TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

Capitol Extension Auditorium
1500 N. Congress
Austin, Texas

Thursday,
July 26, 2012
8:05 a.m.

MEMBERS:

J. PAUL OXER, Chair
TOM H. GANN, Vice Chair
LESLIE BINGHAM ESCAREÑO
LOWELL KEIG (Absent)
JUAN MUÑOZ
J. MARK McWATTERS

STAFF:

TIM IRVINE, Executive Director

AGENDA

P R O C E E D I N G S

MR. OXER: Good morning, everyone. I'd like to welcome you to the July 26 meeting of the Governing Board for the Texas Department of Housing and Community Affairs.

Let's get the roll call taken care of.

Ms. Bingham?

MS. BINGHAM ESCAREÑO: Here.

MR. OXER: Mr. Gann?

MR. GANN: Here.

MR. OXER: Mr. Keig is not with us today.

Professor McWatters?

MR. McWATTERS: Here.

MR. OXER: Dr. Muñoz?

DR. MUÑOZ: Here.

MR. OXER: And I am here. That gives us five. We have a quorum so we can safely proceed.

Okay. Please stand and salute the flags. Tim will lead us.

(Whereupon, the Pledges of Allegiance to the United States Flag and the Texas Flag were recited.)

MR. OXER: Before we get started, do we have any guests to recognize, Michael?

MS. LYTTLE: No, sir.

MR. OXER: Before we get started on the agenda, I understand you have several letters to be read into the record from some members.

MR. LYTTLE: Yes, sir, that's correct.

We received, first of all, two letters from State Representative Jason Isaac, House District 45. The first letter regards Merritt Hill Country in Dripping Springs, TDHCA No. 12346 reads:

"Dear Mr. Irvine, I have serious concerns about TDHCA's recommendation to allocate housing tax credit awards so that no funds are awarded to Rural Region 7 in this application cycle. At the beginning of this application cycle, TDHCA agreed that each region would be eligible for at least $500,000 of funding, regardless of forward commitments that had been issued in the 2011 application cycle. Based on that understanding, the City of Dripping Springs has worked closely with Dennison development to plan a housing development that is desirable and appropriate for the city. To tell the city now that funds will not be available is inequitable.

"Further, the forward commitments that were awarded to Rural Region 7 in the 2011 application cycle were awarded specifically to address disaster relief associated with the Bastrop County fire. This was an important use of the funding for an extraordinary situation, but it should not penalize other communities in the area who were counting on this funding to serve their affordable housing needs in 2012.

"I respectfully request that you reconfigure the allocation list to honor the original concept that each region would have an available allocation of $500,000. If this is not possible, I ask you to establish a priority waiting list such that any unused or returned tax credits go first to Rural Region 7 for this negative impact instead of going back to the regions from whence they came.

Thank you for your consideration of this request."

Signed: Sincerely, Jason Isaac, State Representative.

The second letter from Representative Isaac reads:

"I wish to express support for TDHCA to grant the appeal by DDC Merritt Hill Country Limited with regard to the loss of two points on its tax credit application. The City of Dripping Springs has a strong desire and need for quality, affordable housing for its elderly citizens. The Merritt Hill County development proposal enjoys tremendous support.

"TDHCA's rules require the agency to look to the site demographic characteristics report to determine whether a proposed development is being sited in a census tract with no other existing tax credit developments. The site demographic characteristics report is published by TDHCA and completely within TDHCA's control. When TDHCA makes an error in the data included in that report, neither the applicant nor the community should be allowed to suffer.

"I respectfully request that you rectify this situation by restoring the two points that this application should receive under the plain language of the rules."

Signed: Sincerely, Jason Isaac, State Representative.

The final letter, Mr. Chairman, comes to use from State Representative Tom Craddick. It reads as follows:

"It has come to my attention that due to a number of factors, the Region 12 Urban Subregion may not be awarded housing tax credits this application cycle through the 2012 Competitive Housing Tax Credit Program.

This news is disappointing as we are in critical need of new affordable housing in Midland. I would strongly encourage the board to give deference and consider the dire needs of this area. We are experiencing a housing crisis incomparable to any in the state. We simply cannot keep up with housing demand. Housing developments, like the proposed Brownstones Midland, would help provide the additional housing that we desperately need.

"While I understand that commitments were made during the 2011 cycle, I do not believe the subregions should be looked over in the 2012 cycle as these regions would be underserved by not receiving their entitled annual tax credit allocation. This course of action is unnecessarily punitive and would further delay development projects from being built in these subregions. In accordance with the Regional Allocation Formula, all subregions should be fairly prioritized during an application cycle and awards should be made in each of these subregions to see that all areas of the state benefit from this Tax Credit Program. The allocation of these tax credits should be a fair and open process. It is my hope that the board can determine a course of action to ensure that no subregion is denied its due tax credit allocation as determined by the Regional Allocation Formula this 2012 cycle.

"Again, I respectfully request the board consider my full support for the award of 2012 tax credits to Region 12 Urban. Thank you for your hard work and all that you do to properly manage this important program."

Signed: Sincerely, Tom Craddick, State Representative, House District 82.

MR. OXER: Thanks, Michael.

Let's get back to our housekeeping here. We have our public communication policy. We're going to keep the second row down here for folks that want to speak on any particular item, so that way if you come in, line up in order from my left to the right and you'll speak in that order as you come up. So as long as that aisle is empty, I'm expecting that nobody wants to speak on an item. Okay? Now, you're behind it. It's the next one there, we've got it marked. We'll put a big circle on it so everybody will know that will be our on deck circle for the next one.

We have a fairly exciting agenda, as it would be, today. You might all be here knowing that. So what we're going to do is try to go through the consent agenda, but in the event that we get finished in time, if there's a desire or interest by any member of the board to reopen the consent agenda to consider another item, if only for information or discussion purposes, we'll have that option later today, even after we have the consent agenda. So with that.

MR. IRVINE: Mr. Chairman, if I might, on the consent agenda make a few comments.

First of all, one other housekeeping item that people in the on deck circle, as you come to the lectern, please state your name clearly and on whose behalf you are speaking so that the court reporter can note that.

With regard to the consent agenda, we would like to pull off item 1(q). There are people here, I believe, that would like to testify on that item.

With respect to the rest of it, I'd like to make a couple of general comments. First of all, there are a whole lot of rules on here. One of the lead-off ones is very significant, Housing Choice Vouchers. I just want everybody to know that TDHCA is really committed to doing its role in connection with the concept of Money Follows the Person and supporting people in their freedom to make choice and live in independence. We think that's a really important value.

There are a whole bunch of rules. Many of them relate to the Single Family programs and this is a key moment in the efforts that we've been working to undertake and complete to create a new organization that's more responsive to our needs and to our interaction with the public. We've pulled our Single Family together, pulled together multiple programs. Homero Cabello has graciously agreed to be the initial coordinator among those programs. We have created a rule-writing team that's had some pretty arduous work. They've been collaborative, they've brought in some unparalleled programmatic knowledge and operational knowledge. People like Jeff Pender, Megan Sylvester Marni Holloway, Homero Cabello, Eric Pike, Tim Nelson, Sara Anderson, Abby Versyp -- who have I forgotten? Michele. Excuse me. Sara Newsom. Mea culpa.

MR. OXER: A senior moment.

MR. IRVINE: Yes. And Michele Atkins has patiently and attentively put all of this in the format that will get it through the *Texas Register*'s processes. And Brooke, I think, has been sort of an in-house sponsor, keeping this whole organizational effort moving along, and it's been a pretty incredible effort and I'm very happy that it's moved to this stage.

We'll have better coordination among our programs, we'll have, for example, in the loan closing arena we'll have one process that's our core process that everybody will follow instead of doing it four different ways.

Another rule I want to comment on. At the last meeting we pulled off the Taxable Mortgage Program because of some of the necessary conforming changes to fit into this overarching rule structure. We've worked through that program and we now have that proposal also ready to go out for public comment.

And we think that will be a pretty powerful program providing a lot of activity in the area of Texas homeownership. I mean, just the need to provide the economic tool that building homes brings to local areas, the ability to provide households with the opportunity to become homeowners and thereby become a more solid part of their community, more permanent part, and realize some of those aspirations, and frankly, as a homeowner, frustrations. These people are going to come into this program having gone through homeownership training and I that it will be a safe and secure and appropriate tool for them.

I'd also like to report that we did a procurement for disclosure counsel. We are pleased to report that our scoring team has selected McCall Parkers to provide disclosure services on Single Family issues and Andrews & Kurth on Multifamily issues. They're very different disciplines and we think we've got some great partners in that.

And that's all I have. Staff recommends adoption of the consent agenda except for item 1(q).

MR. OXER: I'll entertain a motion from the board.

MR. IRVINE: I'm very sorry. I pre-spoke myself. Brooke has a couple of technical corrections that she would like to read into the record that we recommend with regard to certain rules.

MS. BOSTON: Thank you. Brooke Boston.

MR. OXER: Good morning, Brooke. And for the record, before you start, we'd like to say thanks for being the ramrod on this trail drive, getting all these new rules put together.

MS. BOSTON: Sure. I'll have to remember that would be what I was called.

So there are two clarifications that just kind of surpass being considered non-substantive, so I know to you guys they'll probably sound pretty minor.

Behind Tab 1-E in the Boot Strap rule, we had shown a definition for loan origination agreement as stricken, and it had been shown as number 17. We are going to keep that definition in, it's going to be defined the same way.

And then under 1-I under the First-Time Homebuyer rule, on page 6 of that rule we make a statement related to targeted area, and we have a clause in there that says "or department-designated area of special need" and we would like to strike that; we don't have that authority.

MR. OXER: Any other questions from the board, any clarifications?

(No response.)

MR. OXER: Okay. Is that it? Ms. Bingham.

MS. BINGHAM ESCAREÑO: Move to approve the consent agenda with the exception of item 1(q), with the recommended revisions to items 1(e) and 1(i), as presented by staff.

MR. OXER: Motion by Ms. Bingham.

MR. GANN: Second.

MR. OXER: Second by Vice Chairman Gann.

We have a speaker on those items. Understand this is the consent agenda so you're making comments, or are you making comments on the next item? For 1(q). Okay. We've pulled that one but we'll talk about that one in a minute.

With regard to the consent agenda as described by the motion by Ms. Bingham, are there any public comments? Any comments from the board?

Are you speaking on 1(q).

MR. CLOUTMAN: No, sir.

MR. OXER: You're speaking on an item in the consent agenda just as a comment?

MR. CLOUTMAN: Yes, sir.

MR. OXER: Okay. Just as a comment.

MR. CLOUTMAN: You will like my comment. I'm here to compliment you.

MR. OXER: Please say more.

(General laughter.)

MR. CLOWTON: Thought you might like that.

My name is Charles Cloutman. I'm the program manager for Meals on Wheels and More for the Amy Young Architectural Barrier Removal Program.

I wanted to report to you today that there's 70-plus families right now in this area that have received architectural barrier removal. Their lives are totally changed because of you. You all deserve a high five, you've made monumental changes.

I get the feedback. I get phone calls once a month from a little lady who can now use her kitchen, from someone who can now go to their bathroom without hindrances; their doors are opened, they have accessible locks, their life is back, and you have made that possible.

So I'm just here to say thank you for them. Keep up the good work. Thank you for allocating more money, thank you fighting. We'll be before the Lege trying to get more money for Amy Young because so much more needs to be done in this wonderful state, people need help, and thank you all. Great job.

MR. OXER: We appreciate your comments, Charles, very much.

(Applause.)

MR. OXER: I would just say that with respect to what the board did, all we did was say that the staff did great work and we agreed with what they did, so my congratulations would go to the staff, and we hope you'll pass those comments on to the staff as well.

With that, are there any other comments?

(No response.)

MR. OXER: Okay. All in favor of the motion by Ms. Bingham?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none, it's unanimous. Thank you.

Okay. Now we're to item 1(q). Cam.

MR. DORSEY: Good morning, so far.

MR. OXER: And you are?

MR. DORSEY: Sorry. Cameron Dorsey, director of Multifamily Finance.

1(q) is the approval of an inducement resolution for a proposed bond deal that would be layered with 4 percent tax credits, proposed to be located in the Austin area. It's actually up off of 1325, just east of the big Shoreline Church, it's right near La Frontera in kind of the north Austin area.

And the inducement of a bond deal is the basic first step in the approval process. We haven't received a full application yet, we haven't done a full evaluation of the deal yet. They submitted a pre-application we looked at. We also do a pre-inducement questionnaire to look at just some substantive kind of factors associated with the development, what their plan is, whether or not they're seeking any type of property tax exemption, those types of things.

We've taken a good look at that information. Their pre-application met the pre-application threshold criteria and it looks like a pretty solid market to do a bond deal in, and so we are recommending taking this first step in the approval process, and we'll obviously be back with any final recommendation after we've done a full application review and underwriting report for the transaction. So we recommend approval.

Any questions or comments from the board?

(No response.)

MR. OXER: We'll need a motion to proceed.

MS. BINGHAM ESCAREÑO: I move approval of staff's recommendation.

MR. OXER: Regarding item 1(q), Ms. Bingham moves to approve staff recommendation.

DR. MUÑOZ: Second.

MR. OXER: Second by Dr. Muñoz.

Okay. We have public comment. Now it's your turn. The protocol is, just so everybody knows here, we have to have a motion on the floor, then it's the discussion. Good morning and welcome.

MS. THOMPSON: My name is Debbie Thompson. I represent the Wells Branch Neighborhood Association. We represent roughly 3,300 single family homes and approximately 5,000 apartment units in Wells Branch which is directly adjacent to the property in question.

We are concerned about the viability of the development, the safety to its residents and the impact on our schools. Wells Branch

Elementary is currently at 122 percent capacity, they do not have room to add portables, I am told by the principal.  They are also already at a 53 percent of the students are economically disadvantaged and on meal assistance, as well as a number of students, close to 100, who receive the take-home meal packets for the weekend.

We respectfully request to meet with your staff to discuss our other concerns in detail, the safety concerns that I mentioned, before any decisions are made regarding this project.  Thank you for your consideration.

MR. OXER:  Thank you.

Are there any questions from the board?

(No response.)

MR. OXER:  Do you have a comment?

MR. SWAIN:  My name is Scott Swain.  I'm representing the neighbors of Well Branch.  We've had a contingency of people that have been involved in this issue for some time, and we'd like to bring it to the attention of the board and the staff that obviously you've done your homework, however, we feel there's a few things that are missing from the mix of things that you may not be privy to, such as the president mentioned, sidewalks, power lines, they intend, of course, to build under the power lines there and we feel this is an inadequate place for placing people and their children.  There's certainly better places in Austin that would accommodate this kind of a structure and purpose.

The place seems to be an island where there's concerns of people walking on the highway, there's very little space there.  When asked about sidewalks in the December 8 zoning conference at the city council, there was not a clear-cut indication from Atlantic about what they would do with sidewalks.  There's other people involved there, right of ways or easements to be had.

To finish up, I don't want to take a whole lot of your time, that particular meeting, December 8, item 124 shed a lot of light on some things. The dissenting councilman, Chris Riley, I have to quote his feelings about it. He dissented saying:  I'm frankly sorry to see tax credit dollars being devoted to a project like this.  He used such words as stranded, stuck, poor policy.

Again, we don't oppose affordable housing in Wells Branch, in fact, we have a good bit of affordable housing, our schools share resources with affordable housing, and it just seems like there's a better use of our money to do a project of this sort elsewhere.

Thank you for your time, appreciate your help and your consideration.

MR. OXER:  Thank you for your comments.

Any of the board members have any questions?

(No response.)

MR. OXER:  Okay.  Yes.  Good morning.

MR. PHOENIX:  My name is Billy Phoenix.  I represent the Wells Branch Municipal Utility District Board of Directors.  I've been authorized to speak on their behalf.

I'm here just to let you know that the Wells Branch MUD is also opposed to this project.  We understand that today is just a simple first step in the process. Our goal in coming to you today was to hopefully actually sit down with your staff before you had taken the vote to move forward. We don't know if you can go back on that or not, but if you can, we'd appreciate it. Otherwise, we'd love the opportunity to sit down and further vet our concerns with you. Thank you.

MR. OXER: I have a question. Did you make a request to the staff to speak with them before today?

MR. PHOENIX: Yes, sir. We made several phone calls this week once it got posted, that was the first time we knew about it, and at the time, my phone calls were not returned asking for a meeting.

MR. OXER: I can explain part of that. After some point we're working on the agenda and have to do that, so the staff is pretty busy getting ready for today but will return a lot of phone calls later on.

MR. PHOENIX: Yes, sir, I understand. I'm not trying to cast aspersions on your staff.

MR. OXER: Just making a clarification for the record here.

Do you have anything else? Ms. Bingham.

MS. BINGHAM ESCAREÑO: I have a question for Cameron.

MR. OXER: Cameron.

MS. BINGHAM ESCAREÑO: Run. I'm just getting you warmed up.

MR. OXER: She's got her boots on today, buddy, you'd better listen.

(General laughter.)

MR. DORSEY: Sorry. A rep's office wanted to talk to me.

MS. BINGHAM ESCAREÑO: No problem. We're talking about the Waters at Willow Run. Was that already zoned multifamily?

MR. DORSEY: I'm not certain if it was already zoned multifamily or not. Obviously, it would need to be zoned multifamily in order to actually close on the bond deal. We also require that by closing they've gone through the city's planning process, plan approval process, and have, at a minimum, a permit-ready letter to make sure that the city is, in fact, behind it, that they've reviewed the plans, that they meet all of the city's requirements with regard to things like safety, what type of access the residents are going to have, where that access is located, et cetera.

DR. MUÑOZ: Hey, Cameron, I've got two questions. Number one, do you recall receiving those phone calls, and if so, why weren't they returned?

MR. DORSEY: From residents? I don't remember receiving the phone calls. I do have some messages that I haven't returned that I've probably received in the past week, but I haven't returned a whole lot in the past week just because of --

MR. OXER: We've had him pretty busy.

MR. DORSEY: -- the time spent on the 9 percent. I would certainly return those phone calls. Obviously, the priority was making sure that we had the 9 percent recommendations vetted and all correct.

DR. MUÑOZ: All right. In the background narrative it talks about the department will conduct a public hearing in the community.

Wouldn't that be an appropriate time?

MR. DORSEY: Absolutely, yes.

MR. OXER: All right. I'm sorry. Dr. Muñoz, another question?

DR. MUÑOZ: So it's clearly stated that there will be some kind of venue for those that might oppose the project to communicate their concerns.

MR. DORSEY: Most certainly.

MR. OXER: And so what this is really saying is you're reserving a certain set of bonds for them, assuming they can get the process in place and meet all the requirements to get there. For those who are speaking in opposition to this project, this is not your last chance, this is not the final line. This is just saying that they have the opportunity to put this financing in place, assuming that they can get to their permitting requirements for the city.

MR. DORSEY: Right, and be able to submit a full application and have the whole deal vetted from every angle.

MR. OXER: So it's essentially contingent financing.

MR. DORSEY: Oh, this isn't even financing.

MR. OXER: So we're saying the money is essentially available for them.

MR. DORSEY: Right. This is just saying: Hey, you can submit a full application and we can start going through the process.

MR. OXER: Okay. All right. Please, come. Another comment.

MR. PHOENIX: I just wanted to throw one more thing in.

MR. OXER: And you have to identify yourself when you come back up, sir.

MR. PHOENIX: Billy Phoenix, Wells Branch Municipal Utility District.

I wanted to throw one more thing into the record. We understand your decision-making today. As far as the City of Austin zoning is concerned, the unique situation here is they want to put this project that is right on the border of where Wells Branch begins, and Wells Branch is a separate MUD that is not part of the City of Austin, so the city, we believe, is trying to push this burden over on to us. So I just wanted to put that on the record. Thank you.

MR. OXER: And very good point to have that on the record, and I hope you'll understand that that's a fight between you and the City of Austin. Right? Okay.

Any other thoughts on that, Cameron? Did you two folks have anything to say?

(No response.)

MR. OXER: Annette, you have two to read in?

MS. CORNIER: Yes. Annette Cornier, TDHCA staff.

The following two individuals would like to register their opinion in item 1(q), project 12605, Waters at Willow Run. Donna Flores and Chris Flores are in opposition of the staff recommendation for this project.

MR. OXER: Okay. Any other comments? Any other comments from the board?

(No response.)

MR. OXER: Okay. On the motion by Ms. Bingham to approve staff recommendation on item 1(q), all in favor?

