

Currently we have one liquidity provider and staff would like to diversify our portfolio to two or more liquidity providers. This liquidity substitution must be completed by the close of business December 31, 2009, to meet requirements of the homeowner affordability and stabilization plan under the temporary credit and liquidity program. And staff recommends approval of Item 7(B).

MR. CONINE: Mr. Pogor, you know, the terms that Fannie and Freddie are offering, you know, aren't all that wonderful in my opinion and consensus with a lot of other people. What's the Comptroller -- I guess do we really need to do this based on what the Comptroller is telling us or is this something we could choose not to do?

MR. POGOR: Good question. It's probably something we could choose not to do. But what we're doing is trying to diversify our portfolio. And we do have the option maybe later on if we do go with the GSEs on this program and we do have other liquidity providers step in, such as the Federal Home Loan Bank, they could -- we could maybe take the GSEs out later on. Or we could have another bank that comes in and takes them out.

So we're just trying to maybe help diversify our portfolio. And it's all based on really some -- I guess on the cost of all this as well.

MR. CONINE: And what's the amount of the line that Fannie and Freddie are offering at the present time to the Department?

MR. POGOR: That Fannie and Freddie are authorizing us?

MR. CONINE: Yes.

MR. POGOR: Well, it's --

MR. CONINE: 150 million?

MR. POGOR: Around 150 million or so, but we're not going --

MR. CONINE: That's what I thought.

MR. POGOR: -- that much.

MR. CONINE: We've got --

MR. POGOR: We're taking a small portion of that only and moving it.

MR. CONINE: We need a grand total of 375. Is that --

MR. POGOR: Correct.

MR. CONINE: -- a rough number?

MR. POGOR: Yeah.

MR. CONINE: And assuming that -- assuming we don't go through another, you know, period of peril that we went through in 2008 -- was it? -- when we --

MR. POGOR: Yeah.

MR. CONINE: -- actually had to take all these bonds back down and use the line -- to do this Fannie and Freddie facility what's the cost to the Department just to make the arrangement to do the facility and have it just sitting there?

MR. POGOR: Yeah, I'm going to have Tim come up and go through that --

MR. CONINE: Okay.

MR. POGOR: -- because he's been working very closely with our underwriters and with our counsel and working on costs on that. Matter of fact, we're developing that.

MR. CONINE: Okay.

MR. GERBER: Tim, come on up. And I don't know, Michael or Bill, if you have some thoughts, feel free to chime in as well.

MR. CONINE: By the way, Tim, as a member of the Board and on the Board's behalf welcome to the Department and glad you're here.

MR. NELSON: Well, thank you all. I've been very welcomed by everyone. And Matt is leaving some very big shoes to fill, and I only hope that I'm up to the task.

But we are working -- as everyone can appreciate this

Treasury program has come out very quickly and in a somewhat haphazard fashion and so we don't have all of our costs finalized. But, based on the estimates that we've been gathering from people, I would think that we're probably going to be somewhere in the 75- to $100,000 range to pay all the professionals to get all the work done and bring this to completion by the end of the month.

MR. CONINE: Okay. And that's -- does that include a fee to Fannie and Freddie or not?

MR. NELSON: Fannie and Freddie, unlike on the bond deal where they're getting a securitization fee that they're saying covers their cost of taking these bonds from the GSEs and they have to go through and securitize them again, they are being paid a fee on the NIBP program. Because they don't have to do that with this liquidity -- Fannie and Freddie are already in the business of operating liquidity, so Treasury does not have to do that -- there is no fee of that type that's payable to the GSEs.

We do have a fee, however, that we have to pay to a GSE counsel for working on and preparing and reviewing documents. And that's in line with what they charge on the bond transaction.

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

(No response.)

MR. CONINE: You know, I'm okay with giving staff the ability to proceed. But I would sure be interested in being consulted before we pull the trigger. I'd like to -- I know we're trying to, you know, build the airplane while we're flying it and still flying it here to a certain extent. But -- and I am interested in what the Comptroller's opinion would be relative to all this. So let's keep me informed as we get through this process.

Do I hear a motion? I guess we need a motion.

MS. RAY: Mr. Chairman, I move that staff be given the authority to proceed with the proviso that the Chair of the Board be notified before any action is implemented.

MR. CONINE: Thank you. There's a motion on the floor. Do I hear a second?

