TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD OF DIRECTORS MEETING

Capitol Extension, Room E1.028
1500 North Congress Avenue
Austin, Texas

October 9, 2012
10:00 a.m.

MEMBERS:

J. PAUL OXER, Chair
TOM GANN, Vice-Chair (not present)
LESLIE BINGHAM ESCAREÑO, Member
LOWELL KEIG, Member
JUAN MUÑOZ, Member
J. MARK McWATTERS, Member

TIMOTHY K. IRVINE, Executive Director

INDEX

Bonds and an Authorization for Filing Applications for Private Activity Bond Authority - 2012 Waiting List

h) Presentation, Discussion and Possible Action regarding Determination Notices for Housing Tax Credits with another issuer

I) Presentation, Discussion and Possible Action regarding an Award of HOME funds from the 2012-1 HOME Multifamily Development Program Notice of Funding Availability

j) Presentation, Discussion and Possible Action to approve additional financing options for Land Bank properties under Neighborhood Stabilization Program 1 (NSP1) contracts

k) Presentation, Discussion, and Possible Adoption of an order repealing 10 TAC Chapter 7, 7.1-7.9 concerning the Texas First Time Homebuyer Program Rule and an order adopting new 10 TAC Chapter 27, 27.1-27.10 concerning the Texas First Time Homebuyer Program Rule and directing their publication in the *Texas Register*

l) Presentation, Discussion, and Possible Adoption of an order adopting new 10 TAC Chapter 20, 20.1-20.15 concerning the Single Family Programs Umbrella Rule and directing its publication the *Texas Register*

m) Presentation, Discussion, and Possible Adoption of an order repealing 10 TAC Chapter 2, 2.1-2.13 concerning the Texas Bootstrap Loan Program Rule and directing their publication in the *Texas Register*

n) Presentation, Discussion, and Possible Adoption of an order repealing 10 TAC Chapter 3, 3.1-3.9 concerning the Colonia Self-Help Program Rule and an order adopting new 10 TAC Chapter 25, 25.1-25.9 concerning the Colonia Self-Help Center Program Rule and directing their publication in the *Texas Register*

o) Presentation, Discussion, and Possible Adoption of an order repealing 10 TAC

Chapter 512, 51.1-51.11 concerning the Texas Housing Trust Fund (HTF) Program Rule and adopting new 10 TAC Chapter 26, 26.1-26.7 concerning the Housing Trust Fund Program Rule and directing their publication in the *Texas Register*

p) Presentation, Discussion, and Possible Adoption of an order amending 10 TAC Chapter 9.1 and 9.2 concerning the Texas Neighborhood Stabilization Program Rule and an order adopting new 9.8, 10 TAC Chapter 29, 29.1-29.8 concerning the Neighborhood Stabilization Program Rule and directing their publication in the *Texas Register*

q) Presentation, Discussion, and Possible Adoption of orders repealing 10 TAC Chapter 53, Subchapter C, concerning Homeowner Rehabilitation Assistance Program Activity; Subchapter D, concerning Homebuyer Assistance Program Activity; Subchapter E, concerning Contract for Deed Conversion Program Activity; Subchapter F, concerning Tenant Based Rental Assistance Program Activity; and Subchapter G, concerning Single Family Development Program Activity; and order adopting new 10 TAC Chapter 23, concerning HOME Single Family Program, and directing their publication in the *Texas Register*

r) Presentation, Discussion, and Possible Action proposing amendments to 10 TAC Chapter 5, Community Affairs Programs, Subchapter A, General Provisions, 5.2-5.5, 5.7, 5.9-5.14, 5.16, 5.17, 5.19-5.22 and proposing a new 5.23 concerning Protected Health Information and directing their publication in the *Texas Register*

s) Presentation, Discussion, and Possible Action regarding proposing amendments to 10 TAC Chapter 5, Community Affairs Programs, Subchapter B, Community Services Block Grant (CSBG) 5.201, 5.203-5.207 and 5.10-5.217, and directing their publication in the *Texas Register*

t) Presentation, Discussion, and Possible Action regarding proposed amendments to

P R O C E E D I N G S

MR. OXER: Good morning. I'd like to welcome you to our October 9 meeting of the Governing Board of the Texas Department of Housing and Community Affairs.

We will begin, as we always do, with the calling of the roll to certify quorum. Ms. Bingham?

MS. BINGHAM ESCAREÑO: Here.

MR. OXER: Mr. Gann is not here today.

Mr. Keig?

MR. KEIG: Here.

MR. OXER: Professor McWatters?

MR. McWATTERS: Here.

MR. OXER: Dr. Muñoz?

DR. MUÑOZ: Present.

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

Let's sand and salute the flags, please. Tim, would you lead us?

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

MR. OXER: I'll pass along the compliments of the members of the Board to those who are here. You're getting better at the pledge for Texas. We appreciate that, out of reverence for the building, if nothing else.

(General laughter.)

MR. OXER: All right. With respect to the consent agenda, members of the Board, are you satisfied with the consent agenda?

MS. BINGHAM ESCAREÑO: Move to approve as presented.

MR. OXER: Okay. Motion by Ms. Bingham to approve the consent agenda as presented.

DR. MUÑOZ: Second.

MR. OXER: Second by Dr. Muñoz. Is there any comment?

(No response.)

MR. OXER: Nicely done, staff. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

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

We'll move to the first action item here. Good morning, Eric. Good morning, Tim.

MR. PIKE: Good morning. I'm Eric Pike, the director of the Texas Homeownership Division with the Department.

We're here today seeking adoption of an order and a resolution, Resolution No. 13-0111, adopting the new 10

TAC Chapter 28, Taxable Mortgage Program rules, which we affectionately call TMP. These rules will govern the origination of mortgage loans under the Department's Single Family Mortgage Purchase Program.

The rules were approved for publication in the *Texas Register* at the July 26 board meeting and subsequently published on August 10. The public comment period ended on September 10, and we received no public comments.

As part of this action item, staff is also seeking approval authorizing payment of a service release premium to our participating mortgage lenders, and to talk a little bit more about that piece of this particular item is Tim Nelson.

MR. NELSON: Good morning. Tim Nelson, director of Bond Finance.

The Board may recall last month I did a little bit of explanation on this, but I kind of bolluxed up, ultimately, what we staff was trying to get done, so I'm going to take another run at this morning. And this month we actually have this in the resolution and reviewed by a number of people, so I think it's in there the way we want.

But as I explained last month, servicing release premiums are something customarily paid in the marketplace for lenders that sell their loans to a master servicer so they're giving up the servicing on those loans. We have traditionally in our programs not paid a servicing release premium, but in putting this program together, we both instituted, as I explained last month, a pretty extensive survey of what other state agencies were doing in terms of paying service release premiums, and we also did a survey of the Texas marketplace to see what people were doing, and most importantly, had meetings with our lender group and sort of universally got feedback that you've got to have a servicing release premium.

And so what staff is seeking from the Board as part of this resolution to approve the TMP rules is to also delegate the staff to set a servicing release premium and that we're looking for really two separate sort of flexibility, if you will. One of them would be setting the actual percentage, and we could set a percentage anywhere from zero all the way up to 1 percent. What we are looking to release with the program is a 75 basis point servicing release premium, three-quarters of a point.

The second item that we're looking for -- and I explained this, again, last month -- was also we'd like to be able to set a minimum, and this is particularly important when you get out in the rural areas if you're doing smaller loans, that no matter what kind of servicing release premium you put on those, if you're doing a $60- or $70,000 loan, that percentage is going to generate a smaller dollar amount. So in addition to the up to 1 percent on the servicing release premium percentage, we want to have the ability to set a minimum anywhere from zero up to $1,000. And again, with the release of the program, we are looking to release with a $750 minimum SRP payment. So if you're doing loans under $100,000, which is typically going to be in the rural areas, you'll actually get with that fixed payment a percentage that's slightly higher than the three-quarters of a percent.

So I would say staff recommends approval, and we would be than happy to address any questions.

MR. OXER: We have to have board action before questions.

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

MR. OXER: Motion to approve staff recommendation by Ms. Bingham.

MR. McWATTERS: Second.

MR. OXER: Second by Professor McWatters.

I have a question. The minimum gives you a floor. Is there an collar on this?

MR. NELSON: No. We're just looking to set the minimum payout to help the smaller loan sizes.

MR. OXER: With the understanding that there would be more lower end than there would be high end loans.

MR. NELSON: And it's more of a burden, I think, there.

MR. OXER: Right. What would be the maximum loan amount that would be available under this program? Do we know?

MR. NELSON: It varies by location, but about $250,000. Our average loan amount under the last program was about $125,000-ish.

MR. OXER: So it's not like a Ginnie Mae Jumbo.

MR. NELSON: No, no, no. The bulk of the loans that we do are between $100,000 and $175-, let's say. You get a few that are over $200-, we get some that are below. We went back and looked at the Program 77. Had we applied the three-quarters of a point with the $750 minimum to that entire program, our average payout on SRP would have been about 80 basis points, so that gives you a pretty good idea.

MR. OXER: So from a programmatic standpoint, you're looking at about 80 points on the program.

MR. NELSON: We expect the average to run about that, yes.