(A chorus of ayes.)

MR. OXER: All opposed?

(No response.)

MR. OXER: There are none, it's unanimous. Thank you for your comments.

Is there anything else to follow on the consent agenda? That's it. Right?

I think we're into item number 2 under the action items. Anything to start with, Mr. ED?

MR. IRVINE: Jump into appeals.

MR. OXER: Okay, Jean, good morning.

MS. LATSHA: Good morning.

MR. OXER: Good thing we got our boots on this morning.

MS. LATSHA: I apologize. It's cooler this way, it's really hot out there.

MR. OXER: That's all right. We won't look for the color paint.

(General laughter.)

MS. LATSHA: Jean Latsha, Housing Tax Credit manager.

This item is appeals, two of which you heard at the July 10 board meeting. The first relates to the Hawk Ridge Apartments, number

12025. This is an application in White Settlement. There are two issues at hand here for a total of three points.

The first is community input other than quantifiable community participation. For this item, applicants can receive up to six points for letters of support submitted for the application if the application did not receive points under QCP. We received three letters in the application and initially awarded six points, two points for each letter, but upon a challenge to the application, reviewed again, one of the letters that was from NAS Fort Worth JRB, and realized that it didn't really explicitly express support for the application. It was more likened to a zoning letter that said that it was consistent with the land use policy. So we reduced the score by those two points.

The applicant claims, first, that it is a support letter, and secondly, should we not consider that a support letter that is worth two points, that we should consider a letter that was submitted under quantifiable community participation that was found to be ineligible.

Staff disagrees on two points, first, that the letter submitted for community input other than QCP does not express support, and that the letter submitted under QCP does not qualify under this scoring item. This scoring item specifically asks for letters from community and civic organizations and excludes neighborhood organizations. The reason that the letter for QCP was denied was that the neighborhood organization that submitted it did not meet the specific requirements of the QAP, very specifically, that they did not give 72-hour notice to the residents that they were forming this organization.

So I don't know if you want to rule on this one first or if you want to go on and talk about the other point.

MR. OXER: We'll take them one at a time.

MS. LATSHA: Okay.

MR. OXER: Stay right there for a second, Jean, stay where you are, because we have some questions, I think.

Are there any questions from the board?

(No response.)

MR. OXER: We have to have a board motion to work for comment. And this came before us last time.

MR. GANN: I move staff's recommendation.

MR. OXER: Motion by Vice Chairman Gann to approve staff recommendation to deny the appeal. Is there a second?

DR. MUÑOZ: Second.

MR. OXER: Second by Dr. Muñoz.

I have a quick question, Jean. On the community participation, the intent was not to create something. There seem to be a lot of legacy items within the QAP that some people don't really know why they were there, and one of the purposes we're trying to do on these is determine some basic interest on these: one, is there a need for the project -- this is back to an outline that the vice chairman gave me when I first got this assignment -- is there a need for the project, do the numbers work, and does the community embrace the project. And the intent is does the community embrace the idea of putting a project of this nature in it, and not 72 hours before you have to make the application.

Is that clear? Am I clear on that?

MS. LATSHA: I think so, sir.

MR. OXER: Okay. Are there any other comments from the board or questions?

(No response.)

MR. OXER: Okay. We'll take public comment. You're first.

MS. UNDERWOOD: Good morning. My name is Darlene Underwood, and I live at 8920 Jill Street in the City of White Settlement. I'm a resident of the Sun View I addition, and I've lived at my current address for ten years.

I'm here today to contest giving the two points to Mr. Bert McGill on behalf of project number 12025, Hawk Ridge Apartments, this category for additional community support other than QCP. He based these points on a bogus Sun View Homeowners Association that was organized with three original households. Two of the officers have publicly withdrawn as officers of the Sun View HOA, per the newspapers. One of them was not a homeowner in the first place but a renter. The third officer, Jason Carter, remains in place, and that, in itself, is against the QAP guidelines because you must have at least three families in order to form an HOA.

My neighbors in Sun View I, II and III were incensed to read in the local newspapers that Mr. Jim Ryan, the current EDC director of the City of White Settlement, had assisted these people in attempting to form this HOA without any input from all the residents of Sun View. That's about 500 homes in a five square mile city. The Sun View HOA did not give all the residents of Sun View I, II and III 72 hours notice, as Jean said, to opt in or opt out. Furthermore, the HOA did not file organizational documents with the Tarrant County clerk's office in Fort Worth, Texas.

It appears to me that the sole purpose of the Sun View HOA was to write a letter of support on behalf of project 12025, Hawk Ridge Apartments, so that Mr. McGill would earn more points for Hawk Ridge. In my opinion, that was a sneaky and underhanded way to do business.

On the other hand, we, representing my group, submitted over 325 names on petitions, emails and personal letters to the TDHCA and its staff against Hawk Ridge Apartments. Where is the opposition by the people of White Settlement being taken into consideration in this TDHCA review? Are points being deducted for Mr. McGill's project totaled for all of these people who registered their opposition? Most of them live in Sun View I, II or III, although, residents from all over the city signed the petitions and sent in letters and emails against these apartments.

As a resident and taxpayer of the City of White Settlement, I can't help but notice that Mr. McGill has a staff plus the assistance of Mr. Jim Shearer, well known Austin lobbyist and Capitol consultant, to help him convince you, the board, to approve his application. On the other hand, our group is a small group of volunteers, most of us are retired who live in White Settlement. We are the people who are opposing the project, we are the people who have a stake in the future of the City of White Settlement. Please do not give Mr. McGill additional points based on a bogus Sun View HOA.

And in conclusion, I am asking you to reject the application of

Bert McGill for project number 12025. That is the fair and just thing to do. Thank you.

MS. GALLE: Hello. My name is Marcy Galle, G-A-L-L-E. I'm from the City of Fort Worth, and I wanted to discuss the JRB support letter. Is this the time where I would also discuss the resolution portion, or just the JRB letter?

MR. OXER: Just the letter.

MS. GALLE: Okay. The JRB RCC letter that was submitted was basically a form letter. It goes out to various companies that input projects into a tool that's online. The current commanding officer at the JRB, Captain Bennett, stated last night at the White Settlement City Council meeting that there is no real need for base support. That's always been a very big misrepresentation by the leadership of White Settlement.

The support letter from -- or it's not a support letter from the RCC, all this letter states is that this property follows JLUS recommendations, which is a joint land use study, meaning that the development is going to meet noise attenuation guidelines and is going to be compatible, it's not going to infringe on the base. So the fact that this letter was ever submitted as part of the application as any support letter from the base was a lie, and any misrepresentations -- I'm a former Lockheed Martin employee, and the employees of Lockheed Martin definitely do not need this housing, there's no need from Lockheed Martin or the base.

Thank you.

MR. OXER: Any questions from the board?

(No response.)

MR. OXER: Thanks for your comments.

MR. McGILL: Thank you, board members and executive director. I'm Bert McGill. I am the sponsor of application 12025, Hawk Ridge Apartments.

As you may recall, last year we entered an application, at which time the mayor and a couple of city council members and the economic development director appeared asking for forward commitments. At that time, a letter from the Naval Air Station was submitted as support, as well as several other letters of support. Those letters were used this year and updated and redated and re-signed and reissued for support letters.

When this year's application came around, the QAP, I contacted the City of White Settlement and said, I'd be willing to do another application if you guys, the city, would support it. And from that time I had my sign, as was required last year in the application, my development notice sign on the front of the site. It was there for over twelve months. I never received any calls of opposition during that whole time.

The city did say that they if I wanted to pursue it again, they would definitely support me, and I told them to support me, we need to get neighborhood support, we need to get qualified community participation, we need to get support letters, we need to do resolutions, all the things that we need to do, we need a loan from the city as our governmental leveraging. They supported all of that all the way through, and they still do.

And as this has come about this year, we have had some local paper articles that have drummed up some opposition. None of them ever have contacted me. I had one neighborhood organization, that was outside the City of White Settlement, contact me and said, We're going to oppose you. I said, Are you in the City of White Settlement? They said, No, we are in Fort Worth. And I said, Well, have you visited any of my properties in the Fort Worth area. No, we have not, but we're going to oppose you. I said, Well, the City of White Settlement is saying that they do want this development and that there's a need for this type of development and that there is military shortages. I think the base commander did say that there was a study that said there's 350 units that are needed for military housing.

And I don't know where we got off track, but I relied on my communications with the city directly, and more opposition has really been sent their direction than to my direction, so I don't know if it's a concern with the elected officials or what. I have been pretty forthcoming. This Naval Air Station support letter was submitted last year, it was submitted this year, staff reviewed it, thought it was a recommendation letter until June 20 when we received a challenge that had probably 18 different items that challenged. Staff saw that none of them held any water that they were not valid, and that the only thing that might be valid was this Naval Air Station because it did not contain the word support, it was it follows our recommendations, and that it would be -- I don't know exactly what the wording is.

So effectively, we have received support from the city officials of White Settlement all through this process. The only neighborhood that's called on me was that one in Fort Worth. I did receive my first email directly this weekend, mainly because last month's board meeting was televised over the web and I think we had a pretty good audience out of that area. So this has kind of ruffled some feathers.

I still think that White Settlement needs it, the elected officials have supported me. On the other issue that we're about to talk about, we did a poll on the resolutions of the city council and our poll said that they were all in favor of it. When they showed up to the city council meeting because they put it on the agenda, because they had been accused of having violated the Open Meetings Act and having secret meetings, they didn't want to do that again, so they brought it up, and effectively, they had some opposition in the room and did not want to act on those resolutions or the letter that the board has requested. And I have some handouts for that when we get to that area.

So I just want to clarify that as far as I'm concerned, I have support from the City of White Settlement, and opposition has never contacted me, and these are the first that I've heard from these individuals here today.

MR. OXER: Thank you, Mr. McGill.

Any questions from the board?

(No response.)

MR. OXER: I have a question, Jean. The application for Hawk Ridge, is the support from the community evident by documentation? And that's half of a question. The other half is I gather from the QAP we don't have generic wording to say to qualify for this scoring item, your letter has to say we support the project, not it's consistent with what we think land use should be.

MS. LATSHA: That's correct. The QAP calls for the letter to explicitly express support for the specific development, and I would still contend that this letter from NAS JRB does not do that.

MR. OXER: Okay. Any other questions from the board?

DR. MUÑOZ: I have a question.

MR. OXER: Dr. Muñoz.

DR. MUÑOZ: Ma'am, the Sun View Homeowners Association, is that the association that you allege was quickly put together with only three people, that no longer exists?

MS. UNDERWOOD: (Speaking from audience.) Yes, sir.

DR. MUÑOZ: Is that right? Is that an accurate representation?

MS. UNDERWOOD: (Speaking from audience.) Yes, sir, that's true. [Inaudible] there is no homeowners association, and furthermore, they are adamantly against any homeowners association.

DR. MUÑOZ: Let me just ask whether that association exists.

MR. McGILL: According to the rules of the QAP, the quantifiable community participation has to be formed and it has to have been completed under its own body. I cannot help with that. I did not know those people, I did not have any part of its formation. I did present the QCP packet to the city and said, This is what we need for support, and I can't help you with it, but you may call the department and they have staff that can assist you and walk you through this process.

Now, whether or not all these people were there, are there.

One of the things that was confusing is they called themselves a homeowners association. If I had been a part of it, I would have called it a neighborhood organization because what happened was they made an HOA and everybody in the subdivision said I don't want to be -- this is what I hear from the city is that they had an outcry of I don't want to be constrained by the rules that somebody else is making whether I can put a fence in my yard, how big it is, whether I can fly a flag, or whatever. So those were some things that if I had been able to work with the group, maybe I could have avoided, but it was really not something that I had my hands in the middle of.

DR. MUÑOZ: All right.

MR. OXER: Any other questions, Dr. Muñoz?

DR. MUÑOZ: No.

MR. OXER: Okay.

MS. LATSHA: If you don't mind, I'd just like to clarify one thing so we're not confused. The Sun View HOA that they were speaking of, that's the organization that was formed that submitted the letter for quantifiable community participation that would have been worth 24 points had we found that organization eligible. We found that organization ineligible for points. The NAS JRB letter was submitted under community input other than QCP. We denied that letter the two points because it didn't express support. Is that clear?

MR. OXER: Okay. Good.

MR. OXER: Any other questions from the board? Is there any other public comment?

MS. GALLE: Can I respond to the points he made?

MR. OXER: Yes, you may.

MS. GALLE: Marcy Galle, G-A-L-L-E.

Mr. McGill mentioned a sign that was posted on the property. It did not ask people to call if you wanted to know about it, if you wanted to oppose it, it asked for potential renters to call and see if you qualify to live at that community. That is what the sign said. When I looked at the sign, I thought it would have been already a done deal.

Also, he said that he didn't know of anyone that was opposing, and that's a lie. I told him on the phone prior to final app that I had spoken to a handful of Sun View residents about the possibility of this community and they were all opposed. So he knew that there were people in White Settlement in Sun View that were opposed.

Thank you.

MR. OXER: Thank you for your comments, Ms. Galle.

Any other comments from the board?

(No response.)

MR. OXER: Annette, you have two to read in?

MS. CORNIER: Annette Cornier, TDHCA staff.

The following two individuals would like to register their opinion for item 2, project 12025, Hawk Ridge Apartments: Ronald White, George Klecan are in favor of staff recommendation. Written comments were submitted to the staff.

MR. OXER: Thank you.

Okay. We have a motion by Mr. Gann on the floor to move staff recommendation to deny the appeal, second by Dr. Muñoz, if I recall correctly because it's been a bit. Any other comments from the board?

(No response.)

MR. OXER: All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none, it's unanimous.

MS. LATSHA: All right. So are still speaking on 12025, Hawk Ridge Apartments, just the other point item that has been appealed. This was discussed at some length at the July 10 meeting, as well. Staff denied a point for economic development initiatives. This one point is awarded an application if the development site is located within an area that has adopted initiatives to promote economic development.

The applicant submitted a resolution from the City of White Settlement that spoke to both community revitalization and an economic development initiative that had been adopted by the COG. There was some confusion first as to whether the COG could be considered the local government that adopted the initiative, and then there was also some confusion as to whether the community revitalization plan and the economic development initiative were two distinct plans or not.

Per the board's direction, we requested from the City of White Settlement a clarification as to the adoption of either of these plans, and to date we have received nothing, so staff still recommends denial.

MR. OXER: Okay. Questions of Jean from the board? Need a board recommendation, board motion to move.

DR. MUÑOZ: Move staff's recommendation.

MR. OXER: Motion by Dr. Muñoz to move staff recommendation.

MS. BINGHAM ESCAREÑO: Second.

MR. OXER: Second by Ms. Bingham.

Is there any public comment with regard to that point? Ms. Galle.

MS. GALLE: Marcy Galle. And I do appreciate being able to speak, I just want you to know that, I do appreciate that very much.

Regarding the resolution from the City of White Settlement, last night they just held a city council meeting and it was in the newspaper -- I'm sorry, not last night but Tuesday night, it was in yesterday's newspaper -- they voted not to change the resolution in any way. And my point with the resolution is that it is attributed to the PLMC effort of the council of governments. The North Central Texas Council of Governments is formed by seven different municipalities, so this economic development effort is part of a regional plan, not a city plan, and it does not outline a revitalization at all in the wording.

Also, I wanted to make a comment regarding this. There was a statement made on the 10th that a HUD grant, some of a HUD grant for $640,000 had been applied to the City of White Settlement. That was also a lie or misrepresentation.  None of that money has been awarded to any city at this point.  That is an award that was given to the council of governments for the planning for livable military communities.  It's a very overreaching umbrella for a regional area, not just the City of White Settlement.  So we ask that you would see that for what it is.  Thank you.

MR. OXER:  Thank you for your comments.

Any other questions?  Any other comments?

MS. BINGHAM ESCAREÑO:  Mr. Chair, I actually have it for Jean.  Thank you.  So Jean, what I hear you saying is at the last meeting we tabled it pending maybe getting some clarification from the city, but your staff have made those attempts and have we received nothing or did we receive something that didn't satisfy you in terms of clarification?

MS. LATSHA:  Received nothing.

MS. BINGHAM ESCAREÑO:  Okay.

MR. OXER:  All right.  And for the record, since there appears to be some continuing difficulty in clarifying what is meant by an economic development plan and a revitalization plan, not germane to this discussion but this is one of these raw spots that we keep raking over that we want to heal up on the next version of the QAP, meaning that we have some discussion on each one of those items to describe what they are and a generic draft of a letter in support so that people can have the wording that's sufficient for your means, or for the needs for the scoring.  All I'm asking is make sure we've got this recorded as one of those raw spots.

MS. LATSHA:  Yes, sir.

MR. OXER: We're back in the creases again. Okay? If these decisions were easy, we'd have already made them, so we're down to the wire here.

Mr. McGill, did you ask to speak again?

Mr. McGILL: Yes. If I may, I have a few handouts.

MR. OXER: You may not, actually, because those have to be posted or available for the entire audience to see. I don't mean to be quite so terse, but that's the rule, it has to be posted.

MR. McGILL: This is everything that we talked about last time, and really, this is all academic, it's not going to change the recommendation list.

But I'm kind of here to continue to support White Settlement, because they've supported me, the city has. And as I mentioned to you previously, there is an article, and I have it if anybody wants to look at it, in *The Grizzly Detail* suburban paper, and it did basically say that the city attorney, Warren Spencer, explained the purpose of the letter that the TDHCA was requesting. Spencer said that he reviewed the requirements set by TDHCA on what it takes to have both of these points, the resolution. Spencer told the council that they had three choices: they could leave the resolution as it is, they could send a letter to TDHCA further clarifying the support of the community revitalization option, and they could repeal the original resolution. And what they ended up doing was taking no action.

As I said previously, we polled the council members and the mayor and they were for it, but since there was some opposition in the room they decided just to take no action and leave it back up to the board here. We do have the two separate letters that was in the application that staff requested to receive. Both of them are different, both of them talk about the differences between the economic revitalization and the economic development, and they are here, which I think you've already seen or I read to you in the previous matter.

So really, I'm here saying that you asked me to go take this to White Settlement, I did. They still support it but they want you to sort it out. And as a result, White Settlement has been good to work with over the past year and a half, two years, and I think that since they are an ex-urban community, they don't get all the chances that they usually get, and this may be it. And I'm here to support them in the way that they supported me, so I hope the board looks favorably to that. Thank you.

MR. OXER: Thanks for your comments. And while I recognize, and I think everybody here recognizes, that you've got an economic interest in making this work and you're to be commended for at least trying to make the effort to stand up on behalf of White Settlement.

Now, in regard to their support for this, one of the things that we can't do, we can't meet in a back room and make any decisions, it's got to be out here, out front with a vote, and if it's not clear, I call everybody on here to make sure that everybody out there knows what we voted on.

MR. McGILL: I understand.

MR. OXER: So as a consequence of this, you can say you're in favor of things, but I'm talking about ink on the line that says you're in favor, that's reported in public that can say here's the resolution. And that's more of a clarification for the rest of the community.

So appreciate your comments, appreciate your efforts on behalf of housing.

MR. McGILL: I've been a pretty strong effort.

MR. OXER: We recognize that.

MR. McGILL: Thank you very much.

MR. OXER: Okay. We're down to the motion here, motion by Dr. Muñoz and second by Ms. Bingham, as I recall, for staff recommendation. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none, it's unanimous. The appeal is denied.

Next one, Jean.

MS. LATSHA: All right. The next one is Merritt Hill Country, number 12346. This is a proposed development in Dripping Springs, right around the corner.

Applications can receive either four or six points for a scoring item that incentivizes developers to build in census tracts in which there are no other existing housing tax credit developments. Applications can receive up to four points if there are no other existing tax credit developments that serve the same population, and six points if there are simply no other housing tax credit developments.

In this particular instance, Merritt Hill Country, the proposed site, is, in fact, in the same census tract as another housing tax credit development called the Springs. The Springs does serve the elderly population, and the proposed development, Merritt Hill Country, would serve the general population, so that would qualify this application for four points. However, the applicant used our site demographic characteristics report to determine the census tract of The Springs apartments, and the census tract in that report was listed wrong, it was the wrong number. So the applicant contends that because he used the information in that report, he assumed he was eligible for six points instead of four and requested those six.

So really, what is before you today is whether or not we should give him the benefit of the doubt that he simply used our site demographic characteristics report, assumed he was eligible for the six and moved on, or if we should look at the fact that there is another housing tax credit development in the same census tract.