MR. GANN: Second.

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

(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, Item 7(C) is a presentation, discussion, and possible approval of a Resolution 10-011 approving a Mortgage Credit Certificate Program for first-time homebuyers. This resolution, again, approves a mortgage credit certificate for first-time homebuyers along with related program documents to be administered by TDHCA.

Since February 28 of 2009 TDHCA has been administering its latest and most successful MCC program ever by issuing all 30 million in MCC authority in just over seven months. With TDHCA added MCC authority, staff is requesting approval of this resolution, which will allow us to continue issuing new MCCs under Program 75 on January 29, 2010, and to obtain approval of the MCC program along with related program documents that are being administered by this Department.

$120 million of volume cap for this MCC program was approved at the October 15 TDHCA Board meeting, which approved also $16 million in H.R. 3221 Single Family Private Activity Bond Authority, along with 18.4 million of existing 2008 general volume cap and 41.6 million of 2009 volume cap.

So we're pulling together a lot of different sources of volume cap authority to come up with a package of $120 million, which translates into $30 million in MCCs to help a lot of Texans that are taking advantage of this program in these tough times.

The MCC program's been remarkably successful -- very well marketed by Eric Pike and his folks, and we really applaud that. And we would ask for your approval of allowing us to continue the program by going ahead and approving this resolution.

MR. CONINE: Any questions?

(No response.)

MR. CONINE: Entertain a motion.

MS. BINGHAM ESCAREÑO: Motion to approve the resolution.

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

MR. KEIG: Second.

MR. CONINE: Second by Mr. Keig. 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. Item 8.

MR. GERBER: Mr. Chairman, while we're still on Item 7 --

MR. CONINE: Okay.

MR. GERBER: -- Michael Baumrin, who is our --

MR. CONINE: Oh.

MR. GERBER: -- financial advisor is here. And I've asked him to provide the Department with periodic updates -- very brief ones just on current market conditions.

MR. BAUMRIN: Very brief.

MR. GERBER: And I know in three minutes or less he'll [inaudible].

MR. BAUMRIN: Sure.

MR. CONINE: Hello, Mr. Baumrin. How are you today?

MR. BAUMRIN: Good. Thank you very much, Mr. Chairman. And happy holidays to everybody.

MR. CONINE: Thank you.

MR. BAUMRIN: I'm very happy to be here and doing well. I will be very brief. I know it's been a long agenda.

And you -- and we're handing out a -- this time it's just one side with some graphs. Basically, as you probably at all know, that the Federal Reserve Bank kept -- voted yesterday to keep interest rates at their historic lows for a -- quote, unquote -- extended period of time.

They are continuing to look at the economy and they -- and I will quote them -- Though we have begun to see some improvement in economic activity we still have way to go before we can be sure that the economic recovery will be -- and I quote here -- self-sustaining.

So quickly we wanted to just show you on these four charts what they -- what the Fed is seeing to see some improvement in the economy and then what they're afraid of.

So the number one thing they're seeing is U.S. industrial production has peaked. That's the blue line in the top left quadrant graph. They've seen industrial production pick up in the last couple of weeks off the bottom -- and by that blue line and how low that was you could see how severe this recession really has been in cutting into our industrial production and our workforces.

The gray bars underneath are the capacity utilization, which hit historic lows during that same period -- the peak of the recession. But we're seeing a turnaround. So it looks like we have bottomed out vis-a-vis that for now.

The labor markets that -- once again, on the right-hand side -- that little squiggle at the end of that blue line is what they're looking at.

That's a downturn in labor -- the unemployment rate from a 10.2 percent, which was the highest in, say, 26 years, to 10 percent last month. And the gray line is the initial jobless claims, which continue to show a reduction in the initial-client jobless claim.

So whether or not folks are actually -- the economy's actually really turning around, I don't really see. But they are -- certainly we may be at some bottom.

The last piece is on the bottom left -- on the bottom left is the stock market versus housing starts. Housing starts remain very, very anemic. Yesterday's number came in at 547,000 units. That is -- as you can see.

And it's really interesting. This chart goes back to 1959, and you could see -- and the housing starts is the thick blue line. In almost every -- in any period in time housing starts sort of bottomed out at somewhere around a million unit, which is the natural sort of replacement and decay rate within the U.S. economy.