MR. OXER: Any questions from the Board? Are there any requests? Nobody is here.

And a quick review of our policy here, those of you that want to speak, we have a board action, then we make available for questions, those who wish to speak, there's the sort of first full row here in the room, those are reserved for those who want to speak to any particular item that's currently underway. Don't get in a hurry. And to sort yourself out, we'll go from my left across to the right, so if you line up over there, I'll assume you're the first one that wants to speak. So don't sit over here by yourself. Okay?

MR. OXER: Any questions?

(No response.)

MR. OXER: Very well. All in favor?

(A chorus of ayes.)

MR. OXER: Those opposed.

(No response.)

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

MR. NELSON: Thank you.

MR. OXER: Nice job, guys.

MS. BINGHAM ESCAREÑO: Good job.

MR. IRVINE: Mr. Chairman, as Sara Newsom is coming up to address the next item, I'd just like to chime in to you and the Board. Typically, this is the kind of action item that you would see on the consent agenda, bu ti really wanted Sara to have an opportunity to come up and brag on some of the pretty incredible things that are going on in the HOME Program. She's doing just an exceptional job, as you're about to hear.

MS. NEWSOM: Well, I appreciate that.

Good morning. My name is Sara Newsom and I am the director of the HOME Program.

We have seen the reservation system just blossom, and for the past four to five months we've been seeing about $3 million reserved each month under the reservation system, so we're very pleased with that, that it has taken off and it has taken off so quickly.

So one of the things -- which is a good lead-in -- one of the things that we're asking for today is to issue a NOFA under the Single Family Program and put it all in the reservation system. So we're asking to issue a $16.7 million NOFA that will go directly into the reservation system and be available for all of our HOME single family programs and activities.

It breaks down, we had some left over from de-obligated funds and previous years' funds, so in addition to the 2012 money of about $9.3-, we've got another $7.3- in old money to put with the new money to make the $16 million NOFA. And it will be available for housing rehab assistance, homebuyer assistance, TBRA, single family development. Plus, we have some set-asides that are required: our disaster set-aside of $1.2 million, we have a contract for deed set-aside of $2 million, this is all included in that $16 million. And then we have the PWD set-aside. We have a 5 percent PWD set-aside required of our HOME funds. Cameron got $400,000 of that $1.2 million, and we've got the other $800,000 in this Single Family NOFA.

DR. MUÑOZ: Just remind me of the acronym PWD.

MS. NEWSOM: It's persons with disabilities.

So staff is recommending this Single Family NOFA and I will answer any questions that you guys may have.

MR. OXER: So this gives you $16 million, if you're having reservations of $3 million a month, you've got five, maybe six months worth of reservation capacity.

MS. NEWSOM: Correct. We think it will potentially carry us to the 2013 award of HOME funds.

MR. OXER: So we're betting on the other guys in this building being able to replenish that. Is that what you're saying?

MS. NEWSOM: That's right. HUD.

MR. OXER: Okay. So we'll accept it on their behalf.

MR. IRVINE: And one thing that I think is pretty compelling and powerful about the reservation system, if you look at a map of Texas and you put dots on there wherever there were HOME contracts, you could have an awful lot of uncovered map, and the reservation system really effectively broadens the reach of the HOME Program so that a very small community that might not have the resources and inclination to go out and pursue a HOME contract can get into the reservation system through a very simple process, and Sara and her incredibly great staff give them the TA, so that if some small town identifies a few households that need some rental assistance or some home repair assistance, or whatever, whatever the HOME eligible activities are, they can get into that system and get served. And I think that's really going to help us to color in the rest of Texas as being covered by HOME.

MR. OXER: Good. Any questions from the Board? Nobody out there on the second row. So Jeff, you keep a list of the people that are out there. You're the gatekeeper today on that.

Anything else, Sara?

MS. NEWSOM: Not on that NOFA.

MR. OXER: Okay.

MR. KEIG: I move to approve staff's recommendation.

MR. OXER: Motion to approve by Mr. Keig.

DR. MUÑOZ: Second.

MR. OXER: Second by Dr. Muñoz. Is there any other comment from the Board? No public requests to speak. All in favor?

(A chorus of ayes.)

MR. OXER: Those opposed.

(No response.)

MR. OXER: There are none. Good. Thanks.

MS. NEWSOM: We are recommending another NOFA under the Single Family Development home activity. We are recommending an approximately $1.2 million NOFA to be used for single family development under the CHDO set-aside. And I'll answer any questions that you may have about this NOFA.

MR. OXER: Any questions from the Board? I have a question, Sara.

MS. NEWSOM: You bet.

MR. OXER: The $1.2 million, that would be on original construction.

MS. NEWSOM: It doesn't have to be original construction but it could be, yes.

MR. OXER: So how many houses does that cover? What's your average expense or average grant for each one?

MS. NEWSOM: We did not use all of the Single

Family Development money from the previous NOFA. The cap has been $80,000 and they're pretty close to that, not always but between $62- and $80-.

MR. OXER: So you're going to get 12, maybe 15 homes out of that. That's good. Glad to see that happen.

Is there much activity under the program? If the cap is not being -- if you're returning money out of the NOFA and rolling that money over into the next one, what would you do to continue to expose that so that more people have access to that?

MS. NEWSOM: We need to develop our CHDOs because they're the ones that will utilize these funds. We've recently had some technical assistance from HUD and we had a CHDO training session, and I think that was very helpful. So we've got some marketing plans to work on our CHDO set-aside that includes some training and to try to encourage others to come into the CHDO set-aside.

MR. OXER: So it's not just a NOFA, the notice that funding is available, but also how to avail yourself of that.

MS. NEWSOM: How to avail yourself of that. Correct.

MR. OXER: They have to know it's there and to understand how to reach for it.

MS. NEWSOM: Correct.

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

MR. IRVINE: Can I just comment that we all get steeped in acronyms. It's community housing development organization.

MS. NEWSOM: Thank you.

MR. KEIG: I do have one question. On the previous one, the $2 million for the Contract for Deed Conversion Program, is that a program that TDHCA is staffing, or does that go out to local organizations to work on?

MS. NEWSOM: It can go out to local organizations. We're using it under the reservation system, so a local city/county/nonprofit comes to us, signs a reservation agreement, and then has the authority to administer those and submit under the reservation system.

MR. KEIG: What do we base that $2 million amount that we set aside on?

MS. NEWSOM: It's legislative.

MR. IRVINE: It's a rider.

MR. KEIG: That's what I was thinking.

MR. OXER: Do the CHDOs take any administrative funds off the top of these grants?

MS. NEWSOM: The CHDOs can -- no. They can get some CHDO operating, and they get development fees.

MR. OXER: Are those separate grants out of each one of these houses? The question is do they get a separate grant to manage the process, or do they get a certain percentage of each one of the grants per house to operate the program?

MS. NEWSOM: They can get some admin and it could be out of each activity.

MR. IRVINE: But they get more generous operating subsidization and that's to encourage and support the building of the capacity in those types of organizations.

MR. OXER: And the point of that is if you're building the intellectual capacity, the capability for them to understand how to manage the process, and in doing that, in each one of the grants they get a little piece of that, a little slice of that too.

MS. NEWSOM: That's the way we've been allowing them to draw that, yes. So they can't draw it all up front.

MR. OXER: Right. Do you see any way you could improve the program?

MS. NEWSOM: We're working on some ways to improve the program, yes.

MR. OXER: Don't listen to him. I'm the one asking the questions

(General laughter.)

MS. NEWSOM: We do need to increase our CHDO capacity in order to get more of the CHDO funds out there. It's not a problem just common to Texas, it's across the country.

MR. OXER: Is Texas doing better or average, or have you got any thoughts on that?

MS. NEWSOM: Yes. We're probably average, a little below, probably.

MR. OXER: Okay. So how do we get above that? I think it's not a surprise to anybody in this room that we have an extraordinarily competitive Tax Credit Program in Texas. Okay. So how do we make this an extraordinarily competitive and useful HOME Program in Texas?

MS. NEWSOM: I think that with our reservation system we're seeing more commitment and more expenditures because when a city/county/nonprofit submits an activity under the reservation system, it's ready to go right then, so we're not having these buckets of unused and uncommitted funds out there. So I think we're going to see that our funds are going to move through quicker. We'll have maybe a lot more competitiveness, I think.

MR. OXER: We hope.

MS. NEWSOM: Yes, we hope. It's looking that way because every day we can look at what's the bottom line, how much is there left on the reservation system. With the reduction in HOME funds from HUD, it will also make those funds more competitive because we have a 38 percent drop in funds. I think we've made some headway in the last year or so in the HOME Program, so I think we can only go forward.

MR. OXER: If you had to manage this program -- how many people are in your staff?

MS. NEWSOM: How many are in my staff?

MR. OXER: Right.

MS. NEWSOM: There's twelve of us.

MR. OXER: Okay. If you had two less in there, could you do it with ten? Don't worry, it's not a question, I'm just saying if the budget gets down to it.

MS. NEWSOM: As we get less and less HOME funds, yes, and we spend our reserves that have been unspent, yes, we will eventually get there. Right now, no, because we have a big bucket of funds that have not been expended and we have to have the staff to get that out.