MR. OXER: Are there any questions from the board? Professor McWatters.

MR. McWATTERS: If you're looking to develop one of these sites, is it unreasonable for you to drive the community and look around at other sites?

MS. LATSHA: No, not at all. And I would add, from recent personal experience, that that is exactly what I did as a developer.

MR. McWATTERS: And so when you're driving it, you probably have a map and you say: Well, this is where I propose to locate mine, and here's this other one, and wait a minute, I checked the TDHCA website and it says it wasn't within the boundaries, but here I am, boots on the ground, it's within the boundaries. I'm trying to figure out if a reasonable person doing ordinary due diligence would be put on notice that what was in the TDHCA website was incorrect.

MS. LATSHA: I would think so. I would think that a reasonable amount of due diligence would bring a developer to that conclusion that the site demographic characteristics report was simply wrong. Yes.

MR. McWATTERS: It would seem like there was probably other reasons you might want to drive the site and look at what may very well be competition, you may want to talk to people running the other sites and the like, so it would not strike me -- although I've not done this, I admit, and could be mistaken in this assumption -- it strikes me that there are other reasons to actually get in your car and drive around and scope it out and take pictures and the like.

MS. LATSHA: I would have to agree with you. The site in question is just two miles down the road. Dripping Springs, I think, has a population of around 20,000, if that -- 2,000 -- I'm sorry, I had put another zero in there.

MR. OXER: I was going to say you're being very generous there.

MS. LATSHA: It's a very small community. I would think that a reasonable amount of due diligence would make you aware of where the other site is. It is true that you would also -- it's not like census tracts are listed on the side of the highway, you would have to look at a map or go to a website, but I would say it's more than reasonable to expect a developer to know precisely where another multifamily development exists within the community, especially within two miles. I think this is one of the very few multifamily developments in Dripping Springs at all.

MR. OXER: Probably the multifamily development.

MS. LATSHA: I think it is. When I drove around there myself, that's the only one that I saw.

MR. McWATTERS: Okay. Thank you.

MR. OXER: Jean, who is the ultimate arbiter of the boundary of a census tract?

MS. LATSHA: I believe HUD -- sorry -- Census Bureau.

MR. OXER: So regardless of what we say, HUD says where they are.

MS. LATSHA: Census Bureau. Yes.

MR. OXER: Census Bureau. I'm sorry. Census Bureau says where they are. Regardless of what we think, the Census Bureau says where the census tract boundaries are.

So being a diligent individual for looking on an application for something like this, for which there is a lot of money at stake, you'd want to make sure you knew where that line was, and not something in a magic marker across the State of Texas map this size, you want something fairly sharp to define the edges of those boundaries.

MS. LATSHA: Yes, sir. And quite frankly, a lot of the times boundaries of census tracts are actually pretty fuzzy when you look at these maps, and it's pretty difficult to tell where the boundary is. In this particular case, the boundary of the census tract is 290, a major highway. If you're on one side of it, you're in one census tract, and if you're on the other side of it, you're in the other census tract. So this is actually one of those rare but a nice case where you could take a quick glance at a map and see which census tract you're in.

MR. OXER: What it comes down to is it one side or the other of 290.

MS. LATSHA: That's correct.

MR. OXER: Okay. Is there any public comment on this?

We do need a motion.

DR. MUÑOZ: Mr. Chair, I've got a question.

So Jean, I appreciate the comment about the due diligence and driving around the neighborhood, but how would somebody know? Isn't the point that the properties are so pleasant and elegant and modern that they're indistinguishable from market rate properties? Isn't that the point that you don't drive by and say: Oh, look, that's what affordable housing resembles?

MS. LATSHA: True.

DR. MUÑOZ: So how would you know that and why would you know that? And my difficulty is a minute ago we're debating the use of the word support with that kind of precision, and so here you have someone who went to the website and you posted it wrong and they adhered to precisely what was there, and now somehow they're penalized.

MR. OXER: Let me toss a comment on that. Just from a technical standpoint, the difference between precision and accuracy is subtle but valuable. Whether or not it's precise means can it be replicated again, if you draw that line on that map, it won't be wrong. But knowing on the ground that it goes down the centerline of 290 is something that's accurate.

DR. MUÑOZ: Inaccurate on the website.

MR. OXER: It was inaccurate in terms of what TDHCA offered on the website, I'm sure that's true, but not being the ultimate arbiter of where the census tract boundaries are, a diligent individual would go to the Census Bureau to define the census tract.

DR. MUÑOZ: But isn't it the agency's responsibility to accurately represent the precise line on the website?

MR. OXER: That's the Census Bureau's job.

MR. IRVINE: I would just like to comment that we are human and we, like everyone else, make errors, and I think that it's undisputed that both the existing development and the proposed development are within this census tract. I think that the application contained a map of the census tract. I believe that the application, didn't it also require a two times resolution from the city?

MS. LATSHA: It did.

MR. IRVINE: Which would implicitly mean that you had to be aware that there was already affordable housing in the area. Perhaps you didn't know it was in the census tract, but you at least had to know it was there. And we think it comes down to a question of whether it's appropriate to say that, notwithstanding the fact that staff had some erroneous information out there, these people should get points that are inconsistent with the facts that are on the ground and fairly easily knowable.

MS. LATSHA: I would like to just add to that just a little bit. The applicant, in their appeal, one of the points that they made was that a few years ago a similar mistake was made by the department when they listed the affordable housing needs score, or the AHNS -- if you remember them fondly. But in that case, the department's information was the sole source of the AHNS score. You couldn't go to another website or drive around or look at a map and determine what an AHNS score was.

However, in this case, if you drove the site, you saw that this particular development was on the one side of the street, and then you go to one particular website -- which I know that the applicant actually visited because the map, the census tract map that he submitted with his application was from this FFIEC website, it's really user-friendly so a lot of developers use it -- and if you were to go to that website and plug in these addresses, you would see that these two developments were in the same census tract. So there's another source of information out there that could have shown you that the report was wrong.

MR. OXER: Your point is noted, Dr. Muñoz, that there is evidence on TDHCA's website that was perhaps -- that, admittedly, was in error, but that notwithstanding, we don't define the boundaries of the census tracts.

We'll need a board motion to proceed.

MR. McWATTERS: I think the distinction you made is critical. I mean, if the TDHCA website has unique proprietary information that cannot be sourced in any other way, then I think a higher standard would apply to whether that data is inputted correctly or incorrectly. But maybe I'm coming from my perspective of being an M&A deal lawyer for 25-plus years, and doing and overseeing lots of due diligence in transactions all over the place, and it would strike me as surprising that people don't go off and get a map, drive property, find out which is the low income, which is not the low income housing, even though they look very similar -- hopefully, they look identical -- and start piecing it together and then pick up the phone and calling and say: Hey, this looks like it's someplace other than what's on the website.

MR. OXER: We'll need a motion to proceed. Staff recommendation is to deny the appeal. Is that correct, Jean?

MS. LATSHA: There was not one listed in the board book.

MR. DORSEY: We felt like laying out a series of facts and letting the board make a determination in this case was the most appropriate way to go about this particular item.

MR. OXER: But you're not offering up either direction. Is that right, Cameron?

MR. DORSEY: That's correct.

MR. OXER: Okay.

DR. MUÑOZ: I move we grant the appeal.

(General laughter.)

MR. OXER: What a surprise. And I was going to ask before we get to the point, and hold your motion and I hold that at the gavel, in a situation like this where there's no recommendation, do we need a motion to proceed or do we have further discussion?

MR. IRVINE: It's an appropriate motion.

MR. OXER: Okay. So there's a motion by Dr. Muñoz to grant the appeal. Is there a second?

(No response.)

MR. OXER: There appears to be no second, so your motion dies by lack of a second, Dr. Muñoz.

Is there any other action by the board?

MR. GANN: I'll move that we deny the appeal.

MR. OXER: Motion by Vice Chairman Gann to deny the appeal.

MR. McWATTERS: Second.

MR. OXER: Second by Professor McWatters.

Is there any other comment from staff? Anything else to add, Jean?

MS. LATSHA: I don't think so, sir.

MR. OXER: Okay. Is there public comment? Ms. Bast, good morning.

MS. BAST: Good morning. I am Cynthia Bast of Locke Lord, and I am representing the applicant in this appeal. I do have some handouts that have been properly posted to your website.

MR. OXER: Just hand it to Michele and she'll take care of it.

MS. BAST: They're posted on the website, which I believe satisfies the rule.

MR. IRVINE: It suffices.

MR. OXER: Yes.

MS. BAST: And there is one for each board member.

I believe these are helpful because I do believe that pictures can be very helpful, and I'd ask, if you would, to turn to the next to the lat page which is a MapQuest product.

This is the existing tax credit development that we're talking about called The Springs. If you look at the dot on Highway 290, the address for that dot is 2400 West Highway 290. That is the address that TDHCA has posted on its published materials and it continues to be the address of the property on TDHCA's published materials on this very day. If you do a Google search for The Springs Apartments in Dripping Springs, Texas, you will find a Yellow Pages directory listing showing that the address of this property is 2400 West Highway 290, and that is in my appeal.

This is the address that was utilized by the developer when the developer first applied for tax credits in 1999, and I have submitted an affidavit of the principal of that developer indicating that that is the address that he considers to be the address of this property today.

When this property was developed, it needed access to Highway 290, so the developer built a private road called Springs Lane, and that's the blue line that you see. This is a private road, it is not maintained by the county, and when the development was completed, the U.S. Postal Service gave the property an address of 289 Springs Lane, and that is your gray dot on your map.

If you've ever gone to the United States Census Bureau's website to look up census tracts, you do it by address. You go to the website and it says what's the address. It is undisputed by TDHCA staff that if you plug in the address of 2400 West Highway 290, you get from the United States Census Bureau a census tract number that is different than if you go and plug in the address 289 Springs Lane.

As was mentioned, Highway 290 is a dividing line for census tracts. The census tracts in Dripping Springs were changed in 2010. I don't know why the United States Census Bureau gives me a different census tract for 2400 West Highway 290 than 289 Springs Lane; I don't know what software they use. We all know that we have used mapping software personally when we're trying to find directions to go to places, and we've found mapping software to sometimes not be correct. I don't know what the discrepancy is here, but it is undisputed that these two addresses have different census tract numbers and that the address posted on TDHCA's website, that has been posted on TDHCA's website for 13 years is the address that gives us a different census tract than the 289 Springs Lane census tract that is the same census tract number as the proposed development.

So now, if you would, I'd like you to look at the rule which is the second page of your handout. This is the rule for granting these points, and the rule says that the points are granted according to the department's housing tax credit site demographic characteristics report for the current application round. That's what we look to, that's what our rule says we are supposed to look to.

If you go to your Multifamily Procedures Manual, it says specifically that no supporting documentation is required for this point item. All you have to do is give the department your proposed census tract for your development, and then they go look at the housing tax credit site demographic characteristics report and determine if there are any other developments in that census tract, and if there are, if they are of the same population.

With all due respect, I do understand that a burden is on an applicant to file an application and to file a good application and to support points when the QAP requires it, but in this particular case, your rule, your manual does not impose any due diligence obligation on the developer, on the applicant to prove up this census tract or to figure out why the United States Census Bureau's website gives us two different numbers. We're not required to be census experts.

The reality of the situation is that absolutely this applicant knew that The Springs Apartments was in Dripping Springs. Of course he did, it was in the market study. Of course he had a two time state average resolution. I would note that in the market study it didn't list the address for the property. So again, you're talking about outside influences, what would have you know.

The fact is this property, The Springs, is a family property, about twelve years old. It's a totally different property than is proposed to be developed by this applicant. This applicant is building an elderly property. And so from a real estate perspective, you don't spend a lot of time over at The Springs Apartments because it's not really even a comparable. You know it's there but it's not something you spend a lot of time with. What you're spending your time on is getting all of your permitting and working with the city and doing the kinds of things to make your development, which is intended to serve a totally different population, successful.

And finally, I want to note that this issue of the address and whether TDHCA was wrong in their publication came up only because of a challenge. These points, these six points were originally awarded, and they were based on the fact, like I said, that this address and this census tract associated with the address, which is new for 2010, but the address has been on TDHCA's website for 13 years. The owner never notified TDHCA to change the address to 289 Springs Lane when that became the mailing address. It's the address that's on there today.

But the competitor tells you that TDHCA made a mistake. I would argue that perhaps they didn't. If 2400 West Highway 290 is a viable address for this property and if the census tract number produced by the U.S. Census Bureau's website is indeed correct -- which it is -- then perhaps they didn't make a mistake. But even if they did, as Ms. Latsha mentioned, in 2008, when there was a mistake in the published materials, the board gave the applicants the benefit of the doubt.

There's a distinction trying to be made here that in that case this was the sole source of the information, and therefore, the applicant was absolutely entitled to rely upon it. I would argue that, first of all, your rule and your manual say that the applicant is entitled to rely upon this because the determination is made according to your report. I would also argue that the definitive information is found on the United States Census Bureau's website, and that's the information that is being utilized here.

Finally, if I were sitting in your chair facing a long day, I would say: You know, it doesn't really matter because when we get to item 3, Rural Region 7 isn't even on the list for an allocation this year, so this appeal really doesn't matter. It does matter, it absolutely does matter. First of all, those allocations are not definitive, anything can happen between now and later this afternoon when that is decided upon. Second of all, it matters for purposes of a waiting list. To the extent there's a waiting list, then as between these two applications, both of which have appeals that you're hearing today, they care.

And so I ask you to decide this appeal upon its merits, upon your rule that says that you look to this report to understand these facts and recognize that this is the kind of situation where the applicant did what it was supposed to do and provided the information required by the QAP and should be given these six points. Thank you.

MR. OXER: Thanks, Cynthia.

Any questions from the board?

(No response.)

MR. OXER: All right. I have a couple of questions generically, first, but let's have the public comment.

MR. CROWELL: Board members, my name is John Crowell. I'm a city councilman in Dripping Springs. I would like to thank the staff for their hard work on both the application and the appeal process.

MR. OXER: And let me interrupt you just for a second. While I appreciate that these appeals are important, and Cynthia, you're absolutely correct that no appeal is unimportant and no challenge is unimportant because we're trying to address a situation that's in answer to a question that is not clear in the QAP, so we'll spend whatever time is necessary to do that. That said, I want everybody to try to be efficient with their time in making their case because we are looking at a fairly long day unless we giddy up and get along here. So with that, please.

MR. CROWELL: Certainly. I've heard that one before.

One, I'd just like to say that this project is very different from anything that we have in the community. It is consistent with the comprehensive plan that the community has developed and there's broad support for it. We've allocated significant resources with our existing water/wastewater capacity, and we're very excited about it.

On our appeal, in preparing the application, we relied on the Census Bureau, the controlling authority, and your rules, and we're just very hopeful that we can continue to rely on the rules that TDHCA has adopted and put forth in this application process. I think if we do that, if the board does rely on its own published materials, rules and guidelines in this case, the application will follow, actually, Dr. Muñoz's recommendation and be awarded.

Thank you.

MR. OXER: Good. Any questions from the board? Dr. Muñoz.

DR. MUÑOZ: I do. Cynthia contends that they are in separate tracts. Are they?

MS. LATSHA: No, sir, no, they're not. When you go to the Census Bureau website, you can plug in an address and it spits out a census tract number, that's right -- and quite frankly, I didn't go to the Census Bureau website because I don't like it -- but there are approximations, if you're close to the line, it's often wrong. There's another website that I mentioned earlier that I think is a lot more user-friendly, and when I plugged in both addresses to that website, I got the correct census tract number, because, again, it's an approximation on both sites.

DR. MUÑOZ: Which of those two websites is the authoritative?

MS. LATSHA: I wouldn't call either of them the authority, I would call the maps the authority. Both websites would generate a map that you could print out and see where the line is and see which side of the line you're on.

DR. MUÑOZ: How is it possible that they rely on the U.S. Census for their database, how is it possible that they would generate different maps?

MS. LATSHA: Because they are approximations, and if you simply plug in the address, then it, like I said, spits out a number, and I honestly don't know exactly.

DR. MUÑOZ:  Well, if you're doing your due diligence and you go to this one website and you put in the tract and it prints out an approximation and it says that you're in two separate tracts and you've carried out your due diligence, how  would you know that there might be a more reliable other second or third or fourth website that would give you a different map?

MS. LATSHA:  I think in this case -- well, what would happen was you would print out your map, which is required in the application, and see where the line and then think to yourself which side of the line, it looks like that should have been on this side of the line and not the other.

I guess my kind of point in this would be if it were the other way around, had The Springs Apartments been on the other side of the road and TDHCA listed the census tract as the same census tract as Merritt, then I think that there would have been some double checking on the part of the developer, and then they would have found out the opposite, they would have called us up and said, Hey, this is the wrong census tract number in your demographic report, it's really close to the line, you can see how it happened.

DR. MUÑOZ:  Does that happen?  Do people make that phone call?

MS. LATSHA:  Well, we got the phone call, that's exactly why we're here, we got the phone call from a challenger, not from the applicant.

DR. MUÑOZ:  From a challenger.

MS. LATSHA:  Right.

DR. MUÑOZ:  And did you originally award the six points?

MS. LATSHA: We did.

DR. MUÑOZ: Is that accurate?

MS. LATSHA: Yes, sir. We did exactly the same thing. I understand how the applicant got there, we did the exact same thing he did, except without benefit of having driven around and read our own market study and everything else. What we do is we go to our own report and we just search for the tract number on an Excel spreadsheet, and if it doesn't pop up, they're good to go.

MR. OXER: Okay, Jean. The staff was for it before you were against it, is what you're basically saying. Right?

MS. LATSHA: I'm sorry?

MR. OXER: You were for it before you were against it? Sorry, it's another bad political joke.

All right. This has got some hair on this one.

(General laughter.)

MR. GANN: I had a question.

MR. OXER: All right. Vice Chairman Gann.

MR. GANN: One more time, I want you to tell me what does the department's tax credit site demographic characteristics report really show?

MS. LATSHA: It shows that The Springs Apartments is in Tract A when, in fact, it is in Tract B.

MR. OXER: Okay.

MR. GANN: That it's in separate tracts, not in the same tract.

MS. LATSHA: And to clarify that, Merritt is in what I'm calling Tract B, clearly. Our site demographic characteristics report shows The Springs Apartments in Tract A.

MR. GANN: So it says separate tracts.

MS. LATSHA: Yes, sir.

MR. OXER: The site demographic report says separate tracts when it turns out that it's actually the same tract, according to what we now think or believe, depending on where we drew this magic marker down 290. Right?

MS. LATSHA: Yes, sir.

MR. McWATTERS: But if you printed out B and started putting Xs where everything is located, it would show them both within B.

MS. LATSHA: Very clearly. Yes, sir.

MR. McWATTERS: Okay. To me, from a diligence perspective, this is one of those cases of know or should have known. You should have known because you drove the property, you looked around. It may not have been the same type of property, but it would seem reasonable that you would give a passing glance to other low income projects in the same tract, even though they may not serve the same market.

MR. OXER: Perhaps they don't serve the same sub demographic, but they are in the same market in that they are tax credit projects that would be considered under this program. That's the same market, as far as I'm concerned, with respect to our program here.

We're getting there, Barry. Let's let the stew pot stir here for a while.

Have a seat, Jean, we've got some more comments.

Okay. You were first. Step up.

MR. THOMPSON: Mr. Chairman, board, my name is John Thompson. I'm the planning director for the City of Dripping Springs and the present chairman of the Chamber of Commerce Economic Development Committee.

The city is in strong support of this project, that's why we took at least half a day of our time, if not more, to come down here this morning, to fight the traffic. We would like to point out that there's been items spoken of in support of this, talking about abiding by the rules that this board has established. I'm a rules guy, that's my job day-in and day-out. When somebody plays by the rules, that's how you get approved or not approved. But I'd like to talk about just very briefly the intangibles maybe that you also should be aware of because this appeal, and I believe the next one in line, are very close, we're neighbors north and south, Wimberley and Dripping Springs.

The City of Dripping Springs has existing wastewater capacity and lines ready to serve this project. We have a wastewater utility agreement between the city council and the applicant ready to get going as soon as this is funded. The property is zoned multifamily already, nothing needs to be changed. The project has variances already approved, we're waiting for the funding to happen, and when they submit their site plans, staff's recommendation is really ready to go for strong support.