Right now housing starts have plummeted to a historic low of around 547,000, and not yet showing much of a sign of turnaround, but certainly a sign of ebbing off.

The stock market, however, is up 60 percent. The red-gold line is the Dow Jones Industrial Average, which is up about 60 percent. So certainly investors in the stock market are seeing a turnaround. It's usually a nine- to 12-month leading indicator. And so we think that, in fact, housing starts will begin going back to that resistance level

So what is the Fed so afraid of that they're not so sure that this is going to be self-sustaining? And what they really are afraid about is the last chart, which is that the U.S. Government has really paid for this recovery and they know it and they're worried about how to get out of it.

The gray bars underneath represent the increase in the public debt over the last two years. And it's been unprecedented -- up from 9.2 trillion -- may I say trillion -- in '07 to 12.09 trillion in '09. And they just voted another I believe $280 billion increase last night. So the Federal Government has financed this bottoming out and economists will talk about that for decades if not -- you know, after that.

But what people are worried about is the blue line, which is the decline of the -- continued decline in the dollar faced on the notion that the Fed will, you know -- that as interest rates remain low and the Government continues to borrow so dramatically it is eroding the value of the dollar overseas, which will create an inflationary -- the Federal -- the interest rates will need to go up to continue to attract investment in U.S. securities to continue to fund the deficit.

And the gold line is gold, and gold is -- clearly has been the long-term historic indicator of both concerns about inflation and concerns about asset devaluation. And gold has reached some historic highs up there and reflecting investor real concern about whether or not the Federal Government's borrowing and its exit strategy out of the quantitative easing is going to be inflationary and how that is actually going to work out.

So that is the reason that they are concerned about a self-sustaining level of economic activity because I think they know they can't be the source of it. And so the good news is -- for the holidays is we've probably seen the bottom for now and that, you know, a flattening out and hopefully an improvement. But what will be the source of that economic activity with tight credit, et cetera, will be -- remain to be seen.

MR. CONINE: Any questions of Mr. Baumrin.

(No response.)

MR. CONINE: Thank you very much.

MR. BAUMRIN: Okay. Thank you.

MR. CONINE: Happy holidays to you.

MR. BAUMRIN: Happy holidays.

MR. GERBER: Before we leave this item -- and I know that Mr. Baumrin will bring multiple copies for all of the public in future settings --

MR. PENDER: Right. Yeah, I just wanted to add -- Jeff Pender, acting general counsel. If anybody needs to get a copy of this go ahead and give Mr. Nelson a call and I'm sure he'll be able to get you a copy. Thanks.

MR. GERBER: And I would just like to take this opportunity -- Matt Pogor -- we are so excited to have Tim on board. Tim's done an extraordinary job in the past with global housing finance agencies. His reputation precedes him, and we've had so many calls telling me how excited and what a real gain it is for the Department to have someone of Tim's skill and caliber coming to the Department -- did work with UBS and other investment firms. And we say welcome and look forward to, you know, working closely with you on some exciting things in the years to come.

It's kind of with a heavy heart. Matt has -- Matt came to this job about the same time I came to my job, and Matt has been just extraordinary person -- you know, just one of the finest, decent people that I've, you know, ever known. And he's helped to really navigate the Department through some really tough times. And, you know, as we -- and through economic times and has kept us on really solid footing.

And it's been his steady and sure hand -- it's been a team effort, but he's been a real leader of that time. And I just want to ask all of you to join me in acknowledging Matt and wishing him well.

MR. POGOR: Thank you, Mike. Appreciate that. Board members. I just want to say thank you from the Texans that are out there because they don't come to you and say thank you. They don't know what you do, but you really help a lot of people. Being here for 15 years is fun -- been unreal. I'll miss the people. I may not miss the work but I'll miss the satisfaction of what we could bring to the people of Texas.

So continue your hard work and your dedication. And you have a tremendous staff and I'll miss you. Thank you.

MR. CONINE: Matt, I want to echo Mike's comments and hope that you have a lot of fun with your wife. Have a good time. Thanks. Appreciate it.

MR. GERBER: Last item is Item 8(A). And due to recent extension of the federal first time homebuyer tax credit and the overwhelming popularity and success of the Department's 90-day down payment assistance and mortgage advantage programs staff is proposing today a similar program structure in conjunction with our Mortgage Revenue Bond Program 74.