MR. OXER: Okay. So there's a processing speed and you have only throughput capacity of a certain amount, that $16-, you need those twelve people to move that through there.

MS. NEWSOM: Right. We have got to have them now. Eventually, as we spend this big bucket, we won't need as many. I think that's a couple of years down the road.

MR. OXER: Okay. Any other questions? Do we have a motion?

MR. KEIG: So moved.

MR. OXER: Motion by Mr. Keig to approve staff's recommendation.

MS. BINGHAM ESCAREÑO: Second.

MR. OXER: Second by Ms. Bingham.

MR. OXER: Are there any other comments? No public comment, no other questions from the Board. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

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

MS. NEWSOM: Thanks.

MR. OXER: Okay. Cameron, so tell us who you are and then I have a quick question before we get started.

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

MR. OXER: Okay. So the really important question is how did you do this weekend? Cameron ran a marathon, the Portland Marathon this weekend and he did it in?

MR. DORSEY: Three seventeen.

MR. OXER: There you go. Congratulations, Cameron.

(Applause.)

MR. OXER: You know, when I was 80 pounds lighter, I could do that too.

MR. DORSEY: Patricia ran it too.

MR. OXER: We'll let him save the time. It's okay, Patricia, you're going to be up later, we'll get you then.

MR. DORSEY: Hopefully I'll be sharp today despite having done that this weekend.

Our first item is just a status update on the cycle. You all had asked us to kind of periodically bring back an update. We'll probably do another one in December just to tell you how we're kind of finishing out the year with respect to the 2012 tax credit cycle.

The Board approved 45 commitment notices, basically 45 tax credit transactions from the 2012 ceiling in July, and to date one of those transactions has fallen out. They were unable to secure the unit of general local government funding that they originally contemplated and for which they received points. That was located up in Urban

Region 1 which is the Lubbock area, and as a result of that transaction falling out, when you look at the waiting list and how that plays out, Urban 1 shows up as needing the next allotment of funds, and as a result, we went to the next deal in line in Urban Region 1 which is Stonebridge at Kelsey Park, 12-269. The amount of funds they were requesting was actually higher than what was returned, and so it got allocated through the statewide collapse and took some of the residual funding we had left.

To date, we have about $488,000 remaining and we will see what happens over the next month and a half or so. Perhaps mid-November we might find out if there are any national pool credits that we have available to allocate. Those are basically credits that are nationally unused credits that are reallocated to states that do utilize all of their credits or almost all of the credit. So there's that that will happen, and there's also carryover and there's possible switching around at carryover. Carryover packages are due November 1.

And we may also have some additional credit as a result of the issuance of 8609s on transactions we approved two years ago or so and have finished up and may have not needed all of the credit that was originally allocated. So my hope is that we'll be able to hit at least one more transaction but there are only so many things that can change, it's kind of hard to predict right now so we'll bring an update on that stuff back later.

Also, just another quick update on Sunrise Terrace. That is the transaction located in La Feria that was requesting a waiver of the lien position requirements associated with TDHCA HOME funds. The Board tabled that item and directed staff to see if an alternative solution that did not require a waiver could be worked out. We've verbally worked out a kind of structure and I think we haven't fully vetted that yet, but conceptually, it should satisfy the requirements and not require a waiver, so that's great.

MR. OXER: Anything you can do that doesn't get us involved, we like that.

MR. DORSEY: Sometimes you guys need to get involved just a little bit to help us get over the next line, but we appreciate that.

MR. OXER: It's a nudge thing.

MR. DORSEY: Yes, there you go.

That's really all of that on the 2012 cycle at this point.

MR. OXER: Any questions from the Board?

(No response.)

MR. OXER: I have a question, Cameron. You said you had some that came back that were completed from a year or two back, so all those go back in the tax credit bucket, and there may be one more project that comes up. What happens if the total amount, even with the national pool availability and the returns comes up and that's not as much as the next project?

MR. DORSEY: Sure. We are required, in order to -- well, I see it as my job to make sure that we use at least 99 percent of the credit that we have available in any given year, and the reason is because if we use at least 99 percent, we have a 1 percent kind of cushion that the IRS and Treasury allow, then we can participate in the national pool which is an opportunity to get more credit. And so we're right under that 1 percent now, but I anticipate that we'll be a little bit over that 1 percent, we'll probably end up with -- let's say, for example, we have $600,000 in credit after we find out about national pool and going into December, we'll look at the next deal on the list and if it's $750,000, then we will work with them to see if we can come up with a solution that allows that transaction that's next in line to work, and that can be any number of kind of changes to the structure of the transaction to utilize that final credit.

It's the only time we allow that type of change is for that last, final, residual deal. Any other deal, we don't allow those types of changes to fit into the amount that's available within the subregion, or what-have-you, for example.

MR. OXER: So it's a change at your discretion, not theirs.

MR. DORSEY: It's a change that we work on together.

MR. OXER: Well, I know, but it's a change that you can offer, it's not one they can ask for.

MR. DORSEY: That's right. And it's just for the last deal of the year, basically.

MR. OXER: Right.

MR. DORSEY: Any other questions?

MR. OXER: This is a report, essentially?

MR. DORSEY: Just a report.

MR. OXER: Okay. Any other questions?

(No response.)

MR. OXER: Thanks.

MR. DORSEY: The next item is the proposed 2013 QAP. We contemplated this primarily being a discussion, although if something major arises that needs to be addressed now, I believe the item is structured such that action could be taken by the Board.

What I really wanted to do is, you know, we ended up with not a whole lot of time to discuss some of the comments that were made at the last meeting and I think we really wanted to be able to talk about those with the Board and have you all give any feedback you would like to give with regard to policy direction that might veer away from what staff originally proposed, or based on the public comment that you heard at the last meeting or that you might hear today.

I've provided kind of a bullet list, very short summary in the board book of the major issues. It's probably not 100 percent of the issues dealing with the QAP that were commented on last time. There were a couple that were statutory that we didn't really feel we had any flexibility on at least one of those mentioned during the meeting last time, and so you all were aware of it. However, you can take a look at that, and I guess one way to proceed would be to allow folks to continue to make public comment and then I can come back up and we can kind of walk through and provide the Board some feedback on why we structured the point item in that particular way, or whatever the criterion might be.

MR. OXER: Okay. So for purposes of setting a context, this has been posted on the -- go through the sequence again from when we started just so we know where we're at in the program.

MR. DORSEY: Absolutely.

DR. MUÑOZ: Cameron, this is your sort of summarization, your synthesis of what public comment was at our last meeting here.

MR. DORSEY: That's exactly right, in the board book.

DR. MUÑOZ: Not necessarily that this has been incorporated anywhere.

MR. DORSEY: That's right. And when I come back around at the end and walk through each of these issues, I'll let you know what we actually incorporated into the version that is posted to the *Register* for comment.

So we've had a couple of drafts out thus far. The first step we went through was we put out basically what was a staff draft of the QAP to get it out there. Being that it was effectively rewritten from the ground up, at least the point items were for sure, we felt the need to get it out there very early for discussion and we aren't 100 percent all the time and certainly the development community provides a lot of great feedback that we appreciate and need to incorporate to clarify items and what-have-you.

So we put out a staff draft and that followed having each of the point items that we thought might be part of that draft up in an online forum for comment, and we got a little over 180 comments, I believe, to those different items. Both me, Jean and Teresa frequently tried to go on, take a look at what was being commented on, and provide feedback where we thought feedback might help. For example, I think we heard a lot about sponsor characteristics last time and so we went on there to try to clarify. There was some debate going on between development groups on the forum itself and we wanted to clarify kind of why staff had proposed that item the way it was. So that was the first step.

Then we took all that feedback and tried to craft the staff draft, put that out, and got some additional feedback on the staff draft, and then brought to you all the staff proposed version for publication in the *Register* at the September meeting. The action at the September meeting was a bit confusing, I think, for a lot of folks in the room, but effectively, it was make sure that any of the comments that were made could be part of the final draft. That's effectively what we wanted to achieve.

MR. OXER: Essentially, give us the option to take all of this into account.

MR. DORSEY: That's right. And which is one thing that is enabling us to have a great full discussion today because we can actually accommodate any of the suggestions that were made last time into the final draft or final version.

DR. MUÑOZ: We can accommodate them into the first draft if the Board believes that they are worthy of accommodation.

MR. IRVINE: You can actually adopt them in the final based on what was originally proposed. The proposal that's out for comment has several items in it that were raised in discussion that staff doesn't necessarily recommend, but they're incorporated in that draft so that if you want to take action to adopt, you can.

MR. DORSEY: That's right.

MR. IRVINE: Although, it's not time to adopt yet. That happens in November.

MR. OXER: Because the next question is going to be where do we stand on this in the sequencing for the execution on it.

MR. DORSEY: Right. So currently we're during the public comment period and this board meeting we just kind of see as more ability to provide public comment and feedback. The public comment period ends on October 22, and then we will go through a process of developing reasoned responses which may incorporate or not incorporate that public comment.

That's a pretty time-consuming process. I believe last year we had about 70 pages of reasoned responses, so Teresa is extremely organized and is the reason we're able to do that in such a timely fashion. So we'll go through and develop those reasoned responses and bring to you all at the November meeting a proposed final version. At that meeting you all could make other adjustments as part of the motion as well.