I'm not only here speaking on behalf of the city, but as well, the senior citizen community. I've been an employee of the city for seven years, a resident for 25. The senior citizens community center, their director has asked me for seven years to help achieve more senior housing for Dripping Springs because presently we do not have but one dedicated senior facility in town that is not a tax credit financed unit. This would be but it would focus directly to the senior citizens of Dripping Springs.

We've been a rapidly growing community in the last ten years, we have a severe shortage of senior housing, and what we have, the few units we do have has about a five-year waiting list. So this project would actually help the City of Dripping Springs achieve one of the items that is in our 2010 comprehensive plan and is also an expressed need on the street by the senior citizens that it would serve.

Further, I believe you should have -- at least I was shown one this morning -- a letter of support for this project from State Representative Jason Isaac, District 45, who represents Dripping Springs and Wimberley, and I didn't get a chance to review the whole letter, but just the fact that we have his support, the fact that the city council has expressed its strong support for this issue, because we have Councilman Crowell and Councilman Alba both present today, I should say speaks volumes as to how we feel about this project in our city limits. The Springs is outside the city limits, but a part of the community, obviously. The Springs has been in place for twelve years, it's a family-related apartment complex, this is for seniors. We believe it's two different markets, though I take, Chairman, your point well taken. If you're a senior living in The Springs, and I know several, it's an environment that is not entirely conducive for senior living; this would be very conducive to senior living, it would cater programming to seniors, The Springs is not.

As far as I know, there's no organized programming at The Springs, it's a low income housing, Section 8 type housing complex. There has been issues in the past. When you read the police blotter, there have been issues of crime in that particular neighborhood, and I believe that the developer, Mr. MacDonald, has done a very good job of correcting that with the residents of his facility by moving them out and increasing security, but again, if you're a senior, you probably want something a little bit more conducive to your living environment concerning safety and programming.

And in regard to that, the city would want to support this project as strongly as we can, and we would like for you to hear that very clearly today. Thank you for your time.

MR. OXER: And thank you for your comments.

Any questions from the board?

(No response.)

MR. OXER: Okay. Barry, did you have something else? Mr. Shaw.

MR. SHAW: Chairman, board. My name is Stuart Shaw. I am the president of Bonner Carrington, and we are the applicant in Wimberley, and I wanted to just briefly address you with some points here.

I have the utmost respect for my colleagues and friends from Dripping Springs for that wonderful community. I have the same respect for Wimberley, and we're just competing for allocation. They also need senior housing in Wimberley, but I have complete respect for the wonderful community of Dripping Springs.

This is about process and respect, respect for the rules, and it's about developer process as well. The rules are clear and simple and we make it a point, because we live in fear of the rules, to really follow them, and we wouldn't think about going to a community and not doing a lot of due diligence, including driving everything. In the City of Dripping Springs there is one community, it's a small town, and it's very, very noticeable, I would say it's a distinct community, and although it may not be in their city limits, it's right off of Highway 290.

This map shows you -- and Casey, can you point -- if you Google this address that TDHCA lists, TDHCA only lists the address, they don't list where it is on a map, if you Google it, it shows it's over in front of Flores Restaurant, about five miles from Dripping Springs. And can you point at that, Casey, the Google location of that. Well, it's way off the map then.

MR. OXER: Back over there where Tom is sitting?

(General laughter.)

MR. SHAW: Yes, sir. If you go to MapQuest, it shows the correct location. So yes, we all know that GPS mapping doesn't work, that's why we don't trust it, that's why we don't use it. It's hard, but you know what, we're challenged by this process to do hard work and we do it, and we absolutely go and we can look at these census tracts and you can determine them, and in this case, it is -- may I approach this and just speak loudly?

MR. OXER: Actually, we have to keep you next to the microphone.

MR. SHAW: This red line right here is Highway 290 and it's a clear as a bell, census tract is up here. This is Merritt Hill Country's application, and that's The Springs up there, this is Merritt Hill Country. It's very, very close and any developer who would go out there would know this, especially since you went to the council to get a two times per capita resolution. We have to do that because it doesn't matter if it's a senior or a family community, we have to go do that, and so we all do it, and they did a good job of doing that, it's right in front of them, and then they did a good job of having a good market report where it's mentioned several times, and it's even mapped, it's on the map.

And so all due respect for my colleagues -- and I have a lot of respect for them -- and certainly for this board, we follow your rules, and I spoke about that at the last board meeting, we follow your rules. This map shows the census tract, the address, I've told you, is unreliable, so that's why we in our business don't rely on that. We look at the map and anybody can look at the map. It's sometimes difficult but you can look at it and resolve that. The affidavit that Mr. MacDonald signed is great, it says it's at the address that MapQuest will show you is right there, right in this census tract.

So at any case, at the end of the day, the FAQ clearly says and in the workshops we're clearly told to check that information. So while we can rely on some information from TDHCA, of course they're human. We're not in the business of relying on other people to do our business, we're supposed to follow your rules and we do, and we just expect other people to as well. The signs of Dripping Springs, this wonderful community, it's small enough that you would easily know this, and The Springs is so readily identifiable just from a drive through town, you couldn't miss it.

MR. OXER: I think you've made your point, Mr. Shaw.

MR. SHAW: I thank you very much for the time. And I would just say the market study maps The Springs, and in answer to an assertion made earlier, we spend time on these things and we spend time on finding out where our competition is because we don't want to be before you and have the disappointment that one would have today to find out that you'd made a mistake like that, and we live in fear of that.

So I just want to repeat this is about respect of a vibrant and wonderful community of Dripping Springs, which I have, and it's about respect for this process and for these rules, which I have. We live in respectful fear of these rules and we do not mess around and we don't -- I've made my point. Thank you very much.

MR. OXER: Thanks for your comments.

MR. PALMER: My name is Barry Palmer with the Coates Rose Law Firm, and I'm speaking on behalf of Bonner Carrington on this appeal.

I think that staff reviewed this very carefully, the various arguments on either side of the issue when the challenge was made, and when they made the decision to take away those two points, they published their analysis in the challenge log, and I think it was very well written. I wanted to read that to you to just remind you of the staff's analysis:

The staff reviewed the documentation, included it in the challenge, as well as the applicant's response. The applicant states that they relied on the information provided by TDHCA and should not be penalized for the department's error. Staff found that there were errors in the site demographic characteristics report and that The Springs Apartments was actually in the same census tract as the subject property, however, as staff stated in the frequently asked questions posted to the department's website, and during the application workshops before submission, the staff instructed applicants that it was their responsibility to determine whether or not the application qualified for the points.

In addition, staff determined that it was reasonable for the applicant to have known that another development existed in the same census tract despite the error. The proposed site is only two miles from the existing development and it's located in a relatively small town. The existing property is a short drive down the same highway, visible from that highway.

In addition, the applicant submitted a market study with the application. The study was completed on February 17, and on the third page of the introduction, before the table of contents, the market study analysis identifies the existing tax credit property and it's mentioned again on the first page of the executive summary and called out as being within two miles of the subject property. The applicant did not need to read the entire study but only glance at a few pages in order to know that it existed.

Also, unlike some other census tracts where the boundaries are difficult to decipher, the tract boundary is a major highway, the same highway that runs through the middle of town and it's readily apparent that if the developments are on the same side of the highway, which these two are, that they're in the same tract. Finally, the applicant was required to obtain a resolution in order to satisfy the eligibility requirements under 50.820(a) related to developments with more than twice the state average of units of tax credits, and the existence of this property was the reason for that resolution.

So there you have it. The frequently asked questions said that developers were responsible for checking these statistics, the applicant's market study pointed out this development, the applicant knew or should have known that it was in the same census tract.

And the applicant has talked about being penalized for this error but he's not being penalized, he was never entitled to those two points to begin with, so the department has merely taken back two points that were awarded in error, so that's not a penalty to the developer. It would be like if your bank deposited a thousand dollars in your account by mistake and called you the next week and you said to them: Well, I don't want to give that back, that would penalize me and I relied on your error. So it's the same thing here, we're not penalizing the developer, he wasn't entitled to those two points, and so we're just making the score be what it should have been in the first place.

Thank you.

MR. OXER: Good. Thanks, Barry.

Any questions from the board?

(No response.)

MR. OXER: Another comment?

MR. BUMP: Good morning. My name is Casey Bump and I work for Bonner Carrington.

One thing that Stuart left out was that we are only here for a challenge because staff asked us to.  On March 9 we noticed the error in the log and notified Jason Burr, and I believe on March 12 he replied and said that he agreed with our assessment and that it would be corrected.  And so when the logs came out later in May and the points were not removed, we were forced to go through the challenge process.

Thank you.

MR. OXER:  Okay.  Anything else anybody wants to say?

(No response.)

MR. OXER:  We have a motion on the floor by Vice Chairman Gann, seconded by Professor McWatters.  All in favor?

(A chorus of ayes.)

MR. OXER:  Opposed?

(A chorus of nays.)

MR. OXER:  Okay.  Motion passes three-two with opposition registered by Ms. Bingham and Dr. Muñoz.

With that, we're going to take a break.  It's ten o'clock straight up, let's be back in our chairs at 10:15.

(Whereupon, at 10:00 a.m., a brief recess was taken, and the meeting was reconvened at 10:17 a.m.)

MR. OXER:  All right.  Let's continue.  Jean, we have item number three on your list.

MS. LATSHA:  I do.  Jean Latsha, Housing Tax Credit manager.

The third appeal is also one that you heard at the July 10 board meeting. This is Mariposa at Ranch Road 12, number 12371. This is a development in Wimberley, also right down the road.

This had an issue with community revitalization points. The applicant, in the original application, submitted one resolution for this point and then also the point for economic development initiatives. Staff had a hard time deciphering between the two plans and only awarded the point for economic development initiative and not the point for community revitalization.

At the last board meeting the board directed us to inquire of the city and clarify a little bit if these were two distinct plans, and we did yesterday receive a letter from the City of Wimberley that I will just read to you.

"Dear Ms. Latsha, I am writing this letter in response to a letter from you dated July 13, 2012 relating to a resolution adopted by the Wimberley City Council regarding Mariposa at Ranch Road 12, a proposed 80-unit senior community in Wimberley, Texas.

"Resolution R-01-2012 was adopted by the Wimberley City Council on February 16, 2012. In addition to authorizing the application of Mariposa Ranch Road 12, L.P., the subject resolution designates the area of the proposed development as a target area for community revitalization and the proposed senior housing development as an economic development initiative. The two designations are not one and the same and were included in the same resolution simply as a matter of efficiency.

"The site of the proposed development is a large vacant tract of land located near the center of our community. The identification of this property as a target area for community revitalization represents the city's commitment to encourage new development in an area of the community that has seen little new development in recent years. The proposed development was designated as an economic development initiative with the hope and understanding that the new development will help draw people, jobs and investment into the subject area. Also, this initiative will also help ensure an approved approach to residential development consistent with the City of Wimberley comprehensive plan. It should be noted that the city's ability to offer actual incentives to spur economic growth in the community is somewhat limited as the city currently does not levy a property tax.

"I hope this information helps clarify your understanding of the resolution adopted by the city council relating to Mariposa at Ranch Road 12. Please feel free to contact me in the event you have any questions or need additional information. Sincerely, Bob Flocke, Mayor."

I hope I didn't mispronounce his name.

MR. OXER: Okay. Any questions from the board?

(No response.)

MR. OXER: Is there any public comment? We have to have a motion first. Is there a board action?

MS. BINGHAM ESCAREÑO: I have a question for Jean. Does that letter clarify and meet staff's requirement as provided in the rules?

MS. LATSHA: I would say it comes close. And forgive me, because we only received it just yesterday afternoon.

MS. BINGHAM ESCAREÑO: Yes, I understand.

MS. LATSHA: I think my only question, probably if I had had a chance to request additional information, would be to provide some clarification. It seems to be that the development itself is the economic development initiative which it seems a little confusing to me. There is language in here that seems to attempt to answer our question specifically when they note that they are two separate things.

MS. BINGHAM ESCAREÑO: Let me ask you this then. So based on the information that was available prior to yesterday, staff's recommendation would have been to deny the appeal. Based on what you have now, would your recommendation change, or are you going to leave it up to us again?

MR. OXER: This bus is getting awfully heavy. We've got tire tracks from this bus already once.

MS. BINGHAM ESCAREÑO: I don't know how well that worked last time.

(General laughter.)

MS. LATSHA: I think staff's position was to leave it up to you.

MR. OXER: So the answer to Ms. Bingham's question was there was enough information in there that at least brought your request for denial --

MS. LATSHA: Up to a level of neutrality.

MR. OXER: Okay.

DR. MUÑOZ: You're not persuaded, Jean, by the letter from the mayor that says that these are not one and the same, that they're one for community revitalization and then separately for economic development?

MR. IRVINE: Might I clarify? I believe that the letter pretty clearly establishes that the mayor has confirmed that it was the city's intent to do both a community revitalization activity and an economic development activity. I think staff's hesitancy here is that we question whether the substance of those two distinct activities is present or not, but I believe the way that we have the current QAP drafted and the way that the scoring items are established, we look to the city to make its pronouncement and we honor the city's pronouncement.

MR. OXER: So essentially, the city is saying it has pronounced it as both.

Dr. Muñoz, you had another question?

DR. MUÑOZ: No.

MR. OXER: Okay.

DR. MUÑOZ: I have a recommendation.

MR. OXER: Hold on a second, we'll get there.

How big is the City of Wimberley, more or less?

MS. LATSHA: It's a small one too.

MR. OXER: Smaller than Dripping Springs. I grew up in a town that had no stop lights and only one yellow flashing light. A development like this could constitute a substantial amount of economic development in a community of that size.

MS. LATSHA: I agree.

MR. OXER: Okay. So the city is actually seeing this, while they're not supposed to be an economic development plan that is 100 percent filled by one housing tax credit, that's not the sort of generalized intent we had in the QAP, in this particular case it probably is because the head of that pin is only so big and you can fill it up pretty fast. Is that right?

MS. LATSHA: I would agree.

MR. OXER: All right. Any other questions from the board for Jean?

(No response.)

MR. OXER: Stuart, do you have a public comment?

MR. IRVINE: We need to have a motion.

MR. OXER: That's true, we do need a motion, and I understand Dr. Muñoz might have one. A recommendation or a motion, Dr. Muñoz.

DR. MUÑOZ: I move that we grant the appeal and award the point.

MR. OXER: Okay. Motion by Dr. Muñoz to grant the appeal. Was there a second?

MS. BINGHAM ESCAREÑO: Second.

MR. OXER: Second by Ms. Bingham. Now is there any other comment from the board?

(No response.)

MR. OXER: Stuart.

MR. SHAW: Stuart Shaw, president of Bonner Carrington, applicant.

I want to just thank you for the process and say that in the City of Wimberley there is a very, very large retirement community, many people know that, it is a huge retirement community, and so we've been met with welcome arms. The council voted unanimously and then stopped their proceeding about eleven o'clock one evening to personally thank me for doing this. This was months ago when we took it before their council.

We have now secured a lot of support, we have no opposition, and the big community activist organizations in Wimberley, who we have now met with, are welcoming us. We've agreed on a joint letter that I will issue addressing points that they wanted me to issue. That's all agreed to, I'm about to send that out.

We're 100 percent go in Wimberley, including water/wastewater, site plan that is enormously beautiful site plan, saving tons of trees on this site. This site is behind the Brookshire Brothers store there and when Brookshire Brothers was platted and developed years ago, I think ten years ago, this site was designated and they said possibly we could have a senior community. Since that time maybe three or four people have tried to do something there and failed. So there's a huge need there and we're meeting it and we're 100 percent supported and welcome there.

And I think that you all have probably seen this, but I believe that this does meet the test. I think that next year maybe we tighten this up, to Mr. Irvine's point, and make it more clear to the developers what we mean by an economic development initiative and the other, revitalization. And we're happy to live by those rules, but today I think we live by the current rules and I request that you support our appeal for this point because this point is going to be, as we'll all see as the day plays out, absolutely critical to any possibility whatsoever of us being funded for a project that I think is very, very worthy.

Thank you.

MR. OXER: Good. Thanks.

Any questions for Mr. Shaw?

(No response.)

MR. OXER: All right. No other public comment. There's a motion on the floor by Dr. Muñoz and a second by Ms. Bingham to grant the appeal. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none, it's unanimous. Thanks very much.

Okay. I think we're on item 3(a), and I have a comment to make before we get started on 3(a).

Agenda item 3(a) is a report on the challenges made under this version of our QAP on these tax credit applications, and while I can assume that we have several people in the audience who want to provide public comment, and there's certainly a lot of people listening out there remotely that are interested in the comments that are said, we'll make sure that that public comment is taken. As always, we're interested in what you have to say, particularly on a policy development.

I'd like to point out that for this on a report item, our intent is not to reopen any appeals or challenges or anything that's been denied, this is simply Section 50.10(d)(3), I think, of the QAP provides that the challenge determinations can only be appealed by the applicants. So while we appreciate everyone's recognition and understanding of the limitations on this agenda item, but we welcome any comments that anybody has now, and we'll have a public comment period, we'll open it up for anything that anybody else wishes to say regarding the development of the 2013 QAP which, as soon as Cameron issues the order and we get this one issued and we have the list of those that qualify for the awards on this one, eight o'clock tomorrow morning we start on the 2013 QAP.

So with that, Cameron.

MR. DORSEY: I might sleep in one day.

MR. OXER: We'll spot you that, we'll leave you till Monday.

MR. DORSEY: All right. So as you stated, this is the challenges item, it's a report item. This will constitute our second to last report on the issue of challenges. We have a very healthy respect for the challenge process, it's pretty integral to the application process. We're talking about folks who spend a good amount of money putting together applications, and staff is not perfect, we do miss stuff, and so the challenge process overall is positive for the allocation of the credits.

As I mentioned at the last meeting when we did kind of a preliminary report, we received about 54 challenges, and when I say that,

that's the challenge package that was submitted with regard to each of the challenged applications. The number of items actually challenged were in the 90s.

Mr. Palmer read into the record an example of the due diligence process we go through in reviewing each of the challenges presented. We provide a time frame for applicants to respond to that challenge, and without regard to our prior determination, we look at the series of facts presented on both sides and make an objective determination with regard to the validity of each challenge.

In this case we've resolved all of the challenges presented, save for one, which was a final determination with conditions to be resolved. Hopefully, for presentation at the November board meeting, possibly the December meeting, but hopefully we'll have it resolved and will report on a final resolution or seek board guidance with respect to a final resolution at that November meeting.

That said, I think that sums it up unless you all have specific questions or if there's public comment.

MR. OXER: Any other comments from the board?

(No response.)

MR. OXER: I have a question. Cameron, the challenge process this year, we had considerably more applications this year than in previous years. Is that correct?

MR. DORSEY: We had an increase in the total number of applications submitted. Yes.

MR. OXER: And so we had an increase. Did we have a general increase in the number of challenges?

MR. DORSEY: There was a large increase in the number of challenges. That's right.

MR. OXER: We had 93 specific challenges on 54 projects. Is that right?

MR. DORSEY: Right.

MR. OXER: Okay. And you managed to resolve, essentially, the grand majority of these.

MR. DORSEY: Yes, we were. I think they kind of fall into three categories with respect to a resolution. There's those that staff was very easily able to determine that the challenge did not have merit and that the original staff determination, whatever it was, was in accordance with the rules. Then you have those that get resolved through the challenge process where there may have been a question with regard to a particular issue in an application that the challenger brings to a head and the applicant's response to that challenge provided a resolution to that. And then you had a very small number where those two were not the case and where the challenge appeared to have validity and where the applicant's response did not resolve the issues presented by the challenger that staff felt were valid.

On those issues where the applicant felt the need to appeal because they disagreed with staff's decisions, you've already heard those appeals.

MR. OXER: So as a matter of record, there was sufficient resources, staff and such, and time to be able to address each of those as necessary in the process up until now?

MR. DORSEY: Yes.

MR. OXER: And you didn't have to work till midnight many nights. Is that what you're saying?

MR. DORSEY: I do what it takes to get the job done.

MR. OXER: And we appreciate that for sure this time of year. I think you should sleep in tomorrow, for the record.

Any comments from the board? This is a report item only, Cameron?

MR. DORSEY: Yes.

MR. OXER: Any other comments?

(No response.)

MR. OXER: Okay. 3(b).