Released in mid-August with an allocation of $81 million Mortgage Revenue Bond Program 74 has an interest rate of 6.25 percent and a 10-year deferred forgivable second lien loan of up to 4 percent of the mortgage amount for down payment assistance.

The program has a remaining balance of approximately $49 million to be originated by our network of participating lenders. In an effort to make that program more attractive to borrowers and lenders due to the higher than market first lien interest rate staff is proposing to offer additional down payment assistance to help utilize the remaining funds prior to our next scheduled MRV program release.

It's proposed that the down payment assistance would be advanced with third lien to the borrower in exchange for them filing for and receiving that federal first time homebuyer tax credit which, as you know, has been extended.

Since most loans originated under the MRV programs are underwritten using FHA guidelines it generally requires 7 percent of the purchase price to cover points, down payment, and closing costs. With the current 4 points of assistance that the Department provides a gap of approximately 3 percent remains.

Since the originating lender already advances funds for the deferred forgivable second lien it's recommended that they also be allowed to advance an additional 3 percent of up to $6,000, whichever is less.

Bank of America, which is the program servicer, has agreed to originate these loans on our behalf. We appreciate that. And the Department will take delivery within 120 days. Borrowers will be requested to pay off their loan within the time frame by filing for and receiving the tax credit refund. No interest will accrue during this period.

After the 120-day period ends, however, TDHCA will reimburse Bank of America and take delivery of any loans that have not been paid for -- paid from repayments that have been received through that 90-day down payment assistance program.

Since first time homebuyers utilizing the Department's programs typically have lower incomes due to program income restrictions it's recommended that the repayment terms for the third year lien -- for the third lien be five years with a 7 percent interest rate since the payment must be included in the borrower's underwriting ratios in accordance with FHA guidelines.

With the Board's approval staff will continue to finalize program processes and procedures and launch this new program in early January. It will help us to move a whole lot of money and help a whole lot of folks to take advantage of that new extension to the first-time homebuyer tax program that we've monetized and Eric and his team have done really wonderful work with. So we ask for your approval.

MR. CONINE: Okay. Any discussion?

MR. GANN: Mr. Chairman?

MR. CONINE: Yes, sir.

MR. GANN: As a realtor I'd like to comment how fantastic this can be for the home market, and that's really what we're really all about. So I'd like to make the motion that we approve staff reopen the program.

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

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: Motion carries. And I would echo those comments. It is a great program, and I applaud staff for being creative once again.

MR. GERBER: This program is really an Eric Pike original, and I'd really like to commend him for coming forward with it and developing it and working it through. Thank you. Thanks, Eric.

Mr. Chairman, I'd like to suggest that we have what I think is going to be about a five- to ten-minute executive session.

MR. CONINE: Okay. All right. And you want to do any report items now or you want to --

MR. GERBER: At the end.

MR. CONINE: At the end?

MR. GERBER: Yes, sir.

MR. CONINE: Okay. So we're going to go into executive session for about five to ten minutes, come back, and close it up.

MR. GERBER: On this date, December 17, at the 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 opening announcement by the presiding officer that the Board would begin its executive session December 17, 2009, at 1:05 p.m.

The subject matter of this executive session and deliberation is related to, one, The Inclusive Communities Project, Incorporated v. TDHCA, et al filed in federal district court, and M.G. Valdez Limited v. TDHCA filed in district court, Hidalgo County.

(Whereupon, at 1:05 p.m., a short recess was taken to meet in executive session.)

MR. CONINE: Mr. Gerber, is there any update on any -- I guess we do have one other thing that Mr. Keig wanted to bring up. Go ahead.

MR. KEIG: I move that the Board provide staff with authority to settle the lawsuit entitled M.G. Valdez Limited v. Texas Department of Housing and Community Affairs filed in District Court in Hidalgo County.

MR. CONINE: Motion by Mr. Keig.

MR. KEIG: Did I say settle?

MR. CONINE: Settle. You did say settle, yes. That's what I heard anyway.

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: Motion carries. That was it on the legal side I think.

I wanted to announce that we are going to move the January Board date to January 20 instead of the 21st. Is that right?

MR. GERBER: Yes, sir.

MR. CONINE: And we'll probably hold that Board meeting in Lubbock, Texas -- go out and visit with the community out there and listen to some feedback from the community as well as do our business out there.