MR. OXER: So for now, we're sort of at a snapshot of where we're at but we're still listening. We're still listening to these folks in the next row back behind you. Right?

MR. DORSEY: That's right. And the really key thing here is we're subject to statutory deadlines for getting this set of rules approved, and so the November board meeting, I believe, is on November 13, and we need to submit to the Governor's Office by November 15, and then hopefully we'll have a response from them by December 1.

MR. OXER: Do you have a comment, Counselor?

MS. DEANE: Yes. Just to clarify, the law requires, the APA requires that if the Board puts out a particular draft and then prior to adoption of that draft they decide to make changes that are so substantial and dramatic that they would not be what they call a logical outgrowth of the original posting, then you have to go out for public comment again. And the idea with the draft that was published is that we and the Board recommended that we make it broad enough that that would most likely not have to happen, that we would not have to republish because the original draft was broad enough to encompass all those issues and ideas and enable the Board, if it desired to do so, to make some at least minor changes prior to adoption.

So that's kind of where we are right now is this draft went out which was hopefully broad enough -- we believe broad enough to encompass all these issues so you won't have to republish. But we're back today to receive more public comment, and if, for some reason -- and staff is not recommending this, but if, for some reason there was a very, very substantial and dramatic change that the Board wanted to make, we would still have time before the statutory deadline to republish, but that's not a recommendation that we make that the Board should make a dramatic change and republish, it's just sort of a safety net built in because you have a statutory deadline to adopt your QAP.

MR. OXER: So essentially, we've got a ver broad animal here. What would happen we'd be really paring it down and tweaking it a bit as opposed to going and adding big pieces to it. Right?

MS. DEANE: Correct.

MR. DORSEY: That's right.

MS. DEANE: Today we're more seeing guidance from the Board just to make sure that in these tweaks they're headed in the right direction so that when they bring you a draft to adopt at the final meeting, it will be in accordance with what the Board is prepared to adopt.

MR. OXER: And we'll gain public comment but we're going to make some discussion about this public comment to the extent that it adds to or detracts from what's on there now, with the idea that you'll come back next meeting with what we would say is our draft final.

MR. DORSEY: That's right. So I think what we could probably do is allow folks to come up and make public comment and then I'll try to talk about the things that were commented on at the last meeting and the comments we hear today all at the same time. Hopefully I'm sharp enough to do that.

MR. OXER: Twenty-six miles takes a lot out of you, doesn't it.

Just a request of those there, is everybody on different pieces, or do you know? Do you have any sense of that? Okay. Well, we want to keep you there, Cameron, so that you can make comments or we'll ask after they've had an opportunity to speak and then we'll see where you're at on all this. Okay?

This is essentially a report item, just a restatement of that, so those of you who come up and speak, do we have the sheet up here, Michelle, for everybody to sign in? That's okay. Put a pad down there just to sign in.

MR. DORSEY: Let me just note real quick that if folks don't want to come up and make public comment and they just want to make comment in writing, it still gets full consideration.

MR. OXER: Yes, absolutely.

MR. DORSEY: And oftentimes, the ability to suggest the actual language change is very beneficial in writing, so we always encourage written comments.

MR. OXER: Yes, and even those who want to speak in this meeting, you're encouraged to offer that testimony in writing as well.

All right. We'll start from the left here. And for the record, just so restate our program policy here, we're not running a clock on anybody, we're going to give you time to speak. If something has been said by the speakers ahead of you and all you want to do is say I'm in favor of that, you can say you're in favor of that, you don't have to restate it again, and we'll know what you're talking about. We're trying to give everybody an opportunity to speak but be efficient with our time and use of our resources here. There's a pad here so that our recorder has the capacity to know exactly, state exactly your name, who you are and sign that in. When you come to the microphone, state who you are and who you represent and the item that you're commenting on.

Good morning.

MR. ASH: Good morning. Thank you all for your time. My name is Michael Ash from Irving, Texas. I represent Commonwealth Development. We are new tax credit developer to the state so the thing I'm speaking specifically on is the sponsorship characteristic language that essentially would require us to partner with a developer with three Texas projects. I understand it's not a requirement, but given the fact that there are three points involved, essentially it is a requirement.

To give you a little bit of background about my company and myself, because I think it's important in terms of our position, the company I work for is Commonwealth Development. We've been in business ten years, owned by a gentleman named Louis Lange. Over that ten years, all of our practice has been in Wisconsin. We've developed 22 tax credit projects, over a thousand units at this point. We were named developer of the year in Wisconsin by the Wisconsin Builders Association. We're typically one of Wisconsin's highest scoring developers. They score the development team and we've done very well. So we have a great depth of experience just in terms of numbers. We also have broad experience in terms of what we've done. We've done new construction, adaptive reuse, acquisition rehab, we've partnered with housing authorities, we've partnered with cities, so a very broad experience.

In terms of the people involved, my principal, the company owner is named Louis Lange. He is a retired Marine officer, spent three years working for another for-profit developer and his own company for ten years. He is very cautious, he is very conservative, he's a very smart guy. He walks me back from the ledges of lots of stupid projects that I look at that I really like. So he's done a great job with that.

I have been in the tax credit business for probably 16 years now. I'm a recovering attorney. It took me about nine years to figure out that there were lots of people that --

MR. OXER: You understand that's like amoebic dysentery, you never really get rid of it.

(General laughter.)

MR. ASH: I don't know that I would use that comparison, but I understand what you're saying.

MR. OXER: And the counsel on my left here and the one behind me.

MR. ASH: I realize there were a lot of people who were better suited to practicing law than I was.

MR. OXER: I'm surrounded by attorneys up here.

MR. ASH: I'm sorry about that.

MR. OXER: Talk about walking you back from the ledge, trust me, I'm the one who gets walked back frequently.

MR. ASH: I worked at the Wisconsin Housing Economic Development Authority for twelve years, including a number of years as a multifamily and tax credit underwriter, and a number a years as director of multifamily tax credits and our lending programs. So the fact that I'm appearing in opposition to language that staff has drafted, I apologize to the Board and to Cameron. This is the first time I've been here and I don't necessarily want to speak in opposition, but I feel like I have to.

I've worked for a year for this company. Prior to that I worked for three years for another for-profit developer in Wisconsin. They were also a very good developer, they were also picked as developer of the year by the Wisconsin Builders Association. The only thing in common those two companies ever had was me, and I don't say that to prove anything except for the fact that there's a big difference between correlation and causation. They were both excellent companies, I was lucky to work there, and they've done a lot of good work.

Some of the projects that I've worked on include the rehabilitation of a 239-unit Section 8 project in inner city Milwaukee. It was a combination 9 percent tax credits, 4 percent tax credits, and bonds. Also worked on a private-public partnership between the City of La Crosse and the former company I was with that involved them building the shell of the building, there was a transit station and retail on the first floor, there was condominiumized low income units on the second, third and fourth floor, and then there was condominiumized condos on the top floor. Those eventually became apartments in the 2008-2009 crash. But really what I'm trying to point out is we've dealt with an extreme variety of projects and very difficult projects too, not simple project.

The real point I want to get to -- and I'm sorry it's taken this long -- is that I'm not sure the language as drafted really accomplishes any of the state's goals. The language that would require our firm to partner with someone who has done three projects in Texas I don't think is going to create any additional housing, I don't think it's going to create better housing, I don't think it's going to serve any additional geographic markets, I don't think it's going to serve any additional use markets, special needs, families, senior, anything like that.

What I do think it's going to do, I think it's going to add to the complexity of the transaction, I think it's going to add to the risk of the transaction, I think it's going to add somewhat to the costs of the transaction, both in terms of legal and accounting fees, and I don't know that it's going to get what I think the state wants to get through that language.

So I'm speaking in opposition. I guess my suggestion -- and we're a member of TAAHP, this is certainly not TAAHP's position, I don't' know what their position would be -- would be to make it a threshold item that can be addressed by partnership with someone if we don't have adequate experience. If you're looking for a bright line that you have to have X amount of experience, I would not relate it to the State of Texas, I would relate it to tax credit projects of a similar nature. And if you're looking for a number, given that we have 22 projects under our belt, I'd say the number ought to be about 20 or 21 projects, something like that.

So thank you for your time. I appreciate it.

MR. OXER: Indeed. Thank you.

Hold on, Cameron. Is there anybody else that wants to speak on the sponsorship characteristics? We'll start from the left over here; we have three ringers in there.

And that way you can respond to all of them in kind at one time, Cameron.

MS. McGUIRE: Good morning. My name is Ginger McGuire. I'm speaking on behalf of the Rural Rental Housing Association of Texas.

And I, first of all, want to agree with the previous speaker regarding the out-of-state requirements and the three projects with 8609s and 85 percent compliance score. The 85 percent is fine, the three projects with the 8609s actually, in our opinion, does not do what it's intended because it freezes out a lot of the Texas rural developers that don't have 8609s. They're very capable, they've done a number of projects, and this particular provision would prevent them from getting additional tax credits or getting tax credits. This is in rural areas where the funds are really limited and tax credits are just about the only resource they have for rehab in those areas.

Secondly, on the award limits, do you want me to stop here so he can address all of those, or do you want me to continue?