MR. DORSEY: All right. So before I launch into the next item, the next item being prefaced by a presentation on the allocation process, I just wanted to say that I stand up here and Jean stood up here this time and you all get to see us and the audience gets to see us and everyone watching over the internet gets to see us speak, but I sound smart because of a whole bunch of other people -- assuming I sound smart.

(General laughter.)

MR. DORSEY: -- a whole bunch of other people that provide guidance and advice to me. When you all hear me speak on an appeal, hopefully it sounds like I know what I'm talking about, and that's only by virtue of having staff sit and advise me on all of the different circumstances surrounding these issues because they're the ones that do the work. And we've got a staff of 13 or 14 in the program area that do this work, and then we've got a real estate analysis division that does the underwriting for all of these transactions, producing 11 to 15 page reports on each one, very diligently reviewed applications. And so, you know, it's their work at the end of the day that makes this all possible.

So I just wanted to thank our staff, both the program area, the real estate analysis area, and all the other folks at the department that put in a lot of time and effort, including Tim and Barbara. Barbara is an unbelievable resource for me.

MR. OXER: Well, and let me add to that I'm particularly gratified to have the quality of the staff that we have in doing this because, like you said, if it was easy -- you've got all the easy decisions made and when you come up here this is something that's critical. So we appreciate it being sorted out and the write-ups on each one of these.

Knowing, as I do, what's about to come, I'm going to invite everybody at the dais to take a seat in the audience so they can see the information that Cameron is about to present. You're welcome to come up here or stay at the microphone, it's your choice, Cameron. We'd like to be able to see what's behind us too, so we're going to sit in the audience and watch for a few minutes.

(Pause while the board members took seats in the audience to watch the presentation on the screen.)

MR. DORSEY: All right. So we have a couple of pretty tough decisions to make before we do the award approval board item, and hopefully, we'll get some of these final issues resolved, but I put together a power point presentation -- so everyone knows, there are about 26 slides -- and the reason is because the allocation process is relatively complicated. It's fun for me and Jean to some extent because it's like a puzzle and I like puzzles, and I also like Excel and math, I'm a geek like that. But I wanted to walk everyone through what we do in a relatively organized manner.

The basis for this presentation is a piece of the board book, it's called the accounting summary. I don't know if you all picked one up at the front, right outside the front. Do you all have them or should I go grab some?

All right. I have three main objectives in walking you all through this presentation. One is just to walk through the steps of the allocation process so you know what kind of diligence we've done to get to our final award recommendations. The second is to show you the actual step-by-step process, and then ultimately convey staff's rationale for the award recommendations that will follow this agenda item, particularly related to those subregions that went into the final step of the allocation process 100 percent underserved and staff had to look at how to structure a recommendation when we had insufficient money to hit all of the 100 percent underserved regions. So we're going to walk through the process, and at the end I'll get to a point of conveying that rationale and showing you the outcomes.

I'm also going to walk through a couple of alternatives that it's very likely you all will hear from the speakers but I wanted to give kind of something tangible to grab onto so you can see what the actual effect of those particular speakers' perspectives are.

Next slide. So this is the accounting summary. You can't read it. I want you guys to have it, and Michele is coming around right now with it. It's a big spreadsheet that's pretty fun to play with, but I think you should take a look at that while we're walking through this, if you've got it. So this is the accounting summary. Basically, it shows a few things. It shows how we allocated resources initially to each subregion, and then what folks could apply for, and finally, the summary of the actual outcomes.

Next slide. All right. The first three columns specifically relate to the geography we're talking about, which subregion. As you all know, we have 13 uniform state service regions, and these 13 regions are divided into urban and rural areas, forming 26 what we call subregions of the state. Now, these uniform state service regions are specifically effectively designated in statute and the division of those into urban and rural areas is designated in statute, as well, in 2306.111(d). It specifically directs the department to divide funds up between these 26 subregions.

As you all also know, we have a couple of set-asides, the at-risk and USDA. Those are separate and we'll talk about those a little bit later on. Right now we're going to deal just with the pools of the regional funds.

Next slide. All right. So the first column with numbers, percentages, and it's called the RAF percentage. Well, what is a RAF? The RAF is the Regional Allocation Formula and it is a formula that's approved each year prior to the beginning of cycle, prior to the application period starting, and generally it gets approved prior to the QAP or around the same time. So late last year, late in 2011 the board approved what the Regional Allocation Formula looked like.

Now what is it, what is this RAF percentage? I'm going to give you a basic summary because it's a pretty big spreadsheet and it's a pretty big formula to walk through and there's a description of it that's several pages long. But in essence, what we do is we take a look at the need within each of these 26 subregions relative to the need -- well, it's a relative need kind of percentage that you come up with. So for example, it would be the relative need of Rural Region 1 versus the other subregions in the state.

Well, how do we look at need? We look at census data and data related to persons in poverty, substandard housing, those types of things. And like I said, it's relative, it's relative to other areas of the state. Obviously, larger regions would, relatively speaking, have more need than smaller subregions, generally speaking. But the actual use, instead of population, the use of some of these other factors helps refine that need a little bit better than just a strict population base kind of calculation.

Then what we do is we take that percentage, the relative need of each subregion, and we compare that to the resources available within that subregion. Well, what kind of resources are we talking about? In the case of tax credits, we're talking about other rental affordable housing resources, so things like the Section 8 voucher program, or the project-based voucher program, or USDA 515 financing. Those are other affordable housing resources that get factored into the resources available to any particular subregion.

Then we do a comparison. So if the need is X and the resources that are available to that subregion relative to other subregions are disproportionate to the need, then the formula attempts to make a correction and allocate more tax credit resources to that region to accommodate that unserved need or that relative unserved need. So ultimately we get to a percentage, and I've labeled it here as RAF percentage, so that's what's in the first column. It's kind of the basis for the rest of the calculations that will follow.

Another really important point is this is determined on date-certain. When the board approves the Regional Allocation Formula, we have the data available, we set that at a point in time. Things change, everyone knows that. I would hate to be the one trying to track the weekly changes in the Section 8 voucher program and where those folks move. So it's set prior to the calendar year and it's applied uniformly throughout that calendar year.

Next slide. The next column is the RAF amount, and what you do here, basically, is you take your new tax credits available to the state -- when I say new, what I'm talking about is the tax credits that we're aware of on effectively January 1 and which get adjusted by the IRS based on population numbers that they publish early in the year, and that's distinct from any credits that may be returned from deals previously awarded and returned in this calendar year.

So let me give you an example real quick. If we had a deal that was allocated credits in 2010 and they placed in service on let's say January 1 of this year, and then they submit their cost certification, and lo and behold, they're returning $10,000 in tax credits, well, those credits get accounted for a little bit later on, and I'll talk about that in a second.

So this column takes the new credits that we know about that the IRS is making available to us for this calendar year, and it divides it up based on those RAF percentages. Returned credits and forwards are accounted for separately, and so we'll talk about that in just a second.

Next slide. The next two columns are where we account for forwards. Obviously, the board awarded some of the 2012 funding that we were going to make available during the 2011 calendar year via the process of forward commitments. We're all very aware of the forward potential for this year, but last year the board made determinations to forward commit some of the credits. The total amount was somewhere in the realm of between $8- and $9 million, ultimately, is where it fell out after underwriting and everything was forward committed. And we need to take that into account because those credits aren't available for us to award this year, so what we do -- and this is laid out in the Regional Allocation Formula that the board approved -- we take those credits and subtract them from the RAF amount, the amount that we initially see is needed in that subregion, we subtract the forwards out of that amount.

Now, you'll see the RAF amount after forwards. In many cases you have negative numbers. Well, you can't allocate negative money, for one thing, so that really gets accounted for by taking money out of other areas of the state to accommodate those forward commitments. The same thing happens every year when we regionally allocate money as well. Money shifts around a little bit based on how much folks apply for, how much they need to make their deal feasible, et cetera. So it's not like we set up a number, boom, at the end of the day that's the number that gets allocated to the region. There's some adjustment and everything that occurs. So we account for forwards.

Go ahead, next step. The next two columns account for funds returned, tax credits returned during this calendar year, during 2012, so basically, I've got letters in my files that say, you know, dated June 20 we agree to return $20,000 in credits, and we look at it and determine if we are able to reuse those credits in this calendar year's allocation of credits, and we add that back to where it came from. So we had this static thing, and those funds were held against that region in terms of when we were talking about the affordable housing resources that were available to them. Does that make sense? Those credits were held against them at some point.

So what we do is we take that and we account for that by adding it back, we give them those credits back, we put them back where they came from. So here's an example, 2010 award, recipient returns $10,000 in credits, originally awarded from Rural Region 2, then we would give those credits back to Rural Region 2 and add it to the adjusted amounts here.

We've gotten about a million dollars in credit returned thus far, and it's very likely that going forward we'll have some more credit returned and we will account for that credit in a manner that's consistent with the allocation process the board approves today to ensure that we're able to serve any applications on the waiting list. So we have a RAF amount after this adjustment and after the forward adjustments, and that's in that second column that's part of that red circle there.

Next slide. All right. Now, statute committed us to one thing, statute committed us to making available at least $500,000 in every rural subregion. That's in 2306.111(d)(3), and so that is a statutory requirement, we have to make those funds available, at least $500-. Well, this year as part of the RAF approval process we had public comment, we worked through a very public process, and ultimately the staff recommended and the board approved a process where we set aside $500,000 in credit to allocate in each of the 26 subregions, whether it was rural or urban, and despite forwards. So if you got a million dollars in forward commitments last year -- and this is different from prior years -- we said, Look, we're going to make a noble attempt to set aside some money for you all anyway and try to allocate that to new 2012 applications submitted within these regional competitions. So you'll see an adjustment column here that increases the amount where necessary to get subregions to $500,000.

Well, the question is where does that money come from. Right? Because we only have a certain amount of money, we can't just add money to it. So that money comes from other areas of the state. So the next column shows a column where we reduce the adjusted RAF amounts in each subregion that's over $500,000 to move money to those subregions that were initially under $500,000. And so if you were to see the total of each of these columns, they'd be the same dollar amount.

The next question is, well, how do we make the adjustment, how do we determine how much to take from a particular subregion and reallocate to these subregions that are below $500-. And the answer is we do it proportionate, we do it based on the RAF percentages in the first column. So we try to take proportionately from each subregion, so a subregion with a smaller amount of money isn't giving up the same amount of money as a subregion with a lot more money. So it's a proportionate reallocation of some funds to get everyone to $500,000 minimums.

The final two columns are the final funding amounts, and this is the final amount that we make available in each subregion. Now, it changes over time and it has changed since we originally posted this chart. This chart was posted by December 1, I think it was actually a couple of days before, but we posted this chart and we posted one more column that shows the amount someone can apply for, and we'll get to that in a second. But these reflect adjustments based on credits returned during this calendar year to date. We try to account for everything we know about. So we've got these final funding amounts and these are what folks are applying for, these amounts are what folks are applying for within each subregion.

So here's kind of a summary of that information. It's on the chart you all have, but I took out all the middle pieces. We've got the geography there which is each subregion, we've got the final amount that we made available for each subregion, the percentage of the total that that represents, and then this last column is the max funding request or award limit, and that's the maximum someone could request.

As you all know, many people were a part of the QAP approval process, I know TAAHP made public comment with regard to the 150 percent limitation. Basically, what that means is we allowed folks to apply for up to 150 percent of what was made available initially within each subregion. An example. $500,000, let's say we made $500,000 available within a subregion, we allow folks to apply for up to $750,000. Now, where does the other $250- come from? I'll tell you that in a second when we go on. That's part of how the allocation process actually works.

So these amounts are posted right there, they're on our website, and those don't change. We set those per the QAP as static as of December 1 so that people would have certainty what is the actual application limitation.

Next slide. All right. You'll see up in the top left corner there I switched locations on the chart, and I'm providing the sum totals here broken out for you all, and they correspond with each column in the chart. And so I broke it into rural and urban and then we have the regional totals which are the sum of the rural and urban totals, and then we have the at-risk which represents 15 percent of the ceiling. USDA is this kind of sub line item that's grayed out because it's a part of at-risk, and it's important to separate it out because they could have a USDA deal return credits and if that happens in this calendar year, then those credits go back to the USDA pot, and that did happen which is why it's very explicitly grayed out and separated out for everyone to see. And then we have a grand total there.

Now, the total in the first column over there reflects a little over

$56 million. That's the new money we're getting, but we have some returned money and that's reflected in the column Returned During 2012 Calendar Year. You have to add those two columns up to get the actual total credits we're able to allocate this year. Obviously, some of those have been allocated via forwards, so you would subtract that out. But you'll see $57 million is how much we have total, well, that's because it's $56- plus the million.

Moving on. All right. Next piece of the chart. This is our summary of the recommendation outcomes. It's broken off a little bit separate and in columns that represent steps in the process. The first major column is this initial funding column, and when we do the initial funding, when we select applications initially, we go through and we only award up to the amount we originally made available. So let's do an example. If we had a subregion with $500,000 available and someone applied for $500,000 and they were the highest scoring application within that subregion and there was no nonprofit issue or other issues -- you know, conditionalize everything here -- then we would set that application aside for a recommendation. They are the highest scoring app, they applied for what was available, you get hit initially, that's a pretty simple thing, it's a lower risk kind of proposition than applying for more.

So we let folks apply for 150 percent of what's available within a subregion, so let's do an example there. We make available $500,000, someone applies for $750,000, we go through, we hit that type of subregion and we say: We can't award you yet; we set aside $500,000, you applied for more, you guys get to compete in the collapses that happen later on with other subregions that are, quote-unquote, underserved. So that $500,000 kind of stays there for a sec, we don't select an application out of that subregion.

You'll see that the next column is Over/Under. So over in parens, meaning negative, is where there's any negative percentage, that means we've gone over the amount we initially made available. Well, this column shouldn't have negatives based on what I just said. Right? Because we don't award more than what we have available. But there are two negatives, and let me explain that real quick. That's a step that's actually separate in the allocation process but I rolled into here for ease, and that's the selection of nonprofit applications.

We had to, at the end of the day, when we ran the process we didn't hit our nonprofit set-aside, and what we had to do is insert a step, basically -- per the QAP, it directs us to do this -- a step in the process where regardless of the amount we made available within a subregion, what we're doing is selecting the highest scoring nonprofit application statewide and we're doing that until we hit the 10 percent. And so there are a couple where we went negative right there. That money ultimately gets kind of sucked out of statewide collapse to make sure we satisfy that set-aside, but if you see a negative number there, it's because of a nonprofit app, that's the only reason.

Underfunded, the underserved, underfunded is a percentage, so if we set aside $500,000 and we didn't hit an application in that subregion because the highest scoring app applied for more than that, then we would obviously not award any money and it would be 100 percent underserved. So where you see 100 percent in those columns, it means that we weren't able to award any applications, we weren't able to select any applications for recommendation during that kind of initial run through.

Next slide. Second column is the rural collapse. Pursuant to statute, the rural collapse is something that's distinct and separate from what we term the statewide collapse and happens first. And basically rural areas are afforded a certain amount of protection and everything under statute, and like I said before, statute directs us to have a $500,000 minimum available within each subregion, and it also directs us when we can't award an application with a particular rural subregion, we make that money available first to other rural subregions, and that's what it directs us to do. There's another 20 percent requirement 20 percent of our overall ceiling has to go to rural areas. We're not going to kind of complicate this with that factor. Suffice it to say that we meet that requirement and we've checked it and everything.

So the rural collapse money comes from all the money that's left after that initial step in the rural subregions, so like I said, if you had $500,000 available, we couldn't hit anyone so we weren't able to select an application for award, then that whole $500,000 falls over into what we term the rural collapse, gets pooled with the other residual amounts from the other subregions. In some subregions it will be just a little bit. For example, if we had $1.5 million available, someone applied for $1.4 million and that was the highest scoring app and we selected it during that initial stage, $100,000 would fall over to the rural collapse and get combined into this pot.

What do we do with the pot? We select the most underserved subregion as a percentage of what we initially made available. That's the way the rule reads so that's what we do. When we made available $500,000, if we couldn't award anything, then obviously zero over $500,000 is zero percent, we weren't able to award anything, so it is 100 percent underserved, and you'll see varying percentage underserved there based on whether or not they got an award during that initial step or not or got an application selected.

Obviously the 100 percent underserved regions would be the priority regions for award, and I'm going to come back to what if we don't have enough money to hit each 100 percent underserved subregion in this step, because if you're looking at your chart, you could kind of extrapolate that we get into that position. So let's go on to the next step and we'll come back to that whole issue.

All right. Now the statewide collapse. When we do the rural collapse, at some point we're going to have a little residual amount there because we might have $400,000 left and the next application that would be in line to get that funding requested more than that. Well, we don't do little halfsy awards, these deals need what they requested, so that amount falls over into the statewide collapse, along with all the residual amounts that we initially made available and that are not going to applications selected in that initial process, so those residual amounts fall over and we've got this big pot of money now available to select more applications.

And we do the same thing we did in the rural collapse except we do it between all 26 subregions, meaning rural gets, quote-unquote, another bite at the apple is I think what I've heard folks term it before, and compete for this statewide money with the urban subregions. We select the most underserved subregion first, so those subregions that are 100 percent underserved, we go through and select those.

The question is what if we can't hit all of the ones that are 100 percent underserved, what do we do? Well, we haven't actually gotten to the stage we're at now where the director of the Tax Credit Program is up speaking and has a recommendation on the table and we haven't hit every one of those. There was never really a question at the end of the day. There were a couple of times when we thought we might be in this type of position but we never actually got to a final resolution or recommendation with regard to what a recommended resolution would be. But that's the situation we find ourselves in.

Go ahead over to the next slide. And I'm going to come back to that whole problem here in just a moment, I just wanted to finish out what's on the chart here. Then we have a summary that kind of lays out the major set-asides we're talking about and shows you based on the applications we selected to be recommended through that regional allocation process, this is what the outcome would be, the overall outcome, the totals. You'll see the total funds down there is $57 million, like I said, it's not $56-, the $56- plus what was returned. A portion of it went to forward commitments, you'll see that, $8.3 million. And so we go through and verify that we've met our set aside requirements and try to kind of provide an overall summary of where is this money going. So that's the little box kind of in the bottom right-hand corner of your spreadsheet. Sorry for the size of the spreadsheet. It's complicated and lots of numbers have to fit on there.

So here we are. You'll see at the bottom there we have remaining funds, $498,000. That basically is the amount we had after we ran through that whole statewide collapse, we had a little bit of money left but it wasn't enough to do the next application in line which happens to be $750,000. So what we do is we take that $498-, we hold on to it because stuff happens, between now and the end of the year, all kinds of stuff can happen. We can have folks that got an award return credit and the next application in line requested less, so some of the money flows back to this pot and we ultimately get to an amount that we can select one more, two more applications.

We also get national pool. National pool is basically unused credit from states that weren't able to allocate at least 99 percent of their ceiling. We've got a 1 percent grace that the IRS and Treasury give us, 1 percent de minimis amount. So at the end of the year we need to make sure we award 99 percent, and that might exceed 1 percent at some point. Right now it's not, but might at some point, and we would have to work with someone to get that last residual amount out and awarded and everything. That's laid out in the recommendations item how we do that.

So next. So here's the question of the day and why this item exists. How do we choose between two subregions, each of which is considered 100 percent underserved if we only have enough funds for one of the subregions? Now, in this case we go in with eight 100 percent underserved subregions either in the rural collapse or in the statewide collapse. In total, we have got eight; we don't have enough to do eight.

Next slide. We have going into the statewide collapse $4.6 million and we need $6.4- to hit everyone. So we don't have it. We need to know how do we determine which subregions to go to, which ones need it the most. Now, that's very distinct from selecting an application. This step of the allocation process directs staff to go to the most underserved subregion, it doesn't direct you as to which application to go to, it's telling you how to select a subregion. Once you select a subregion, you select the highest scoring app, you go through the tiebreakers, et cetera. But there aren't any tiebreakers in the QAP for determining which 100 percent underserved subregion to go to if you can't go to all of them, and that's really where our problem lies. We ran out of rules, effectively. Shocking. Right?

(General laughter.)

MR. DORSEY: We've got six steps and we needed seven. So that's the situation we're in.

Next slide. So staff recommended tiebreakers. Staff developed a recommendation on how to deal with this, and we looked at all kinds of sources for determining what the recommendation would be. One major source is statute, and statute requires that we equitably allocate tax credit resources among each of the subregions. That's general, overarching. Theoretically, we may have achieved that when we tried to do that by setting out how much we were making available in each subregion, but it's an important point, it's an important data point for us in devising a staff recommendation here.