And I wanted to ask -- you want to go ahead and give your executive director report and then I can ask after you do that?

MR. GERBER: Sure. I would just commend to your attention several items at the back of your Board book. We are making strong process in wrapping up the COG program for Hurricane Rita funds. 87 percent of those funds have been drawn. All the rest of the houses that are going to be built are being built.

With respect to the second pot of funds, which is the program that TDHCA is running, we've got 710 houses under construction, another -- I'm sorry -- we have 710 houses completed. We have another 400 houses under construction. We have drawn down for that particular program 35 percent of the money. For all of the programs using that 428.6 million we have expended almost 50 percent of the money. And so you can see the breakdowns in your Board book.

And strong headway is being made, but it does underscore as we move towards this Ike/Dolly funding that we really do need to get the second pot of funding clarified from HUD just as quickly as we can and -- because it takes a couple of years to build multifamily complexes and single family homes and, you know, it's a lot of money. And so we hope that that will be clarified.

There was an item that came up at the last Board meeting from the Inclusive Communities Project regarding their neighborhood stabilization program funds where they had requested that it be on this Board's agenda. You'll note under report item 3 that they ask that it be withdrawn. Staff worked to overcome their issues, and I think we're in good shape with them and got some clarification from HUD. So I appreciate staff and ICP working with us on that.

Beyond that there's a report on our ARRA funds and the progress we're making there. One area of concern that I'll mention, since Stella's here, you know, for just general consumption, we have only weatherized 77 houses to date using the weatherization dollars.

Now, in all fairness to the weatherization network, we only got clarifications on things like Davis-Bacon, wages rates, and other issues -- we went through a lot of training over the last two months.

So we're going to say happy holidays to everyone, and when we come back in January there's a clear understanding -- and Stella Rodriguez, who heads up the Texas Association of Community Action Agencies, has been very helpful in helping us to disabuse any community action agency or other weatherization partner that there's any more grace.

We need to see significant upticks of money spent, and we're talking about in the tens of millions of dollars, happening quickly. I think the Department of Energy's given us all the guidance we're going get and now it's time to move out on those ARRA funds so that we don't leave any funds on the table.

MR. GANN: [inaudible]?

MR. GERBER: They are. No, all the community agency partners and the cities that we're contracting with have gone and -- they've gone and done bids to bring on additional contracting help. And those who have said that they have capacity, we've told them to go back and think about that again, because they're in most instances getting 55 times their money, and it just defies, you know, belief.

So we're working pretty hard with all of them. We are doing intensive monitoring visits, like going out there and spending several days with each one of the subrecipients. And that process is ongoing. So I think the expectations have been laid out clearly.

We are also working with the Department of Energy on the enviable spot with the Department I'm sure at some point we'll be in. But what do you do when there's just one of these 48 that are not going to make it across the finish line? And when that inevitability happens, we want the flexibility to not lose those dollars but to be able to move them to those who are being more efficient. So there are DOE rules about that, and we're being proactive in addressing that matter.

So with that said the only other mention I make is that Ruth Zedillo is in the audience. She did stick with us. Ruth was the deputy E.D. of the Department for a long time under my predecessor, Ms. Carrington. And it's good to see you.

It's good to see all of you Board members and look forward to -- appreciate your sticking with us today --

MR. CONINE: I have --

MR. GERBER: -- for all the activities.

MR. CONINE: -- one more question.

MR. GERBER: Yes, sir.

MR. CONINE: How many TCAP and exchange deals are we going to close before year end?

MR. GERBER: How many TCAP? We've been --

MR. GOURIS: Tom Gouris, deputy executive director for housing programs. I'm going to make this a little bit lengthy, because I want to -- even though there's no one here to recognize the appreciation I have for how our underwriting have moved, I want to give you a sense for how much volume has gone through in the last two months -- couple of months.

For the '07-'08 TCAPs 22 of 28 deals that were anticipated have been underwritten and posted. For '09 TCAP, 19 of 25 transactions have been posted. For exchange of the '07-'08s, 35 of 42 transactions have been posted. Out of the '09 exchange, none have been posted yet; all but four as of yesterday have been transferred to underwriting, and those we think are going to go pretty quick. Hopefully a big chunk of those will be done before the end of the year.