MR. OXER: Continue. We'll get all the sponsorship, but go ahead with your comments.

MS. McGUIRE: Okay. And secondly, the Rural Rental Housing wants to note that seniors in rural areas have been identified in the statewide housing analysis as the stable and growing population in rural Texas, and so we really do not agree with penalizing elderly, particularly in rural Texas where that's going to be the stable population for a lot of these communities. We'd like to see the rural projects receive parity always in scoring points with family developments because they're so needed in rural areas, and the rehab is just tremendously needed.

MR. OXER: Eventually all of us get to be in one of those special needs groups with age. I'm hoping, anyway, I hope I get there.

(General laughter.)

MS. McGUIRE: That's right, that's a good scenario.

And tie-breaker factors, they're first measured by opportunity index and then by the greatest distance from the nearest housing tax credit. We would like to see more clarification on that. If it's 9 percent that you intend there, we'd like to see that clarification; if not, then we want to see that clarification as well.

In addition, last legislative session the legislature clarified some unintended language on the 538 program and made it permissible to use the 538 in the set-asides, the at-risk and the USDA, as long as there is a 515 -- which is the original Farmers Home projects -- retained with that loan. So it would be rehab only, and again, that's one of the few sources, tax credits are one of the few sources of funds that these projects have for their developments.

And lastly from me, special needs, we would like to see the definition of special needs expanded. For example, Wounded Warriors, as defined by the Wounded Warriors Act of 2008, that's just one example. But applicants should have the opportunity to obtain agency approval of other categories, unanticipated at this time, of special needs not specifically listed at the time of cost certification.

Thank you.

MR. OXER: Good. Any questions of the Board?

(No response.)

MR. OXER: Okay. Thanks very much. And everybody make sure you sign in up here just so we have your name spelled correctly for the record.

Good morning. Welcome back.

MR. HOOVER: Good morning. Thank you.

My name is Dennis Hoover. I'm going to start off, I'm in at least two capacities here this morning, the first one being speaking for the Housing Authority of the City of Edinburg on an application they helped to make this year.

They bought property about four or five years ago and I want to speak to the opportunity index.

I've been participating in the program since '87 and I want to applaud TDHCA and the staff for the job they do every year, not just this year, on trying to tweak these rules, and it's been a bigger job this year. And I think everybody here knows you make a rule this year, it's not till next year that you discover all the unintended consequences, and that's not saying we don't need rules. And this opportunity index, as you look at it, you don't realize until you look at it in depth what it does.

In the City of Edinburg, the housing authority bought themselves a piece of land five years ago that's in the part of town, it's in the second quartile, it's got great schools around it, it has exemplary and recognized schools, it's sort of sparsely populated, there's a lot of agricultural, there's some nice houses, there's some older rundown houses, there's one of their own housing authority properties there. But the City of Edinburg has got probably some of the highest poverty rates in the United States. And so it's in the second quartile, it's in a great area of town, it has great schools, but it's got 35.08 percent poverty and would be excluded under the opportunity index.

And as we start looking at how the opportunity index affects different regions, to be equitable in its effect, almost every region needs a different percentage rate. The Belton-College Station-Temple area needs a higher poverty rate, the Corpus region needs a higher poverty rate, the Lower Rio Grande Valley needs a higher poverty rate even than 35 percent if we're going to include at least half of the census tracts in the eligibility on the poverty side, and that's not even counting the quartiles.

The particular problem is the incidence of poverty in Edinburg, and I don't think the intent the opportunity index is to block out the whole town, it's just to block out areas of town. And that's because Edinburg has much higher poverty across the board, even in the better parts of town. It's because the poverty level is measured in the whole United States together, not just in the State of Texas.

The opportunity index -- and now I'm speaking for the Rural Rental Housing Association -- the way the quartiles affect, starting to look at my USDA properties and where they're located in little small towns, I started making a list, I had to go to the fourteenth town before I found one that would get inside the first or second quartiles. And it's my recommendation that for at-risk that the opportunity index be set aside. Those properties are already there, they're already USDA properties or they're already tax credit properties, they need to be rehabbed, and I'd rather not be making -- I've got 15 properties that need to be rehabbed, I'd rather rehab the one that needs it the worst, but what am I doing? I'm looking down to see which one scores the most, unfortunately. So the opportunity index.

The commitment of funding by the unit of local government -- and again, I'm speaking for Rural Rental Housing here -- that's been tightened up quite a bit from years past, but still I found myself in the position of trying to figure out how am I going to get this loan from the city where it doesn't cost the city anything, and therefore, it skirts the intent of what's meant here. If this doesn't cost the city something, then it puts developers, everybody included, in the position of trying to figure out how am I going to construct this so I can get the points where it doesn't cost the city anything, and therefore, they'll agree with it. It needs to cost the city something.

MR. OXER: They need to have some skin in the game. That's what we were actually looking for because that constitutes a commitment, rather than coming up later and having the entire city say we didn't want this project. Well, if you've got something in there that says you funded it, there's a resolution. That was the intent, the best I recall.

MR. HOOVER: It's much better than it was.

MR. OXER: We're not there yet but we're inching closer, I hope. But go ahead. I'm sorry, Dennis.

MR. HOOVER: It needs to really cost the city something or else -- I mean, I was in a meeting yesterday trying to figure out how to --

MR. OXER: Game the system.

MR. HOOVER: -- how to game the system. Exactly.

MR. OXER: Unfortunately, we have to have winners and losers because, as we were talking earlier this morning, we've got plenty of projects, we're looking for money. Now we've got to peel the list down, so there's some that meet the criteria and some don't, and unfortunately, you don't get shaved half points in here. It's a hard problem to manage because every time you push something in here to sharpen up, it opens up something with unintended consequence on the other side.

We appreciate your comments and recognize that this is far from a perfect program. Part of what I had thought was there may be some other programs that had an opportunity to provide some relief to some of these areas of need that we haven't developed to a state of such competitiveness as the Tax Credit Program has. And I don't know how to do that, I'll admit that, but that's one of the things. The Tax Credit Program is essentially a tool to solve certain problems, it can't solve every problem. In fact, if you try to use it to solve every problem, eventually you're going to run into the situation you're essentially using a hammer to solve an electrical problem, it's just not going to work. Okay?

MR. HOOVER: And that's the case with some of these smaller USDA programs. They get to the point where they're so small, the syndicators won't buy them, and therefore, what do you do? USDA has no money anymore and the HOME Program is about the only thing left.

MR. OXER: I'm sorry to interrupt. Did you have additional?

MR. HOOVER: A couple more comments. The cost per square foot, we had a lot of comment from our members back on that, and I think we just want to say we agree with the TAAHP recommendation of take it back to the 2011 with a $3,000 per unit boost on top of that.

The definition of rural needs to be clarified where it's one definition. I think there's a lot of confusion and some disagreement even amongst our members on that about which definition to use. So the small projects that are under 50 units gets an extra point. I happen to like that one, but most of our membership doesn't, so I'm just going to have to speak against it. And the quantifiable community participation, a neighborhood, one point extra for neighborhood organization, I spoke against it last year. Most of our members say if it's a positive community neighborhood organization comment, it should count the same either way.

MR. OXER: Okay. Thanks.

MR. HOOVER: Thank you.

MR. OXER: Good morning.

MR. McGUIRE: Good morning. My name is Scott McGuire, and good morning, Mr. Oxer and Board members, Mr. Irvine.

I'm here to comment on, first of all, I've been in the business for 25 years and I think I gave Dennis Hoover the first allocation when I was with the agency in 1986. In '86 we created the program and in '87 Dennis got the first allocation in that round. Everybody got an award.

MR. HOOVER: I think the application was five pages long.

DR. MUÑOZ: Let's say that again to get in the record.

(General talking and laughter.)

MR. McGUIRE: But I'm here to reiterate a couple of things, a couple of points that have already been made. One is sponsor characteristics. Again, I'd like to vent a question by a client of mine. I represent rural developers, one of them which is an out-of-state developer, and with a permission, I'd like to read their letter into the record, if that's okay.

"Prestwick Development is an Atlanta, Georgia based affordable housing development organization. It's principals collectively bring over 60 years of affordable housing development asset management experience, with over 14,000 developed to date throughout the south and southeast. All of our developments are in full compliance with the Housing Tax Credit rules of the respective states and Section 42 of the IRS Code. Prestwick successfully competed for and was awarded a 2012 Housing Tax Credit allocation for the development of the Manor at Hancock Park, a 58-unit elderly community located in Lampasas, Texas.

"As currently written under sponsor characteristics, developers with Texas experience are favored over experienced out-of-state developers. The language is putting forth an anti-competition, anti-free market agenda that is in direct contrast to the pro-business environment that Texas has long been known for. "As clearly stated in the Texas Government Code in Chapter 2306, one of the main purposes of TDHCA is to provide for the housing needs of individuals and families of moderate, low, very low and extremely low income, and to serve as a source of the information to the public regarding all affordable housing resources. The Low Income Housing Tax Credit Program is a federal housing program of the U.S. Department of Treasury and it is administered for the benefit of Texans by TDHCA.