Let me go through what the recommendation is. So we proposed we look at subregions that did not receive forward commitments first. Why? Well, they go that award last year but those subregions are getting 2012 money. It's not factored into how underserved it is, but it is a logical extension of that obligation to look at how underserved a subregion is. It's also a logical extension of the idea of equitable allocation of resources. So we said, All right, makes sense, these subregions, they got a forward, it's 2012 money even if the award was made last year, they're getting some money, so let's go to the ones that didn't get a forward first, let's go to those first. So that's what we did.

Well, we needed some more factors because we still were running out of money and we kind of hit all of those that did not get forward commitments, and then we were still left with some that did get forward commitments, and all of them got forwards, so we had to choose which one of these do we select now. And we said, Well, if you got a forward and if you got an at-risk or USDA recommended application from this year's cycle, then that's going to be our second factor. So you know, the at-risk and USDA set-aside is separate and distinct, but the fact remains if you get a USDA award for an application in let's say Rural Region 7, then you got some 2012 money. So it goes to that equitable allocation of resources, again. We're trying to spread these credits throughout the state and among the subregions, so we felt that that was also a logical extension of this concept of how underserved a subregion is and was worthy of consideration as a second tie-break factor.

And we said those encompass the two most logical mechanisms we see as carrying out our statutory obligations. We could still do one last subregion, and so we said, All right, at this point we're going to look at scores and we're going to look at the tiebreakers for the highest scoring application within that subregion. Because we felt like we had pretty much achieved through those first two that equitable allocation of resources in going to what's in the QAP. Now, it doesn't say we'll use it for this, but we're proposing we do in our recommendation as the third and fourth tiebreakers within this, and we were able to tie-break between two subregions that were in this situation. In this particular instance it came down to the credits per bedroom tie-break factor, and that's how we selected between those two. And that was the last, that was it, we were out of money at that point. So that's how we got to these tiebreakers.

Now, there are going to be several people that stand up and make public comment, and I feel the need to kind of lay out staff's position, back up for a second and lay out staff's position. Why does staff believe that the QAP does not direct staff explicitly to rely on score and tie-break factors that are already reflected in 50.6(f) of the QAP? The reason is because those tie-break factors do not speak to ties between subregions that are equally underserved, they speak to selecting an application between two tied applications. Yes, it does say we will use it in the statewide collapse, it says we'll use those tiebreakers in the statewide collapse, but what it's saying there is, and what's staff's interpretation and what we've run through with our general counsel and our legal advisors is that when it refers to statewide collapse there, what it refers to is once a subregion is selected as most underserved, how do we choose which application at that point, we may have to do a tiebreaker at that point.

So that's what staff firmly believes the tie-break item speaks to. We feel like the recommendation is firmly grounded in statute, firmly grounded in the QAP and that the QAP does not explicitly direct some action that we are not following. So we don't feel that that is the case, we feel that this is a solid recommendation.

Now, I'm going to provide some alternatives because you all have the ability to go a different direction if you all want. Like I said, we ran out of rules here so we need some direction. Our staff recommendation is not the only option.

All right. Let's go to the next slide. So this is the outcome, and I did something very specific in this chart and I know you can't see all the numbers here but I've highlighted the subregions that don't get -- and I'm going to term this very carefully -- new 2012 money for a new 2012 application participating within the subregion competitions. Why do I say it that way? Well, because each of these three subregions that don't get that new money for a new 2012 application participating in the regional competition, they did get other money, other 2012 money. So we've got a column there and the first column is forwards made during 2011 and we reflected where that money came from, and then the second column with numbers reflects the at-risk and USDA recommendations for today and what subregion that money represents or where that deal is going to be located, where that money is ultimately going.

And then we reflected what staff's recommended regional awards are based on that philosophy and that allocation process, the tiebreakers that I talked about on the last slide, and I reflect the final outcome here. And the final outcome, what you will notice is there are no zeroes so we felt like, we looked at this and we said, Look, this is achieving what our obligations are, to equitably allocate resources, to try and get new money, 2012 money into every subregion of the state, to spread it out. All right? So we do have some money in each subregion.

Now, the three subregions that don't get the new 2012 money for new 2012 applications participating in the region pools, those three highlights, I've got little notes that reflect why the highest scoring application in that subregion didn't ultimately get selected.

Region 7 Rural is one of those. That's the Austin area, and so we're talking about the Dripping Springs and the Merritt application and the Bonner Carrington application in Wimberley here, that subregion. They got two forward commitments, they were for disasters, there's a Bastrop deal and a Giddings deal, they're also getting two at-risk recommendations, so that was a consideration, so they're getting four awards in that subregion, 2012 money is going to four deals that will be located in that area, that's a fact. Okay? And under our formula that's why they've got orange up there in the third numbers column and they're not getting any more money. When we ran through those tie-break factors, they were one of the last three on the list.

Then we've got these other two. These other two lose because, number one, they got forward commitments, but both of them got a forward commitment, so we needed to select which one -- well, we had another one, Urban 2 was also participating in this whole deal -- we had to select which ones we could versus which ones we wouldn't. We ended up going to the credits per bedroom tiebreaker. I apologize, I said one we tie-broke that way, it looks like two, ultimately, are not getting recommended for that reason. But the fact remains both of them got forwards of 2012 credits, so ultimately, those subregions will get units with 2012 money. So this is a reflection of the outcomes based on staff's recommendations.

Let's go to the next slide. I have "Questions" here but I don't think you guys have microphones in front of you, so I'm going to go on to the alternatives, and then once we swap around, we can chat about questions, if that's all right.

This is Alternative 1, and I've got the light green up there for two of the subregions. Those were ones based on staff's recommended methodology that didn't get money and in this alternative those two do get money and two other ones don't get money. Urban 12 still doesn't get money under this one and it didn't get the new money for 2012 application under the last methodology either. But in this one, this one is based on a belief that staff had an obligation and the board has an obligation to utilize the existing scores and tie-break factors within the QAP now. Now, like I said, staff believes that our recommendation is firmly grounded in the statute and the QAP and we don't believe that that is an obligation that the board is bound to in making its decision today, but given that it was an alternative that would likely be discussed, I went ahead and ran the numbers.

What you'll see is Rural 13 does not get any money, any 2012 money of any kind. Well, why? Well, it had the lowest scoring highest scoring application in the state -- if that makes sense. Basically, within the subregion it was the highest scoring but it was one of the lowest scoring overall statewide, and ultimately, when it went into these tie-break factors, it lost on score alone. And then you'll go down and we carried out that process to get to what the outcome would be, and in this case, two subregions get no 2012 money.

Now, folks have made some good points to me that I just thought I'd point out. Going to scores could be a bit problematic directly to scores rather than going to this logical extension of how underserved a subregion is because scores within a subregion are relative to other applications within that subregion. El Paso, the rural area of El Paso, it may be more difficult to get a 219 application submitted in that subregion than in another subregion. So this process, I do have a bit of concern, would result in kind of some subregions that just have different demographic characteristics, different characteristics for the property there and different stuff going on. It would be more difficult for them to just compete naturally in this type of process. But that's one of the alternatives.

Alternative 2. There's one more that I've heard of, and as you can imagine, these alternatives primarily arose through phone calls to me from folks that weren't getting an award in the staff recommendation. So in this one, Urban 12 gets an award, and in the first two they didn't get an award, so this is a resolution or a process posited by the applicants within Urban 12 to use rather than those other two.

And what they're suggesting here, and you kind of have to go back to your accounting summary, but what they're suggesting is we look at the amount of the forward relative to that initial RAF amount and determine basically on those amounts who would be the most underserved as a percentage using the forward amount and the RAF amount.

When you do that, it's kind of interesting, and there are a couple of distinct reasons staff didn't look at this. One, the forwards were not made with regard to the amount of the forward and how much that forward would and how many units it was going to produce. It was basically a deal-specific, the characteristics of this deal, the need in this community or what-have-you -- those were explained at the board meeting where forwards were made -- but those forwards were made for other reasons.

Second, if you look at it, every one of them ends up with an overserved number. When you do that calculation, none of them are considered underserved, all of them would be competing to be the least overserved. And once you hit served, we felt like, all right, that's the point at which it starts to become a little bit illogical how overserved are you and we're going to go to the one that's the least overserved.

And the third reason is simply because that process, which column do you use: do you use the RAF amount before forwards, do you use the RAF amount after the returned credits, do you use the $500,000 ones after the adjustment for the $500,000 was made? There are a number of options you could go with there, and we couldn't really come up with a solid reason to go with one versus the other, and the process we've laid out is logical, rational, easy to explain and achieves the intended outcome.

So it is a slight variation on what staff's recommendation is and it does result in every subregion getting funds, but there are some questions there and staff didn't feel like there was an overwhelming reason to choose this type of option versus going with a straight up did you get one or did you not.

That concludes my presentation. So we've got these three options, we need a resolution to this item, some board direction with regard to what we do, and that's where we're looking for your guidance. I fully expect that there will be a lot of public comment on this item. I'll say a couple more things and then I'll be done.

One is this recommendation was developed kind of independent of the deal-specific characteristics. What we were looking is which subregion to choose. That's a distinct difference from which application to choose. That's very important, we weren't looking at the deal-specific characteristics. And you might hear some compelling reasons for why one deal in a subregion is better than another deal, but we felt like what we're really doing here is choosing between subregions, not deals, and we made a recommendation independent of those deal-specific characteristics.

Let's see, what else was I going to say? I'll leave it at that.

MR. IRVINE: I'd just like to point out that although a tremendous amount of thought and everything goes into this, and when you put something in an Excel spreadsheet it looks like it's got finality, but there is always a degree of overhanging uncertainty, some of it's positive, some of it's not. We have to meet our nonprofit set-aside because of the way that it serves as a limiter on utilizing all of the available credits, and this makes some assumptions about the nonprofit deals and where they stack up in the queue. If nonprofit deals fall out and we've got to go to other nonprofit deals to meet the nonprofit set-aside, we have to go where those deals are.

I mean, just to pick a random example, if you needed to do three nonprofit deals and the only three applications were in Round Rock, you'd be doing three deals in Round Rock. So that's an important caveat.

(Pause while the board members returned to their seats on the dais.)

MR. OXER: Okay, Cameron.

MR. DORSEY: Yes.

MR. OXER: Incredibly detailed. I just wish my job was as easy as yours is most days.

This gets down to how you select a region for allocation, not for any award on a project.

MR. DORSEY: That's what our recommendation is based on.

MR. OXER: That's the recommendation, but in terms of this being a RAF, this is the formula for setting how much is available in the regions, not for selecting any application within a region, per your recommendation.

MR. DORSEY: The component that we're dealing with and that is in question, that is correct.

MR. OXER: Dr. Muñoz.

DR. MUÑOZ: We're trying to decide which of the eight underserved subregions.

MR. DORSEY: That's right, yes.

DR. MUÑOZ: And you're saying that the language related to tiebreakers in 50.6(f) does not apply to the statewide collapse for equally underserved subregions which would be these eight.

MR. DORSEY: That's right. It speaks to selection of applications and step 5 in the allocation process speaks to selection of a subregion, and so that's what we're trying to address. Like I've laid out, it's possible that we do that through the application of these tiebreakers by looking at the score of the highest scoring application within each of those 100 percent underserved subregions, but we're suggesting that that has an outcome that's not as equitable, ultimately, as looking at other logical extensions of this concept of how underserved a subregion is.

MR. OXER: Any other questions, Dr. Muñoz?

DR. MUÑOZ: No.

MR. OXER: Any other questions from the board?

(No response.)

MR. OXER: I need a board action to proceed. And staff has a recommendation according to the original distribution that you showed, and we'll have comment after this after we get a board action on the item, but with respect to the development of this, I recall the last year we spent a lot of time on this and there was quite a bit of public comment saying essentially that we got it right. This is just something that we came to that is a consequence of some of the distribution and the forwards that were made. We couldn't anticipate this outcome.

MR. DORSEY: Right. I think you may hear that some folks could have maybe anticipated the outcome, but there are so many factors that go into this, how much in a particular subregion falls into the collapse, and this year in the Dallas and the Houston subregions, we get up to basically only having 1 percent of the money or 2 percent of the money that falls into the collapse, and that's pretty unusual for that to happen. So there's a confluence of several things that put us in this position. One is forwards, one is how we chose to address the $500,000 minimum in light of those forwards. We in the most noblest of attempts tried to make money available in those subregions to award despite that, and simply, we got to a result at the end of the day where we couldn't hit everyone and we didn't anticipate that.

And lastly, any of these three subregions, an applicant applying in them could have chosen to apply for what was available, and if they didn't apply for more than what was available, if they just applied for $500,000, then they would have been selected in that initial run through. Every time someone applies for more than what is available, they take a risk. It is a risk that they will not -- it's factual that they effectively will not get selected through that initial run through and that they will be competing in the statewide collapse and the rural collapse.

Now, I will tell you that I answered a question at the beginning of cycle related to how we would calculate the percentage underserved, and I specifically said we would not include forwards within the calculation of the percentage underserved and we're not. We're dealing with ties of 100 percent underserved subregions. Any answer I gave was specific to that question alone and was not meant as an extrapolation of we won't hold forwards against you in any manner whatsoever, ever, ever, ever. So that's a clarification if that comes up.

MR. OXER: And just as a point of clarification, holding it against somebody that you gave them some money early ahead of the process, that doesn't exactly sound like it's holding it against them, is it?

MR. DORSEY: Well, they were looking for guidance, and I gave them guidance that we're following. We're in a situation where we're not holding, quote-unquote, against that subregion in terms of the percentage underserved. What we need, thought, is a next step. And it is a logical extension to consider forwards, it simply is, as a matter of fact.

MR. OXER: The forwards represent an allocation of 2012 money.

MR. DORSEY: Exactly.

MR. OXER: That's part of this allocation, period.

Before we receive public comment or any other comment or any letters, which we have, we will need a board action.

MS. BINGHAM ESCAREÑO: Mr. Chair, I'd like to move, of the methodology presented and the two alternatives, I'd like to move to approve staff's recommendation for their first methodology.

MR. OXER: Good. Okay. Motion by Ms. Bingham for the first methodology presented by Cameron. Do I hear a second?

MR. McWATTERS: Second.

MR. OXER: Second by Professor McWatters.

Okay. Michael, do you have some letters to read into this?

MR. LYTTLE: Yes, sir, I have several letters to read into the record.

The first comes to us from State Senator Jeff Wentworth. It reads:

"I wish to express my grave concern about TDHCA's recommendation to allocate housing tax credit awards such that no funds are awarded to Rural Region 7.

"At the beginning of this application cycle, TDHCA agreed that each region would be eligible for at least $500,000 of funding, regardless of forward commitments that had been issued in the 2011 application cycle. Based on that understanding, the City of Dripping Springs has worked closely with Dennison Development to plan a housing development that is desirable and appropriate for the city. To tell the city now that the funds will not be available is inequitable.

"Further, the forward commitments that were awarded to Rural Region 7 in the 2011 application cycle were awards specifically to address disaster relief associated with the Bastrop County fire. This was an important use of the funding for an extraordinary situation, but it should not penalize other communities in the area who were counting on this funding to serve their affordable housing needs in 2012.

"I respectfully request that you reconfigure the allocation list to honor the original concept that each region would have an available allocation of $500,000. If this is not possible, I ask you to establish a priority waiting list such that any unused or returned tax credits go first to Rural Region 7 for this negative impact instead of going back to the regions from whence they came. Sincerely, Jeff Wentworth."

The next letter is from the Midland Chamber of Commerce. It reads as follows:

"Midland is experiencing economic and population growth on an extremely high level and the Midland Chamber of Commerce is excited to have the opportunities available for people to work. However, our community is faced with a severe housing shortage which is affecting our ability to recruit and sustain an available workforce. We're working towards solutions that will be beneficial to our community, both immediately and long-term. One solution is the construction of the Brownstones Midland in our downtown area which is dependent upon housing tax credits that we understand may now be in jeopardy.

"It has come to our attention that the Region 12 Urban subregion may not be awarded housing tax credits this application period through the 2012 Competitive Housing Tax Credit Program. While we understand that commitments were made during the 2012 cycle, we believe the proposed course of action would delay development projects such as the Midland Brownstones from being built. This is a course of action that would inhibit the growth of industry in our community and in the long term would prove detrimental.

"We respectfully request that the board consider the Midland Chamber of Commerce's full support for the award of 2012 tax credits to Region 12 Urban. Thank you for the time and effort you dedicate to making this important program successful."

It's signed: Chris Robbin, Chairman, Board of Directors, and Robert Burns, President and CEO.

The final letter here is from the mayor of Midland, W. Wesley Perry. It reads:

"Due to the unprecedented events in this year's allocation process, I would strongly encourage the board to take into consideration Midland's dire need for affordable housing. A decade of incredible economic growth has outpaced the expansion of our housing stock, and this situation is making it difficult to attract and retain those honest and hardworking Texans that support the day-to-day functions of a city. These workforce families simply cannot keep pace with the rising cost of housing here in Midland and the surrounding West Texas cities.

"In addition, the Brownstones Midland development, which is located within our dynamic downtown, is currently undergoing a significant revitalization process. The Brownstones will be a key part of this revitalization, and thus, have received 100 percent support through the community. We also are excited about the development's uniquely high quality which will drastically increase the quality of life for 70 of our workforce families.

"I would ask that you do everything possible to ensure that our community receives high quality workforce housing that we must have to continue our record-setting growth throughout the next decade."

And that's it for the letters.

MR. OXER: Thanks, Michael.

Annette, do you have any to read in?

MS. CORNIER: Annette Cornier, TDHCA staff.

The following individual would like to register his opinion on agenda item 3(b): Demetrio Jimenez is in support of staff recommendation regarding the RAF for the allocation of credits.

MR. OXER: Okay. Is there any other public comment? Any other board comment?

(No response.)

MR. OXER: Okay. We have a motion by Ms. Bingham and a second by Professor McWatters to approve staff's initial recommendation and methodology as described by Cameron. All in favor?

MR. IRVINE: Public comment.

MR. OXER: Where were they? Okay, anybody that wants public comment is supposed to be right up here. Don't stop there. Now would be a good time to make whatever comments you would like to make.

MR. JAMES: Mr. Chairman, I'm from West Texas and it takes us a little while because I'm also an Aggie, so it takes us a little while to understand all the details.

MR. OXER: We'll put the bread crumbs right up here.

(General laughter.)

MR. JAMES: Very good. I have a couple of comments I'd like to make, but first and foremost, for the record, my name is John James and I'm at 2801 Douglas Drive in Midland, Texas.

I'm also really excited about Mr. Dorsey's presentation. You know, I stayed in a La Quinta last night but after your presentation, I feel like I stayed in a Holiday Inn Express, I'm so much more knowledgeable about all of this that I can hardly stand it.

I'm also on the Midland City Council and a little bit taken aback because I didn't follow the rules, so I apologize.

I do want to make a few comments about Midland because there are some rumors out there circulating and I feel an incredible need to address those. It is true, the rumor is absolutely true that Midland is flat, the rumor is absolutely true that Midland has no trees, the rumor is also true, as the mayor pointed out in his letter, that we are experiencing the most unprecedented growth in our community's history.

Here's what's happening, and I want to be very, very clear but very, very concise about this. Two years ago, if you wanted to rent an apartment in Midland, Texas, a one-bedroom, you could get away with $500 a month; this year it's $1,000 a month. If you wanted to rent a hotel room in Midland, Texas at our Holiday Inn Express, $129 a night; this year $249 a night, sometimes $329 a night for Holiday Inn Express, and you'll get smart but I'm not sure it's worth all that money that you'd be paying that day.

If you want to rent an apartment in Midland, you will be on a waiting list, and as a result, you'll be in somebody's front yard in a motor home with an extension cord going right into their home, you might be in an RV park, you might be one of three families in a home that we affectionately term now house packing in Midland, you might be in a tent because that's happening again.

And what I was struck by during Mr. Dorsey's comments -- and his presentation was outstanding, I feel so much smarter about it -- but what I was struck by was the very beginning of that spreadsheet, and I'm kind of a spreadsheet geek as well, and that talked about need and it talked about need kind of at a point in time. The reality of the situation is the need in Midland right now is dire, and I hear and I appreciate everyone's comments about their community and what their community needs, and I agree under normal circumstances the area with 14 percent of the nation's oil reserves under normal circumstances would have an equal need to everybody else. That's not the thing that's going on right now.