At the same time they've been working on carryovers; about a half dozen of those have to be re-underwritten. And then the CDBG, which is disaster deals, which are truly disaster transactions and probably the most difficult deals to underwrite, 10 of 14 of those have been posted.

And when I say underwriting, I also mean the threshold reviews that our multifamily staff has been doing. All of this is that, you know, what we talked about early on -- that the legwork that gets done to get through the process -- typically you see these underwriting reports when they're finished at a Board meeting. These you're not going to see, although they are posted on the website so you can look at them -- the public can look at them.

It's a tremendous amount of work that's been done and I'm really proud of staff for how far they've come, both the multifamily staff and the underwriting staff, and our administrators for TCAP and exchange.

We are still in the final vestiges of documents. And this is -- you know, we've had great help from our legal counsel on getting these documents done, but we still have a couple of documents we're working out.

I think yesterday we crossed a hurdle finally with Bank of America on some TCAP issues with regard to the inter-[inaudible] agreement and the relationship between us and the lender -- construction lender and how that will be worked out. We're finalizing language on that. Hopefully we'll send that back out today, and they will hopefully approve that tomorrow and we'll get those posted.

We have routed seven or eight TCAP written agreements thus far. There's the numbers that -- finish underwriting reports -- all those folks have been given notice to complete their TCAP written agreements. What we're trying to do for both TCAP and exchange is try to get them to participate in filling out the forms so that we can expedite the process so that we're just reviewing them. They're ready, they're anxious, they're getting it done.

Now, to the questions of how many we're going to close. That's still the uncertainty. I hope that we can say that by the end of the year we've gotten half a dozen, but that -- you know, we're really trying to push as many of them forward as fast as possible but also trying to make sure that we have all our ducks -- you know, i's dotted and t's crossed. And to the extent that folks can go into January, you know, we're trying to encourage them to be able to do that. I suspect we'll have, like I say, a handful of TCAP closed and that's certainly our goal.

Exchange -- closing is a little more nebulous because in general it's not going to happen at a title company. So once they have the written agreement. they have some documents to send to us before they can start drawing funds, but the closing actually is going to occur in parts and bits and pieces.

We're set up to be able to draw funds in both programs. We've gotten approval from Treasury with regard to our first tranche of returned credit to get to exchange. So we're making great progress. Promising how many exactly I'm real gun shy of doing.

MR. CONINE: Okay. Here's the parameter I would suggest at this point.

MR. GOURIS: Yes, sir.

MR. CONINE: The goal is to have some of each closed before year end.

MR. GOURIS: Right.

MR. CONINE: It was when we started out. We want -- as a state and a state housing finance agency, we want to be able to say to the rest of the world that we closed some of these deals --

MR. GOURIS: Right.

MR. CONINE: -- in 2009. Okay? And if it gets to the -- and TCAP I hear you're probably going to get there without much trouble. Exchange is going to be the issue. And if it gets down to the end of the year and holidays and so forth works in -- what I don't want -- the development community to say that the state agency was the fault that the exchange deal didn't close before the end of the year.

And so if you could work to make sure that it's not our fault -- I understand it can be another lender's fault or it can be somebody else's fault that -- you know, a city or something like that that an exchange transaction doesn't occur. But I don't want it to be our fault.

MR. GOURIS: Yes, sir.

MR. CONINE: Okay?

MR. GOURIS: I agree.

MR. CONINE: And just close a couple. I'm plenty comfortable with that. I just want to be able to say we went through the whole process, rolled up our sleeves, and reacted to what Congress gave us the ability to do.

MR. GOURIS: Absolutely. I agree.

MR. CONINE: Okay?

MR. GOURIS: Yes, sir.

MR. CONINE: Anything else from any other Board member?

(No response.)

MR. CONINE: Thanks for going a little hungry and getting through the meeting. We'll get a chance to go home a little early today. And I would wish the very best for you and your families during this holiday season and look forward to 2010. We stand adjourned.

(Whereupon, at 1:30 p.m., the meeting was concluded.)

CERTIFICATE

MEETING OF: TDHCA Board

LOCATION: Austin, Texas

DATE: December 17, 2009

I do hereby certify that the foregoing pages, numbers 1 through 103, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the Texas Department of Housing & Community Affairs.

12/27/2009
(Transcriber) (Date)

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