"While no one will argue that developer experience is one of the most important underwriting criteria, the location of that experience should be immaterial to the Qualified Allocation Plan. If an experienced out-of-state developer can provide for the affordable housing needs within Texas communities throughout the Tax Credit Program, he/she should be allowed to do so without impediment or handicapping in the application process. It is incumbent upon TDHCA to administer all federal affordable housing resources fairly, equitably, and without bias to where the developer is domiciled.

"We request the words 'in Texas' be removed from the sponsor characteristic section of the QAP and allow an even playing field for all experienced and compliant developers."

The second point that they're making is in the elderly, disparity in points between elderly and families in rural Texas. My comment there is in addition to supplement Prestwick's comment is I'd like to read from the Bowen National Research study that was conducted by TDHCA. Bowen was hired by the agency to develop a report. And in that report I'd like to just read one section in their summary.

"Demographic trends and migration patterns indicate that younger people and families under the age of 25 appear to be leaving the rural areas, while senior, age 55-plus, population and households are growing rapidly in the rural areas. Rapid senior demographic growth trends will increase the need for senior-oriented housing. Without modifications to existing supply and/or development of new senior-oriented housing that will allow seniors to age in place, rural areas may experience migration of seniors from rural to more developed urban markets."

As I travel through rural Texas, I hear the same plea over and over again from mayors and city managers: Please help us keep our aging population in our community by creating affordable housing for our seniors who want to stay.

Thank you.

MR. OXER: Good. Thanks, Scott.

Cameron, are you up to speed on this? Do you need any time, or do you want to get the rest of them in?

MR. DORSEY: No. Let's keep going.

MR. OXER: Okay. Good morning.

MR. JOHNSON: Mr. Chairman, members of the Board.

My name is Brett Johnson. I'm a partner with Overland Property Group out of Topeka, Kansas. And most of what I'd prepared to speak has already been covered today, so I'm going to do a little on-the-fly change here and give you a little bit of insight as to how an out-of-state developer views the Texas process.

We've developed over 27 communities throughout the Midwest, over 1,500 units in the past ten years. Without question, the TDHCA application process is the most fair, the most balanced and the most transparent scoring system out there. There are other states -- and I won't name names, but one of them just went to the SEC -- that doesn't even show the scoring, so we have no idea where we compare to other developers.

That being said, competition -- and I know this is strange coming from a developer -- competition is a good thing for you guys, it's not only a good thing for you guys, you have more options, more choices, more communities are going to be approached. A great example, this year we were fortunate enough to be awarded two deals, one in Burkburnett and one in Dumas. At one point there were four developers competing for land in Dumas, Texas. I think that's pretty unique, and if we throw up barriers and essential hamstring out-of-state or new developers by deducting three points, that's a deal-killer for a lot of them which is not good for those communities. I think it's healthy to have 200-plus applications a year.

Some of the states we deal in are actively recruiting out-of-state developers because they don't have what you have down here which is competition. So I would like to stress that even though it's harder for developers like us to come in and get deals because we have to compete, it's better for the system in general. We had to sharpen our pencils considerably to get our deals approved, and if there were less developers competing against us, I don't know that that would necessarily be the case.

I don't know that it's also fair to penalize those who have less experience. It doesn't mean they're not capable of following rules. Just because Overland Property Group doesn't have three 8609s under our belt, that doesn't mean we aren't a good developer and can't follow along with what you guys want. And I know that compliance is driving this, but I would focus this more on penalizing the bad people than penalizing up front and assuming that somebody can't follow the rules.

So that being said, obviously I'm in opposition to this. I would encourage the staff to rethink that and look into the benefits of how the system is already working, which is a free market system which is exactly what it was built on back in '86.

MR. OXER: Good. Thank you.

Any comments from anybody for Mr. Johnson?

(No response.)

MR. OXER: Whoever is next, come back and sign in, if you would, please.

MR. WATERHOUSE: Good morning. My name is Stan Waterhouse. I'm the chief operating officer for the Housing Authority of the City of El Paso.

For the last several months, in conjunction with the QAP, several of the large housing authorities here in Texas, San Antonio, Houston, Fort Worth, Dallas and El Paso, have had conversations about the QAP and how it affects our businesses and how we'd like to participate in it. The second part of that is we've had a lot of conversations with our local representatives at the city level to discuss their interest in how the QAP affects that joint interest.

Just as a way of background, really we want to talk about the fact that as housing authorities we accommodate approximately a million folks here in the State of Texas through the different programs. A large portion of that we also work with folks in the tax credit world. El Paso, as an example, I have 20 tax credit projects, I know San Antonio has about 4,000 units in tax credit, so tax credit is a major piece of what we do and it's a nice complement to our total portfolios.

And the concern I have or want to express right now is the unit of local government funding issue. We're not, obviously, a unit of local government in a technical sense, we are in the sense that we get federal funds, we sort of live at the intersection, if you will, of the federal government and the city financing.

MR. OXER: Caught in the crossfire.

MR. WATERHOUSE: Absolutely. And it's an interesting place to be and it creates a lot of interesting opportunity.

But the QAP now, with the changes that have been reflected in it or placed in it, basically take us out of having a voice in that. Essentially, our monies become -- it changes the context of the funds that we put forward. As an example, we were fortunate enough to win a tax credit award this past round. We put, as the housing authority from the City of El Paso, approximately almost $6 million into a project, and essentially what the new QAP would say is that those funds have no value in the scoring process. And we've had conversations with the staff, I completely understand the perspectives that you guys have put forward as to the involvement of the cities, but the city, in our instance, could never have contributed at that level to these projects and basically see us as an integral funding source for those type of projects.

We're clearly the only folks that can build PHAs, public housing units, and if you look at the way that public housing is being built currently, it's a multi-finance project where you have a combination of tax credits, you have a combination of affordables all the way to market rate and PHAs count as part of that mix. Without our funding, those kind of projects would not occur with a PHA as a component part. So we feel like our monies are governmental, they're clearly designed to feed a need, and they're clearly designed to work in conjunction with the city's needs.

MR. OXER: May I ask a question?

MR. WATERHOUSE: Sure.

MR. OXER: What is the housing authority's authority conditioned on what or founded on what? Is it a resolution? What created the housing authority?

MR. WATERHOUSE: Well, they're created via state but they're also basically chartered by the cities as well.

MR. OXER: Does that not constitute -- does that not qualify, Cameron?

MR. DORSEY: In the past it has but the way the point item is currently written, a housing authority would only qualify for providing points under this item, and I'll get back to all the other places where that financing would get points. But under this item, if the board were at least 60 percent city council members or county commissioners, if that makes sense, basically it's substantially representative of the city's interests. The boards of housing authorities are oftentimes appointed by mayors.

MR. OXER: Not elected.

MR. DORSEY: That's right, not elected, and not necessarily substantially representative of the city's interests. And we do see where government instrumentalities veer directly in conflict with a city's will or desires in many cases. Again, this is under one specific point item and under what qualifies under this specific point item, it's not any kind of statement about government instrumentalities generally.

MR. OXER: Right. Go ahead, Tim.

MR. IRVINE: And just for clarification, the statutory provision is the level of development funding by local political subdivisions.

MR. WATERHOUSE: Well, and Chairman, in all honesty, in the past we've always been considered that, and so our funding has been considered from a point standpoint to win those points.

MR. OXER: And I understand that, and I guess where we'll eventually wind up on this is that it's evident that the funding you provide is extraordinarily important, of course, and there may be other places where you have the opportunity to score points on that that others would not able to score on, it's just in this interpretation. We had to have some mechanism to sort this all out.

MR. WATERHOUSE: Absolutely.

MR. OXER: Your point is well made, we recognize the funding, we're trying to contribute some value to that in the scoring, perhaps someplace else, but your point is made.

MR. WATERHOUSE: Thank you.

And just in reaction to one of Cameron's points, all of our boards are appointed by the political beings within that community, whether it's the mayor or the council, so irrespective of whether there's a council person sitting on that board -- and he is correct, there are circumstances in any political environment where there's a disconnect between boards and maybe the folks that appoint them, but at the end of the day, at least for the large ones that I'm familiar with, we all work very, very closely with the political folks to make sure that the needs of the community are well taken care of. And so I think when you start looking at the 60 percent crossover threshold that he's talking about, I'm not sure how realistic that is, certainly when it comes to larger communities such as ours.

MR. OXER: Understood. We appreciate your comments.

MR. WATERHOUSE: Not a problem.

MS. McCORMICK: Good morning. My name is Kathy McCormick. I head up development for the San Antonio Housing Authority.

What I wanted to do is just spend a few minutes talking a little bit about what we do in San Antonio and then make some comments about some of the other aspects of the QAP that we're concerned about.

First of all, as Stan said, we have been talking with all the larger housing authorities. We are in agreement and do ask that you give consideration to how we're defined as an instrumentality. We are quasi-political subdivisions of the state and we think that provides us something. Also, most housing authorities can be taken over at any point in time by their elected officials if they're not happy with how the work is being done, so I would ask you to consider that as well.

But with SAHA, let me tell you a little bit about what we do. We own and manage almost 12,000 housing units in San Antonio. Of those, close to 6,500 -- we have a few more than Stan mentioned -- are done in mixed income tax credit developments. But what's important to us about that is that those tax credit developments are all public-private partnerships. This isn't SAHA acting as a developer alone, but we've worked in partnership with NRP, Carlton Development Corporation, Franklin Development, Home Spring, and now more recently, we're also going to be working with McCormick Barry Salazar out of St. Louis.