And what I would submit is the formula, as it tries to assess need, can't even begin to do the need question justice. Unless you come to Midland, Texas and try to book a hotel room, you don't understand the need that's happening and what the situation is in West Texas. And I think what I would say is at some point at the end of this process where you have discretion, I think the state and certainly our region is relying on you to use that discretion and take into consideration new data, new information.

When *Texas Monthly* said housing as pricey as New York -- excuse me, it was *The Texas Tribune*, when they said Midland had housing as pricey as New York, they got it right. That is what's happening in Midland, Texas and Odessa, Texas and the Permian Basin right now. All of those rumors that you've heard about this region, that has the second lowest unemployment in the nation, is true. And what this situation is doing is it is displacing people who not two years ago could afford housing, but they can't do it now. That $500 a month rent was okay two years ago, at $1,000, because wages haven't kept pace with increases in the cost of living, those people can't do it anymore.

And a most frightening headline or image that I think our community is concerned about seeing, and I think our state will be concerned about seeing is what happened in the '80s when *Time Magazine* had a picture of what they call tent cities. People were literally living in tents, and that has started in Midland. And let me be clear, these aren't vagrants or people who may not want to work, these are police cadets in Midland, these are teachers in Midland, these are nurse's aides in Midland, these are people who work hard for a living and are trying to do their level best to support their families.

That's the reality of what's happening in West Texas now, and I'm not sure that whole need column, that first one can accurately capture that picture. And I think where the legislation stops and where the rules stop, just like on the city council, you then have the ability to use your discretion, you then have the ability to make judgments about what's happening in this great state of ours and where you need to begin to allocate those resources. I wish there was a formula that made it very, very clear that the need is greatest in one part of the state or the other, and obviously there's not, the rule doesn't get to that point, and I appreciate that.

So what we've got to do and what I would implore you to do is not accept the staff's recommendation but really try to determine -- and you've heard all the rumors and I've confirmed for you those rumors are true, I'm the man on the ground for this purpose today -- you have the discretion and the ability to say:  Staff, you work hard, you are very mission-driven, obviously very professional -- and just incredible, just on my day here with the staff and the team -- but we're going to make a judgment about need based on what we know is happening right now in the State of Texas.  And even in Corpus and the Valley it's not that bad.  There's nowhere in Texas where what we are experiencing in Midland and Odessa, Texas is happening, none.  No one can provide you data that says that.  This is dire.

And I would implore you to use your judgment to make a determination different than what the staff is recommending.  And thank you again.  Thank you for your professionalism.  You're awesome.  Appreciate it.

MR. OXER:  Thank you very much for your comments.  Does anyone have a question?

(No response.)

MR. OXER:  Now, for the record, just so we get our protocol clear here, line up from this side over because we're going to go in order.  And for the record, anybody else that wants to speak on any item later this afternoon, you do it from down here.  That's how I know that you want to speak.

MR. FIELDS:  C.W. Fields with Colt Development out of Dallas, Texas.  I have a much smaller sign but I'll try to make up for it with a beautiful assistant.

We are in Region Urban 12, and Councilman James and the mayor, Representative Tom Craddick, everybody has been so gracious to open up their arms and embrace a development that we believe will set a new quality standard in West Texas. I was formerly with Trammel Crowe Residential and we did a lot of these urban in-fill type developments. It's hard for the deals to compete on a tiebreaker when you're downtown, you're four stories, you've got the granite countertops, even though all the developments in the state with the affordable housing program are of high quality, when your land basis is so high, on a tiebreaker it makes it tough on that cost per bedroom.

So what we've proposed is not a situation that looks at the quality, the application itself, but rather looks strictly to the need in the region, and basically what our case is, is that in 2011 forward allocations were made which is the first basis for staff's recommendation, and we would ask you to look at the RAF amount in that region, the budget per se, take a look at the forward commitment and who got the least over funding. We would just ask you to take the first of the four steps that staff has recommended and make consideration for which four of these regions got the least over funding and what is the most equitable way to assign the remaining 2012 credits based on regions alone and not drop down into looking at applications and comparing them against each other.

Thank you.

MR. OXER: Thank you.

Who’s next?

MR. SHAW: Chairman and board. Stuart Shaw, president of Bonner Carrington, applicant for the only senior deal that I believe is unfunded in Wimberley.

My request is that we not use the staff recommendation. I certainly am not going to argue with anybody about this, but I don’t think that it’s any more right than some other ideas, and I think there may be some subjectivity to it. And I want to propose that I think it might be more objective to simply take the unfunded applications and put them together and use a tiebreaker, go by scores and then go by tiebreaker to see who gets funded.

And last year there was a forward in our Region 7 in Austin. I hate forward commitments and I am ecstatic that we are not going to do that anymore, I believe we don’t do that anymore, and I am super supportive of that. I think they’re completely disruptive, and this is a perfect example of how a forward is disruptive, and I think we’ll save so much time by not dealing with that in the future.

The forward that was given in our region was for that awful fire in the Bastrop area and the Giddings area, and so we’re -- I hate to use the word penalized but we’re certainly being compromised by a forward that was given last year for an emergency, like a hurricane.

And so anyway, we’re deserving like others and there’s a great need in Wimberley for senior housing, and I would just ask you to consider taking the unfunded applications, as I said, and applying scores to those. We score higher, for instance, than the at-risk community in Region 7, our senior community does.  And if that doesn't work, then I would ask you to put our sole senior community in priority -- rural appears to be a priority in the QAP, and I would ask that you put us in first place on the waiting list.

Thank you.

MR. OXER:  Thanks, Mr. Shaw.

Who's next?

MR. BUMP:  Good morning, Chairman, board members. Casey Bump with Bonner Carrington.

One thing to just add is in this whole process, I'm a numbers guy, I appreciate what Cameron and staff are able to do, and we are in uncharted territory here, so the only thing that we as developers know is the point system and the existing tiebreakers, and so if it meant that Rural Region 7 if we get beat by points, then fine, we lost in a straight-up point challenge. So I think that Alternative 1 is the one that ranks the unfunded regions by points and then awards based on that, and I think that's something that everyone in the room can relate to. Some people may not like it, I mean, we may not like it, so I'd just ask you to consider that in your discussion.

Thank you.

MR. OXER:  Thanks, Casey.

Bobby.

MR. BOWLING:  Chairman, members of the board, I want to take a step back and give you some perspective.  I've been doing this for 13 years --

MR. OXER:  Bobby, you need to state your name for the record.

MR. BOWLING: Bobby Bowling, developer from El Paso.

I've been doing this for 13 years. We first started looking at tax credits in 1999 before there was a Regional Allocation Formula. The reason the Regional Allocation Formula was put in place is exactly because the Alternative 1 that the prior speakers are speaking to was an unfair and inequitable allocation of tax credits. Our state senator at the time, Senator Eliot Shapleigh, is the original author of the bill, I believe it's Senate Bill 1112, I believe it was passed by the legislature in either 1999 and I think it went into effect in 2001.

Cameron pointed out Rural 13 in the different alternatives not being funded, put it on the table, that's my deal. Rural 13 would be the one that would be squeezed out under the point only criterion, and he spoke directly to exactly the problem there. I can't score 219 points in Rural 13. With the new high opportunity points that are out there, I scoured the entire region, I couldn't find a high opportunity area in Rural 13. There's just not a rural area that has above the median family county income. Now, granted, with the prior discussion I was using the staff spreadsheets and I didn't do my own research, but I will do that again next year and I will try to find a high opportunity area.

But we can't score max points, it's not a fair way to allocate resources. I would remind you all the Regional Allocation Formula is statutory. I don't believe you can follow -- this is just my opinion, I'm not an attorney -- I don't believe you can follow option 1 and meet the statutory intent of the Regional Allocation Formula which is statute.

The option 2 that the first speaker spoke to, I think that's an interesting point. I'm in favor of the staff recommendation, I'm in favor of the motion that's on the floor -- I believe you already voted.

MR. OXER: Not officially so don't say that.

MR. BOWLING: Okay. Well, the motion that's on the floor and not voted on yet is the one I'm in support of. I think it makes the most logical sense, makes the most reasonable sense.

MR. OXER: Well stated.

MR. BOWLING: This is not unprecedented. Like I said, I've been doing this for 13 years. What is unprecedented in this round, like Cameron spoke to, is the fact that you're putting a minimum of $500,000 back in every region. In 2008 in my region, Urban 13, there were two forward commitments granted in Urban 13; in 2009 there was no money for Urban 13 and there was no award in 2009 in Urban 13. Exactly the same thing happened again in 2010: there was a forward commitment in Urban 13, in 2011 there was no money set aside for Urban 13 and there was no award last year in 2011 for Urban 13.

This is an interesting argument that the city council member, with all due respect, is arguing about need. I would suggest our rural county in El Paso in Rural 13 has as much or more need for affordable housing then anywhere in the country. The last time I checked for the public hearing that was in El Paso, in the San Elizario area alone there are 29 federally recognized Colonias by HUD in that area, 29 federally recognized Colonias.

Again, in deference and with all due respect to the city council member from Midland, I don't believe that the people that are working on the rigs and in the boom oil make low enough incomes to qualify for tax credit housing. It might be painful but the market will solve that problem, the market will get there, private dollars will be invested, people will flock there to get that $1,000 to $2,000 a month rent that they're getting right now in Midland. That problem may be painful but it will take time and it will get resolved.

In my region the only new apartments that have been built in rural El Paso County in the last 20 years are tax credit units. That's the only alternative. We can't make the numbers work, those people cannot pay market rents, and I cannot justify on a pro forma or sell to a bank or sell to an investor doing private developments in that part of the county, it's just too poor. So if we're going to talk about need, I think we've got a lot of need too.

So in wrapping up, I again want to just throw my support for the staff recommendation. The Alternative 2, as far as over funded forwards, I think that's at least worth of debate. The scoring alternative I think has no merit whatsoever. That's the entire reason the Regional Allocation Formula was passed by the legislature because different regions -- like Cameron said, relative to each other, I'm the highest scoring, there's three applications in Rural 13. None of us got the HOA points, none of us are going to score max points, so relative to the other applications mine is the highest scoring, and that's all that should be looked at, not compete with Dallas or Austin.

MR. OXER: Thanks for your comments, Bobby.

Are there any questions from the board, any comments?

(No response.)

MR. BOWLING: Thank you.

MR. OXER: And Cameron pointed out that they made, at least in this case, a noble effort on behalf of the staff to see that there was new money in the competitive component, not in the forwards from last year, put into the process so there could be competition. So under the heading of no good deed goes unpunished, Cameron, it's one of those things that I'm reminded of the original admonition that I had from the Governor's Office about how this effort there would be regarded and that would be it will be really hard work, nobody will appreciate what you're doing, and every decision you make is going to irritate somebody.

And we have one final public comment. And this is the request, is there any other public comment? Please come up here. Barry, just be ready.

Please state your name and welcome.

MS. STEVENS: I'm Lisa Stevens, and we are one of the unfunded regions, we represent an application in one of the unfunded regions. We are Urban Region 2 and it's the region that is funded under two of the scenarios and not under the third scenario. So appreciate you giving us an opportunity to speak for just a minute.

And Cameron, you did a wonderful job outlining a very complicated process in a way that we could all understand it, so I appreciate that.

The RAF process that Cameron laid out for us, he pointed out the fact that when they looked at the Regional Allocation Formula at the beginning of the process, they took into account the dollar amounts of the forwards that were allocated at that point in time. As a developer, it's very important for us to understand what that Regional Allocation Formula is, what's taken into account, and understand what the outcome of that is as we make decisions on where to go, where to spend our dollars and efforts to build housing, because at the end of the day, that Regional Allocation Formula determines, in large part, where applications may be funded, how large those applications might be and where applications might not be funded.

We went into a region that we knew had received a forward commitment and we understood that that money that was given in the forward commitment was taken into consideration at the point in time that the RAF was done. Now to ask that staff once again take in the dollar amount of that forward commitment into consideration we don't believe is appropriate because that dollar amount was taken into consideration once already. To do so again is almost a double dipping effect.

And I have two comments. One is that it should be considered an over funding. You've heard the need for funding from Midland, you heard Bobby talk about the need in El Paso, if my city were here, if we'd known this was going to be on the agenda they'd be right here telling you that their need for housing is tremendous and that their waiting lists are so long. I would argue that there probably is no market in Texas that truly has been over funded for affordable housing. The demand for affordable housing far outstrips the product that we have out there. So to take into consideration an over funding scenario, I don't believe it's an accurate representation of where we're at today in this market and the demand for affordable housing.

My second comment is we've heard a lot about whether you're comparing region to region or you're comparing deals that are in multiple regions to one another, and I would tell you that when you're being asked to look at the dollar amount of the forward commitment, you're being asked to compare statewide one deal to another, not just within their region, but to each other statewide. And regions are different, markets are different construction types are different, amenities are different, the services that you provide are different. What that means is that the same dollar amount that you might spend in Region 2 provides a much different project than the dollar amount that you would spend to produce a product in Region 12. So again, I don't believe it's a fair and equitable argument to look at the dollar amount.

And the regions that got forwards got a deal, they were served, they're being served with new units this year and they got a deal that was appropriate for that market. So again, I don't feel that the dollar amount, because regions are so diverse, that the dollar amount is a logical way to look at this scenario.

Just to wrap up, I would urge you to support staff's process. I think they've done a great job looking at what does the QAP say, what does our statute say, and tried to apply across the board a very logical implementation in a very difficult situation.

MR. OXER: Thanks, Lisa.

Any questions from the board?

(No response.)

MS. STEVENS: Thank you.

MR. OXER: Thank you.

Barry, did you have a comment?

MR. PALMER: Whichever alternative you choose of these three alternatives, there will be three subregions that don't get any allocation in this allocation round which would be unprecedented, and so I would ask the board to consider --

MR. OXER: Barry, you've got to state your full name.

MR. PALMER: Barry Palmer. Whichever alternative that you choose, that you give a priority on the waiting list to the three deals in the three regions that don't get an allocation.

MR. OXER: Okay. I've got a question on that. Which regions do you think are not getting an allocation out of the 2012 money?

MR. PALMER: Well, it depends on the alternative. Cameron pointed out the three regions that were not --

MR. OXER: In the scenario that Cameron presented, the final funding amount that was in there, there was at least $500,000 allocated to every region. Was there not, Cameron?

MR. DORSEY: I think it would probably help if I just kind of explained the waiting list real quick because I think that will help resolve it.

MR. OXER: Okay.

MR. DORSEY: Let's assume that the board goes with staff recommendation, there's a waiting list, basically. The waiting list isn't a static thing.

DR. MUÑOZ: Cameron, let me interrupt you for a second. I'm sorry. If you could answer the chairman's question, because that's my understanding as well that regardless of the scenario, there's a minimum of $500,000 per region, and in some of those you calculated the forward commitment.

MR. OXER: Even including the forward commitment, there was at least $500,000.

DR. MUÑOZ: So Mr. Palmer's assertion is there would be three regions not funded. Is that accurate or is it not?

MR. DORSEY: That's not accurate, but I can speak to what I believe he intended he was speaking to, and I'll clarify that as well.

DR. MUÑOZ: I'm not going to speculate as to what I think he was trying, only what I heard.

MR. IRVINE: I would just like to clarify, at least from my perspective, what was done was we went through a methodology in which the Regional Allocation Formula was developed, the effect of forwards was considered, and a number was put out there that was never less than $500,000 in any subregion and which we said if you apply for this much or less, you're going to win on a competitive basis in the current year. And I believe what Mr. Palmer is talking to is areas where 2012 credits going into that subregion were not the result of winning in the competition in the subregion.

MR. OXER: And that is correct since the forward commitments did constitute a non-competitive allocation, Barry. And that, frankly, is one of the reasons I have such an aversion to these things in the first place in a competitive environment.

DR. MUÑOZ: It may be non-competitive but it's, nevertheless, an allocation to the subregion.

MR. OXER: It does constitute an allocation, and we're hoping that if we can get through this in some manner that we can finally agree on that's equitable and fair, this will be the pivot point, we can go right full rudder on this thing and the next one is going to be clean and clear and we won't have to deal with that for next year. We knew last year once we got the QAP in place for his process, it was going to take this year's allocation to work through to get those flushed through the system, to get that out so that there's no echo from last year's forward commitment allocation. So while I agree with your comment that the forward commitments from last year constitute a non-competitive allocation, they still constitute an allocation for each region.

MR. PALMER: That's true, but I think we've never had a situation before where an applicant won the competition in their subregion and were the highest scoring deal in that subregion and didn't get funded. We've got that for the first time this year in three subregions, no matter how.

MR. OXER: And in each one of those regions did they apply for the amount that was available or for an amount larger than that?

MR. PALMER: For an amount within what was said is the maximum that they could apply for in that subregion.

MR. OXER: And there was a certain amount of grace, you could apply up to 150 percent of what was allocated in the subregion, but knowing that, that's a strategic risk you take on this to then compete in the statewide collapse if you don't go for what's the limit of the allocation for the subregion. Correct?

MR. PALMER: Correct.

MR. OXER: Okay. All right.

DR. MUÑOZ: Cameron, did you want to say something about the priority wait list?

MR. DORSEY: Yes. I just thought it would help if I clarified real quick. The waiting list is not static in terms of what is priority, what is a priority application. It is dependent upon where the credit is from that we're getting to allocate.

So let me give you an example. Let's say Rural Region 2 we allocate credits to that subregion or we award credits, and before the end of the year they're unable to meet some kind of condition and so they return the credits. Then what we would do is go back through the RAF process and carry out the same process, the same procedures in selecting applications as we would have. Most likely, unless Rural Region 2's application was a nonprofit deal, most likely those credits would go back to Rural Region 2 because they were determined to be priority above the Subregion 7 Rural and everything in the first place. They kind of get their same priority back, and we would go to the next application in line.

However, if the credits were from, let's say, national pool, let's say we get a lot of national pool credits, well, what we would do with those credits is we would just go down the waiting list based on it wouldn't be that any deals fell out, we'd just be able to do more deals, well, these three subregions do appear at the top of the list.

Now, it's possible that that additional credit could result in us needing to do one more nonprofit deal and so then a nonprofit would jump up. The point is that it's dependent upon where the credit that we're getting to allocate is from and, but we follow the same board-approved process in allocating deals off the waiting list, and if it's new money that wasn't returned or what-have-you, like national pool money, then these three subregions would very likely appear at the top of the list.

MR. OXER: And in deference to all the comments that the public has made and where we're at on this, and yours too, Cameron, the QAP is, in fact, an M-A-P, that's our map. We're off the map in place where there are dragons out there, you know, like you see on the old maps. You guys that are the flame throwers, stay in the back.

(General laughter.)

MR. OXER: Unfortunately, this is an interpretation, that's why we're here, we have to exercise some discretion, and right now we're working with a compass and no real map, and that's one of the fun things about this job. And by the way, I didn't have any gray hair when I started this job, you know. Of course, I guess you had some hair when you started, didn't you, Barry? Sorry.

(General laughter.)

MR. OXER: Are there any more comments that are not flippant and self-righteous like the ones I just made?

DR. MUÑOZ: Cameron, you said that it's more than likely that these regions would surface to the top of the priority wait list. How certain are you that they would?

MR. DORSEY: If the credits are national pool credits, then I'm pretty darn --

MR. OXER: Actually, if they're national pool credits -- I'm sorry, go ahead, Cameron.

MR. DORSEY: Right. If they're national pool credits, then I'm pretty darn certain that they would appear at the top o the list. I mean, theoretically, if you got a ton of national pool credits, it would force us to do one more nonprofit deal to meet the 10 percent overall, but barring that, if it's national pool credits, it's not coming back from some other subregion previously awarded or what-have-you, then these would appear at the top.

MR. OXER: The waiting list does, in fact, include those.

MR. DORSEY: Yes. The waiting list follows the same priority order as the rest of the allocation process, and if we had more credit that wasn't tied to a subregion already, then we would keep going down the list and these three would be at the top of that list.

MR. OXER: Okay. Any other comments, Dr. Muñoz?

DR. MUÑOZ: I just think we should be cognizant of this sort of anomaly that's occurred, and to the extent that we can, through this process, recognize some relief for these subregions, my understanding is that with the absence of forward commitments in the future, that this sort of situation may be ameliorated in the future, to some extent. So I suppose I would register my observation that were that situation to evolve with returned national credits in that pool, that we be cognizant of these three regions.