What's important about these particular transactions for us, as Stan also said, is that we do a lot of deeply subsidized housing in these developments, so we do mixed income transactions. We develop them to a very high quality standard because as a housing authority we know that we're going to be owning these properties for 30 years. It's not just a matter of putting them up and then being able to walk away at the end of the tax credit compliance period or at the end of 15 years when you think you might come back in for more tax credits, we own and manage them for a really long time.

And because of the strategy that we take, we are distributing affordable housing throughout the communities in which we work which I think is an important public policy and initiative that we all want to be aware of. It's not concentrating poverty, it's not concentrating a certain income level, it's getting them distributed throughout the community, which we think is also very important.

In San Antonio, in particular, though, we're probably one of the oldest housing authorities in the state. This week we're celebrating our 75th anniversary, we've been in business a pretty long time, and we have public housing that is 70 years old. And as we start looking at how we're going to begin redeveloping these products, because they are 70 years old, we have to do them in mixed income developments, we do rely on tax credits, and we also work very closely with our cities to set up what we call revitalization areas. So I just wanted to speak to that for a moment in the QAP.

We're going to be asking for consideration that you look at what multiple initiatives might be in a city as opposed to having an adopted revitalization plan the way it's defined here. So for example, in San Antonio we have neighborhood plans that have overlaid on them different tax increments and different kinds of development incentives like we have in the downtown plan where we might get waivers of fees, we might be able to get density bumps, those kinds of things. We're saying begin looking at all of these plans and where there's an intersection that clearly is an incentive, have that count as though it was part of a revitalization strategy.

The other thing that we also ask consideration for is that -- this is on revitalization but also somewhat on the opportunity areas -- more and more we're looking at working and partnering with the federal government where we're developing some of our properties through the Choice Program which is a replacement of the old HOPE VI Program and we're a finalist, one of nine in the country, for the Choice implementation which would include the redevelopment of a public housing site but also the surrounding neighborhood. So it extends just past one site and looks at what's happening in the surrounding area. In this case it's an area that's been divested of, we have a lot of vacant lots, a lot of vacant properties where we'll be doing some in-fill rental housing.

So when we look at an opportunity area, it wouldn't really qualify, and yet the opportunity is that it's going to bring an additional $30 million into the community for revitalizing an entire area. So we think that needs to be considered both in the opportunity area definition, as well as the revitalization area.

And that is all I have for today. Thank you.

MR. OXER: Thanks.

Diana. I'm sorry, you're up next, you'll be up next.

MS. McIVER: Good morning. Are you with a housing authority, though? Go ahead so you're a trio.

MR. OXER: That's right.

MR. SIMONIANS: I'm Bobken Simonians, Houston Housing Authority. Good morning.

I don't want to reiterate whatever was said, just in support of what was said. I'd like to make two points, however. Number one is hard to develop areas, undesirable areas is creating a lot of problems for City of Houston, specifically, and I know in many other cities. We have 25 developments, about five of them are 1939-1940s, they need to be remodeled, they need to be reconstructed. They need to be excluded or exempted from the current rules because they are not admitting poverty, they are not creating new developments next to a railroad or whatever, they are there, there is nothing we can do with them, they are just improving the lives and improving neighborhoods. I think staff has possibly supported that idea to make it in the record as part of the exemption.

The other issue I have is what was said before with some variation. City of Houston is in a unique position, along with two or three other cities that receive federal disaster recovery funds, CDBG funds from the federal government through GLO. Those monies, some of them directly go to the housing authority, some go to the City of Houston. With our very close cooperation with the City of Houston, the City of Houston has developed targeted areas, working with HUD, to use the money to improve those neighborhoods.

Now, in those neighborhoods, if we are using CDBG disaster recovery funds which are provided by the GLO and the city, we would like that to be considered as funding sanction, so to speak, and gets the 13 additional points for the city funding. Those are not funds that we have, we don't really have much funds, but this is sanctioned by the city, supported by the city, supported by the federal government, supported by GLO. Everybody in government is behind these developments and not giving them the 13 points would negatively impact the positive development plans we have.

I think I should stop there. We will submit written comments so that we won't take too much of your time, but it will be in the record.

MR. OXER: Good. Thanks very much. Diana, good morning.

MS. McIVER: Good morning, Chair, Board, staff. Diana McIver with DMA Development Company. And I would like to speak to the sponsor characteristics, primarily the use of HUBs as part of that category. To that, Dr. Muñoz isn't here so I could redeem myself with him, for those of you who were at the last meeting, but if you'll vouch for me.

MR. OXER: If you want to wait.

MS. McIVER: Maybe I should wait. It's very positive. Do you want to go first?

MR. OXER: Trust me, you're going to be there. That's all right. Go ahead.

MR. SORAI: Good morning. My name is Kit Sorai, I'm with S2A Development Consulting.

I'd like to take this opportunity to read a letter into the record with regards to the proposed sponsor characteristics scoring item.

"Chairman Oxer and Members of the Board, I apologize for not being present today, but do appreciate your allowing me the opportunity of having our company's views read into the official record.

"My name is Craig Whitner and I work with Pedcor which is a large developer, contractor and manager of affordable housing based in Indiana. I wanted to address the proposed sponsor characteristics scoring item and its potential impact on out-of-state developers such as myself.

"If the language is finalized in a way that penalizes out-of-state developers, we will no longer participate in the 9 percent program. While we have not been successful in obtaining an award of 9 percent credits in the last two years, we have been very close and realize that with the perceived good old boy playing field for 2013, it makes sense to place our efforts somewhere else.

"Our company currently develops in eleven states, we self-manage our entire portfolio of 14,000 units, with 11,000 of those units being tax credit units. We are one of only a handful of companies in the United States that were given permission from HUD to go over the $250 million debt cap. Our company has a historical record of compliance that could be put up against anyone's in this country, but again, if the draft language is finalized, we would come out of the chute into the penalty box.

"Mr. Chairman, when reading the transcripts from an earlier board meeting, it seems clear that your desire is to have this scoring item look at the broader history of the applicant, not just in Texas but anywhere they have developed, which we agree with. I request that you instruct staff to investigate and present to the Board some of the various ways that other states have successfully approached this issue.

"Thank you for your time and consideration."

MR. OXER: Good. Any other questions from the Board?

We may have to give him some more slack here, Diana. We have a lost Board member.

MS. McIVER: Okay. Go ahead, Mark, bail me out.

(General laughter.)

MR. OXER: Let's do this, let's take a quick ten-minute break because we've been sitting here in our chairs for an hour and a half, and I, for one, need to stand up for a minute. So everybody be back in your chairs here at 20 of 12:00. And so that you know, we're going to break just a few minutes after 12:00 for lunch.

(Whereupon, at 11:30 a.m., a brief recess was taken.)

MR. OXER: Let's get started.

Diana, I think your revered guest is here so you can address your comments to him.

MS. McIVER: Yes. Thank you, Dr. Muñoz, for joining us, because this is very important, it's near and dear to my heart.

Again for the record, I'm Diana McIver, DMA Development Company, and I would like to speak on sponsor characteristics. The part of sponsor characteristics that I would like to speak to is some work that I did with staff following last meeting, and I think we came up with a very good way, in my mind, of treating the HUB participation in tax credit developments.

When you go to the QAP and the draft that was printed, it's a little confusing because there's a section A, there's an option A and then there's an option B, and I would like to support option B. They look very similar except when you go to option B you'll see there's one point for participation in the development by a HUB, a Historically Underutilized Business, and how that is done is it is actually taking a concept that the HUB must have combined 100 percent benefits from a combination of ownership, developer fee and cash flow, and those can be in any percent as long as they add up to 100 percent.

Now, the reason I like that is, one, it makes the HUB not a substitute for inexperience but it makes the HUB a supplement to experience, so I think that's very positive. Another reason I like it is because you heard from the nonprofits that they were being penalized because they could not joint venture with a HUB and stay in the nonprofit set-aside. Under this concept, they can because they could give the HUB 20 or 30 percent of ownership and still, as the nonprofit, meet that test of materially participating.

The third reason I like it is because it's not unduly prescriptive, and everybody last time was saying you're telling us you want us to joint venture with a HUB but you're telling us exactly what they must do, that they must have at least 51 percent ownership and that's not fair when we're going out and we're doing the personal guarantees and all of that. And so this allows the developer to decide how that HUB will participate in those three categories.

Now, the only thing I would suggest -- and this sort of gets to the fact that we don't want people gaming the system -- the only thing I would suggest is that maybe we tighten it up a little bit so that no one of those three categories can be less than either 5 percent or less than 10 percent, or something like that. And I say that because I would hate to go through all this and then see a situation where someone came in and got a HUB involved and that HUB was getting a half a percent of ownership and a half a percent of the developer fee and 99 percent cash flow on a deal that is not going to see cash flow for five, six, seven years. So I would say some rule of thumb like maybe 5 percent is fair, maybe it's 10 percent, but something in that range. And that was the only comment I'd have on tightening it up.