MR. OXER: I think that's what you're saying, isn't it, Cameron?

MR. DORSEY: And I think one thing we could do is commit as a staff to if we are able to award any other deal, coming back to the board prior to that -- barring it doesn't happen right in the last 15 days of the year or something -- and explain to the board why that follows the existing allocation process approved by the board and how we got to that conclusion and let you all see that.

MR. IRVINE: And based on the board's articulation of its policy on how we address the issue of underserved regions, that will get crystallized, and then we will take up as a separate item presentation of staff recommendations for award amounts and for the wait list, and that will be a second item where any additional considerations will be spelled out in detail and people will have opportunities to comment on that. And in the QAP provisions about the wait list, it does make it clear that when the board is applying discretionary factors with regard to the prioritization of the wait list, it must take into account the regional allocation objectives.

MR. OXER: Okay. Is there any more public comment? Mr. Shaw. Please make it quick. I can hear people's stomachs rumbling already.

MR. SHAW: Very brief. To the extent that you have, as a board, the ability to put these three regions at the top of the wait list for both national -- and I would just ask, I don't know if you can -- but even for the regional money that may come back, I would just request that you do that because we are an anomaly off that map. So I'm just throwing that out as well, if you can.

MR. OXER: Understood and we appreciate your comments.

Cameron, when the tax credits return, they don't have color on them, they're just tax credits, they could be from the regions back in there and pool credits. Anything that comes in, you just reallocate those. Right? Or tell me.

DR. MUÑOZ: They're attached to a region.

MR. OXER: Well, the ones that are attached to a region, yes.

MR. DORSEY: The ones that are attached to a region, they go back to the region first, and then they may flow ultimately into statewide, and if they did that, it's very possible that they could end up going to these subregions.

I would caution in crafting a static wait list because the unanticipated consequences of that, we're not certain of. For example, prioritizing them but not accounting for the fact that a nonprofit deal could return credits and that these three subregions may not have a nonprofit deal to do could create some serious issues. What I think would be a really effective way to deal with this is perhaps come back to the board when provided that we have a meeting prospectively once credits are returned to come to. What I'm saying is, I guess, if it's right toward the end of December and we have got to get that money out, then we need to be able to act quickly in accordance with the board-approved allocation process.

But if it’s a situation where there is a meeting and we have the opportunity to come back, I think we can commit to doing that and explaining it and allowing you all to see it and make decision at that point if you choose to want to do something different, based on the actual circumstances rather than kind of speculation as to what may or may not occur.

MR. OXER: So essentially, we’re looking at a snapshot in time where things land right now, but we’ve got a snapshot of a kaleidoscope that’s still turning.

MR. DORSEY: That’s right, this is a snapshot.

DR. MUÑOZ: Cameron, I’ve got one more quick question.

MR. DORSEY: Sure.

DR. MUÑOZ: Back to the beginning, when you’re calculating the RAF, the Regional Allocation Formula percentages, before it comes before us, do you receive input, do you have mechanisms from subregions, from a Midland or an El Paso who says we have particular immediate, recently developed need that you have to consider?

MR. DORSEY: We absolutely take public comment. Mr. Bowling, from Region 13, was very, very involved in the Regional Allocation Formula development. He made public comment at a couple of meetings, for example.

I’m not aware of Midland being involved. I think we use data, solid data that we can apply evenly across the state, and so unfortunately, I don’t think it probably contemplates this kind of massive upscale in population growth and what-have-you that has occurred because it’s primarily census data that we're using. But we would certainly consider any public comment on that and are open to modify it going forward if we can get solid data sets to accommodate those types of things.

DR. MUÑOZ: I just raise the point, because at least speaking about Midland and West Texas where I live and I work at a university, you know that, and many of our students come from that area, and so when I interact with their parents I increasingly, just routinely hear about the inaccessibility and the recent, last 12 months, cost of living in that region, Midland, Odessa, across the Permian Basin, so it resonated with me.

I just wanted to make sure that there is a mechanism for municipalities like these, including the ones that Bobby mentioned, to come to you and say this is happening very recently and has to be part of your calculation and consideration in developing the RAF.

MR. DORSEY: Great. Well, we'll give Midland a call.

MR. OXER: And I think it bears restating for the record that we had a considerable amount of public involvement, we went through two or three iterations on the RAF, and the final iteration we have, the final version of the QAP was actually the seventh one that the governor signed involved what was historically, from historical precedent, an extraordinary amount of public input and outreach requesting public input.

You know, this is a difficult formula and we're looking for dollars, we're not looking for projects. Whatever money we've got, we're going to have to get down to the point of being allocated because there will still be somebody that doesn't get allocated, and that's just a product of the need that we're trying to address.

So while the difficulty seems to be compounded by the echo of forward commitments from last year out of this year's allocation, I hope that the process for next year is going to be considerably smoother, and you won't have to stay up so late so often, Cameron, to get this done.

All right. Any final comments from staff? Any comments from the public?

(No response.)

MR. OXER: We have a motion on the floor by Ms. Bingham, second by Professor McWatters to approve the allocation methodology as described by Cameron in this extended discussion. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: And there are non, it's unanimous. Thanks very much.

We're going to break right now for lunch. It's 12:25; we need to be back in our seats at 1:30 to go.

The Governing Board of the Texas Department of Housing and Community Affairs will go into closed session at this time, pursuant to the Texas Open Meetings Act, to discuss pending litigation with its attorney under Section 551.071 of the Act, to receive legal advice from its attorney under Section 551.071 of the Act, to discuss certain personnel matters under Section 551.074 of the Act, to discuss certain real estate matters under

Section 551.072 of the Act, and to discuss issues related to fraud, waste or abuse under Section 2306.039(c) of the Texas Government Code. This closed session will be held in a small banquet room of the Capitol Cafeteria. Current time is 12:25.

(Whereupon, at 12:25 p.m., the meeting was recessed, to reconvene this same day, Thursday, July 26, 2012, following the lunch recess and conclusion of the executive session.)

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

(Time noted: 1:38 p.m.)

MR. OXER: All right. Let's get started again. We had an executive session, closed session, no action was taken and we've returned. No decisions were taken in the executive session where we talked about some legal issues from counsel.

So with that, we'll return to the action item on item number 3(c). Jean.

MS. LATSHA: All right. Jean Latsha, Housing Tax Credit manager.

Well, this is the fun action item, I suppose, if there is one. This is basically presentation of our recommended applications for tax credit commitments for 2012. You'll see three reports in your board book. The first one is recommended applications from the at-risk and USDA and nonprofit set-asides and the rural and urban regional allocations.

The second report is applications recommended for award or placement on the waiting list. That basically includes all of our applications, however, we should note there was one change very recently in the last couple of days. This list does not include applications that have been terminated or withdrawn with one exception, number 12061, Lost Creek was withdrawn earlier this week. We included it on this list just to make the change apparent to the public, but it is not considered part of our recommended waiting list because it has been withdrawn.

And then the third report is the accounting summary that Cameron went over earlier, and finally, you do have a board summary of public input and staff recommendation for each application.

And just in summary, this action will include $48,453,532 in tax credits which, hopefully for the development community, generates over $400 million in equity for production of 5,053 total units, of which 4,773 of those units will serve low income families, and that equates to serving about at least 10,000 residents in the State of Texas

And so with that, staff recommends approval.

MR. OXER: Any comments from the board? Okay. I'll need a board action to proceed. Ms. Bingham, do you have an action?

MS. BINGHAM ESCAREÑO: Of course. I'll recommend approval of the regional allocation, as presented by staff. And I was just trying to find out, so Lost Creek was an award or should I make the motion with removing Lost Creek?

MS. LATSHA: I believe the report that you have, the latest one, has it updated to where it flip-flopped already, so Lost Creek is listed as withdrawn.

MR. OXER: So is it as drawn in the board book or as in the most recent edition of the log?

MS. LATSHA: As in the most recent edition.

MS. BINGHAM ESCAREÑO: So moved then.

MR. OXER: I'd like to take an opportunity as the chair to second one of the few motions I get to take on, so second by the chair.

Are there any comments from the board?

(No response.)

MR. OXER: Any more comments from those in the audience? My comment would be I know how long and tortuous this has been, so let's get to it. All in favor -- I knew we would get one.

MR. BRADY: May I address the board?

MR. OXER: Please do.

MR. BRADY: Sorry I didn't move fast enough.

MR. OXER: You've got to bring you're a game to this crew.

MR. BRADY: I know you have to be on your toes.

My name is Sean Brady, and I am representing one of the top scoring deals in Region 3 Rural. It's Abbington Commons in Kaufman, Texas, application number 12297. And we were actually passed over this year and I guess we fell prey to the new rule 2.5 on nonprofits receiving funding first and then the rural and urban regional allocations being made.

And I would like to take just a minute because I do question that because I don't believe there was a 2.5 in the QAP at the time it was approved, and I did want to read Section 6 just for the board's consideration as it's making its consideration on funding but also on the waiting list as well. And this is Section 50.6(e)(6), and in there it says: If 10 percent -- referring to the nonprofit set-aside -- is not met through the existing competitive process, then the department will add, not substitute, the highest scoring application by a qualified, nonprofit organization statewide, not regionally, until the 10 percent set-aside is met. And then it goes on to say that this set-aside will take precedence over selection through the rural regional allocation and the urban regional allocation.

Now, what appears to have happened in the funding methodology with the 2.5 is that that was actually reversed whereby the nonprofits in a region took funding precedence over anything else there, and so if there was a nonprofit there, effectively, nothing else got funded, especially in a small rural region such as Region 3.

And so we just question that, because as we would understand it, after all of the set-asides, the USDA and the at-risk set-asides are made and the urban and the regional allocations are made, then according to item number 6, a test should be run to see if the 10 percent test has been met for the nonprofits -- which this year, I believe, is the first year that this has happened -- then nonprofits should be added on to that existing list but on a statewide basis, not a regional basis.  And when you do that, of course, then you run up with well, we don’t have enough funds to fund all of those projects.

But in our understanding, and what that would mean if the nonprofits are being funded, added to on a statewide basis, then TDHCA should look at the projects statewide to find the funds for that from the lowest scoring regional winners, and there are three or four projects, frankly, that on a statewide basis are scoring lower than ours.

And so I would like to submit to the board in applying the existing rules and policy that they consider that, that it should not be an either/or in the regions.  The nonprofits, if they don’t win the funds through the normal competitive process, should be added on and evaluated statewide, not regionally.  Of course, this would affect the funding allocation, and some of the regions, frankly, right now that are getting funded would not be funded because they have lower scoring deals statewide.

But we do feel that that was something worth of consideration for the board to make sure that the allocations were made in accordance with the QAP.  And I do submit this because I know that there were others like us in a similar situation.  We are a small developer and we, frankly, invested a lot of money in the project, and we did that based on the rules here in the QAP, and frankly weren't expecting other rules to come up afterwards to meet other goals and set-asides and funding.

And we certainly commend the staff for its desire to make sure that funds are allocated to all of the regions, we just also want to submit that that is done in keeping with the existing approved policies and interpreted accordingly.

So anyway, I do encourage the board to think about the funding allocations and think about how that is applied through the existing QAP regulations, to do what's right, and if our project is not able to be funded as the top scoring in that region, that at least projects such as ours are given a top priority on the waiting list.  We just feel that's fair and right.

So thank you for your time and thanks for the opportunity for these comments.

MR. OXER:  Certainly.  Are there any questions from the board?

(No response.)

MR. OXER: Thank you for your comments.

Cameron, do you have a response? Run back through the allocation formula.

MR. DORSEY: If you'd like one, I can certainly give you one.

So I'll run through kind of how the nonprofit set-aside works real quick and explain how it's not really so much a substitution that's going on because this is all happening simultaneously so you're not taking a deal off and replacing it with a deal. We kind of describe it that way because we act as if these happen in steps, that if you had the perfect calculator it would happen instantaneously and it would produce a list. You know what I mean?

So we have six steps in the allocation process. They're laid out in the QAP in 50.6, and the first two steps deal with at-risk and USDA, the third step deals with that initial run through that I showed you where we try to pick deals that fit within the subregion, then the next step is rural collapse and then statewide collapse, and that's the fifth step, and then we have this sixth step, and the sixth step is really kind of a modifying step or a step that is only necessary if the outcome didn't meet certain criteria.

So step six reads: Staff will ensure that at least 10 percent of the state housing credit ceiling is allocated to qualified nonprofit organizations to satisfy the nonprofit set-aside. If 10 percent is not met through the existing competitive process, then the department will add the highest scoring application by a qualified nonprofit organization statewide until 10 percent is met. And this set-aside will take precedence over the selection for the rural regional allocation and urban regional allocation.

It's that last sentence that's really key here: it will take precedence over. And so what we did is we ran through the first five steps, we did the tests just like we were supposed to, we hadn't met 10 percent. So we looked at step 6 and we said, What does it tell us to do? It says that we have to go back up and we have to hit the 10 percent set-aside, and it instructs us as to how to do that. And it's not just the addition of applications, it's the next sentence that's really key here and that's it will take precedence over selection for the rural regional allocation and urban regional allocation.

Well, what step is that in the process? We said, What step is that because this step takes precedence over that? And that step is number 3 in the process, and what you do is you run through and we pick the ones that fit within the regions that are the highest scoring. Well, this step says it takes precedence over it, and so we went back and we termed it in the write-up "Step 2.5" but it's because of the very explicit language that's reflected in here, it's kind of a conditional step in the process. It's only necessary if you need to use it to meet the nonprofit set-aside.

And when you do that, you run through and if you put it in front of step 3, you select the highest scoring nonprofits statewide until you hit 10 percent. In this case we had to select three nonprofits, and we did, we selected the highest scoring statewide, and then you move on to step 3. Well, in step 3 it's not that we subbed out deals, in step 3 it's simply that that region, the highest scoring app doesn't get hit because there's not enough money left to hit it. So it's not a substitution per se, it's this conditional step that sits in front of and then you re-run step 3 and it may produce a different outcome, but it’s not a true substitution.

And that’s where the discussion of add the highest scoring nonprofits statewide comes in, it’s because it’s a step that takes precedence over step 3 and kind of inserts itself as necessary. You haven’t really selected the applications regionally yet so there’s nothing to substitute. So that’s the rationale there and we’re basing that on the plain language of the QAP itself.

MR. OXER: Okay. Thank you.

Are there any questions from the board?

(No response.)

MR. OXER: We have a motion on the floor by Ms. Bingham, second by the chair to approve staff recommendation for item 3(c). All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none, it’s unanimous.

(Applause.)

MR. OXER: Okay. What else you got, Cameron?

MR. DORSEY: Well, this one is very related to the one we just did.

MR. OXER: But not contingent upon, I hope.

MR. DORSEY: Right. 3(d) -- while they are linked intimately, 3(d) is the HOME awards from the 2012-1 HOME Multifamily Development Program NOFA, and the awards that we’re recommending under this item all just got housing tax credits.

And this is one of the lists that I updated to reflect that swap out of Lost Creek with the next deal in line, so there's that same swap-out. So the latest materials provided up front reflect that change.

Everyone that we're recommending today also just got an award of 9 percent credits, and so these are intimately sources. In many cases, this HOME funding was used to gain points under the QAP and so it's enabled those applications to score well in the tax credit cycle.

I know why Granger is up here, so I'll go ahead and mention this. Granger submitted an application called Villas of Brownwood II, and this is an application that is the third application that is in line, and we do prioritize these apps based on when they were submitted, so the question is, I think -- because this isn't a tax credit deal, this is a HOME deal with some other financing, there are no credits, and so why would we not have an award today. And the reason is because we had to prioritize all of our reviews to meet the statutory deadlines of the Tax Credit Program, however, we do have sufficient funding to make sure that we can review that application and bring a recommendation, should it be determined to be financially feasible and all that, to a subsequent meeting. So the approval today does not undermine the department's ability to award this other application.

(General laughter and applause when Mr. MacDonald returned to the back of the auditorium.)

MR. OXER: Eloquent in your quietude, Granger.

MR. DORSEY: There's one other note I'll make and that is that there's one award recommendation for HOME funds that's part of the next agenda item that we'll cover, so this one covers only those that are layered with 9 percent tax credits.

So staff recommends approval.

MR. OXER: Okay. There appears to be no one else asking for public comment. We'll require a motion for board action.

MS. BINGHAM ESCAREÑO: So moved.

MR. GANN: Second.

MR. OXER: Motion by Ms. Bingham, second by Vice Chairman Gann to approve staff recommendation. Any other comments from the board? Comments from the public?

(No response.)

MR. OXER: All in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

MR. OXER: There are none and it's unanimous. Thank you very much.

MR. DORSEY: The last agenda item is a recommendation to approve an award of 4 percent housing tax credits and HOME funds associated with a TSAHC issued bond transaction. This is a development located in Georgetown. This has been a long time coming. I think we've seen this application a couple of times in the past and we've finally got a market environment, an economic environment where this deal works.

We're not quite done with the underwriting but anticipate that being done shortly, so this is a recommendation to approve the Gateway Northwest, located in Georgetown, contingent upon completion of underwriting and anything that results from that.

MR. OXER: So we're essentially saying that we'll proceed with making this available were they to be able to satisfy the requirements for funding, real estate analysis, underwriting, et cetera, et cetera, et cetera.

MR. DORSEY: That's right, and we're almost there, we're pretty confident we're going to get there.

MR. OXER: It's only a nudge to get them over the line is what you're saying.

Any questions from the board?

(No response.)

MR. OXER: Need a board action to proceed.

MS. BINGHAM ESCAREÑO: Okay. Move staff's recommendation.

DR. MUÑOZ: Second.

MR. OXER: Okay. Motion by Ms. Bingham to move staff's recommendation, second by Dr. Muñoz. Are there any other comments, any other public comments? There appears to be none down there.

All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none and it's unanimous.

That appears to complete the action item agenda. We're at the point in the agenda wherein we receive public comment on matters other than for items that were specifically identified and listed in this month's agenda. Does anybody care to speak?

MR. IRVINE: I would.

MR. OXER: Hold on. This is the public part. Does the public have anything?

(No response.)

MR. OXER: Is there any staff care to comment on any part of the deliberations? Mr. ED.

MR. IRVINE: I just want to remind everybody that as soon as the gavel falls to end this meeting, we begin the next phase.

MR. OXER: Despite the fact that Cameron is going to sleep in tomorrow, we'll give him till Monday.

MR. IRVINE: Cameron is going to sleep in and I'm going to be on vacation next week.

I think that the beautiful power point that Cameron went through was an object lesson in let's all participate. We are hoping to have a very robust and thoughtful discussion of the development of the 2013 QAP, as the chairman has suggested. We are right now, at staff level, building a first draft that involved burning it to the slab. And we really do hope that everybody here will find a way to participate. We want to have extensive use of online forums because this is a big state and it's hard to cross just to come to meetings, but online forums can be very effective. And we also hope that we can really take into account the differences between urban Texas and rural Texas and develop appropriately differentiated criteria.

MR. OXER: Good. Any other comments from the board?

DR. MUÑOZ: I've got a question, Mr. Chairman.

MR. OXER: Dr. Muñoz.

DR. MUÑOZ: After today's vote, how many more units? You were saying earlier, Tim?

MR. IRVINE: 5,053.

MS. LATSHA: 5,053 total, 4,773 low income.

DR. MUÑOZ: All right. Well done.

MR. OXER: Does that satisfy you, Dr. Muñoz?

DR. MUÑOZ: Yes.

MR. OXER: Okay. Last comment from the chair. This is an incredibly competitive process. I appreciate the contribution that everybody on the board makes, everybody on the staff makes, and most importantly, the effort that everybody in this room demonstrates to provide affordable housing for the folks in this state that need it.

So with that, I'll entertain a motion to adjourn.

DR. MUÑOZ: I move we adjourn.

MR. GANN: Second.

MR. OXER: Dr. Muñoz moves we adjourn, second by Vice Chairman Gann. All in favor?

(A chorus of ayes.)

MR. OXER: It's unanimous. See you in a month and a half, folks.

(Whereupon, at 2:00 p.m., the meeting was concluded.)

# C E R T I F I C A T E

MEETING OF: TDHCA Board of Trustees

LOCATION: Austin, Texas

DATE: July 26, 2012

I do hereby certify that the foregoing pages, numbers 1 through 153, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy H. King before the Texas Department of Housing and Community Affairs.

07/31/2012
(Transcriber) (Date)

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