So I'm here saying we worked with staff on this and I think it's a very good substitute and I'm all in favor of the substitute.

I wasn't going to speak to the Texas experience thing, but I will tell you, from personal experience, eight years ago I submitted in the State of Georgia, so I started laughing when the Georgia developer was speaking. I submitted in the State of Georgia and was dinged points because I did not have any Georgia experience, so other states do give points to their in-state developers and just want to throw that out. So those are my only comments on sponsor characteristics.

I have a very brief comment on the local government loans, and right now, as it's worded, the local government loans are tied to the applicable federal rate in order to qualify. They have to be five years in term and they have to be at or below the applicable federal rate. Well, we have used that terminology for a lot of years now, and when we first started using that terminology the applicable federal rate was about 4-1/2 percent. Today that midrange rate for five years, the applicable federal rate is .93. So I went into, or someone on my staff went into a community the other day where an economic development corporation was making loans that we thought would qualify for that contribution, and the loans are at 1-1/2 percent, so they would not qualify.

So I am saying, one, rates are hysterically --

(General laughter.)

MS. McIVER: -- historically and hysterically have gone down, and I think that since we're going to be asking these communities for a five-year commitment, we need to have a little more latitude on that, and I would suggest one of two things. If we're going to use the applicable federal rate, that we do it with like plus 200 basis points or plus 250 basis points, something that is much more reasonable, or just do a flat fixed rate of 3-1/2 percent or whatever you all think is fair. Because it would be very, very difficult as we're going through -- and we hope rates stay low, but none of us can guarantee that, so as we're going through this period, I think there's going to be probably we need to come up with another test, either tied to the AFR or a specific rate, but definitely something above .93 percent.

And those are my only comments. Thank you.

MR. OXER: Good. Thank you. Any comments from the Board?

(No response.)

MR. MAYFIELD: Thank you, Board members, Mr. Chairman. My name is Mark Mayfield, and I actually represent two housing authorities: I represent the Marble Falls Housing Authority in the City of Marble Falls just west of this community, and also a new housing authority called the Texas Housing Foundation which was only created, we had our first organizational meeting in January of '06.

The Marble Falls Housing Authority is a housing authority that was created in '65, it's a municipal housing authority, and it was created and works an annual contributions contract with the United States Department of Housing and Urban Development. The Texas Housing Foundation, however, is an independent housing authority. I believe it's the only housing authority of its kind in the country. It's fully independent and is not under any kind of contract with the federal government, and we created that basically as an offshoot of the Marble Falls Housing Authority development activity that we started with the housing authority a few years back and we were getting to where our portfolio of properties was more on the affordable side than it was from the public housing side, and we had to find a solution to that so we did create the new housing authority. It's a regional public housing authority created under Chapter 392 of the Local Government Code.

It's very intimidating talking behind Diana McIver. She's the encyclopedia of this business and a dear friend of mine, but I'll give it my best shot.

But I'm coming actually to speak in support of the sponsor characteristics. We basically focus all of our attention on rural communities in the state. We just recently closed a deal just last week in Canadian, Texas. We have an application we're hoping might reach down to Monahans, Texas, and what we do is through public and private partnerships. And frankly, with that incentive not being there, the developers will not coming knocking on our door. There's no motivation really for that to happen because it does add layers, if you will, to the transaction, but if we want to see housing developed out in rural communities, there's got to be a motivation for it to be there because there's other factors that kind of hinder their willingness to come out to these communities.

Secondly, for a public housing authority, we're restricted by law of what we can do. We can't pledge assets, we cannot make guarantees on loans or anything like that, that are required in order to develop tax credit properties. As a rule, those are requirements that are within them, and that has to be with developer partners. So without the concept of the public-private partnerships, we just wouldn't see housing being developed. We've developed about 17 properties, I believe, since we started, and every one of our properties are with private partners, but they're owned by our newly created housing authority, and it's just a new way, I believe, that we've been able to meet some of these demands in the rural communities.

There are over 400 housing authorities in the State of Texas, and you hear all the time of Dallas and San Antonio and Houston and El Paso but you don't hear about Bangs, Texas and Monahans, Texas and Marble Falls, Texas and the small communities, and I can tell you the pent-up need for housing because the funding from the federal government is just drying up. And how these rural communities are going to meet the housing needs within their communities, it's only going to be through creative ways and incentives for those that are able to put these properties on the ground and be able to come out to these rural communities and do it.

And so I stand in support of that sponsor characteristics, and appreciate the time and opportunity to speak with you guys. Thank you.

MR. OXER: Great. Any comment from the Board?

(No response.)

MR. OXER: Thank you, and make sure you sign in there.

Good morning.

MS. STEVENS: Good morning. I'm Lisa Stevens. I'm with Sagebrook Development, and I represent several developers that have been working in Texas now for almost five years. 2013 would be our fourth allocation cycle.

We have 6,000 units that are in compliance, we've been in this business since 1987, we have no properties that are in non-compliance within our entire portfolio. That being said, having been in Texas for four years, we just opened our first property. We opened it in August, and I'm proud to say it's 95 percent occupied and we are submitting for our 8609s. However, because we don't have three 8609s in the State of Texas, we will not be eligible for the sponsor characteristics, nor will most developers who want to partner with us because were they to partner with us, the cap would be 100 percent allocated to them, so as a competitor, I'm going to find it very difficult to find someone who is willing to partner with us.

We've been in this business in Texas, we've moved here, we have an office here, we've hired staff here, and we've been here for almost five years now. We can't qualify for three. That means that the only folks who can qualify for those three points under sponsor characteristics are folks who have been in this business for six or seven years. If they've been in this business for six or seven years, those are the same folks that you're having issues with -- not all of them, obviously, but Compliance is saying that they're having some issues. You have to have been here for six years plus to be one of those parties and yet those are the only parties eligible for two points or three points for sponsor characteristics.

Chairman Oxer, you mentioned at the last board meeting that your goal was to identify where you have problems and to try to put a stop to the problems. At that point, when you made that comment, the sponsor characteristics were with one point. Since then another revision has come out and now they're worth two points, and yet there still is not a prohibition for those who have caused problems, there is only a benefit for those who have been in the state developing and can show that they have three developments that are performing. You could have five that are not performing, but if you've got three that are performing, you're considered golden according to this application.

I know you've heard all of this before, I'm not going to reiterate what you've already heard. It was said that it almost feels like you're guilty until you can prove you're innocent, rather than you're innocent until you're proven guilty. I'd ask, given that the direction this has taken from the last draft to this draft, that you take another look at it and perhaps provide some direction as to what you're looking for in terms of a penalty rather than a point for in-state experience.

Thank you.

MR. OXER: Thanks, Lisa.

MS. SISAK: Good afternoon. My name is Janine

Sisak. I'm speaking on behalf of JSA Development Company today.

My company is a HUB, it's a Texas Historically Underutilized Business, and while I've co-developed two deals and therefore meet the experience threshold under the current language of the QAP, I would not qualify if I did a deal on my own this year under the sponsor characteristics point category, I would get zero points. Still, I'm fine with the language that's proposed for a few reasons.

First of all, while I can put together an application and it can get award of tax credits, I'm very experienced in the application process, I don't have any deals in my portfolio or that are in operation, so I really do need to joint venture with an experienced developer in order to bring financial capacity to my deals and make them successful. That being said, I like the language because it gives me options to joint venture with both out-of-state and in-state developers but it really encourages me to joint venture with in-state developers which, quite frankly, would be my preference anyway.

Again, getting the application done and getting the credits is only half the battle. I've been in this business long enough to know that asset management, a local management company is extremely important, both in maintaining the physical asset and keeping your compliance scores up. So I really like this language because it gives me opportunities to joint venture with the best developers with the largest portfolios, and in my opinion, it would give my deals the greatest chance of success.

I would like for the staff to speak a little bit there's been a lot of talk about the three point disadvantage for people that don't have experience. I don't think it's written that way. I think the way it's written in the part B, which I'm speaking on behalf of or in support of, says that if you have three 8609s you get two points, if you have two 8609s you get one point, and if you partner with a HUB you get one point. So we're really talking about a two point for a company with three deals versus a one point for an out-of-state that joint ventures with a HUB.

And I love the extra language in terms of true capacity-building, a HUB materially participating, a HUB that has real estate experience and has significant financial, a true financial participation in the property. And also, to reiterate what Diana said, it also gives HUBs the ability to joint venture with nonprofits without threatening their set-aside, their ability to find the set-aside.

So I think that's it. Thank you very much.

MR. OXER: Good. Any questions from the Board?

(No response.)

MR. OXER: Thanks, Janine.

Sarah, you're on deck. Good morning.

MR. HULL: Good morning. My name is Matt Hull. I'm the executive director with the Texas Association of Community Development Corporations, and we represent about 150 nonprofits around the state providing affordable housing and community facilities in low income areas.

And many of our members are tax credit developers, or have been in the past, and they're expressing a little bit of heartburn around some of the s sponsor characteristic points, as you've heard, mainly related to how they'll be able to compete as nonprofits, not only the nonprofit set-aside, but also as 100 percent general partners. Many of our nonprofit developers have a lot of experience but wouldn't meet the current threshold criteria for sponsor characteristics because they don't meet the bar that's been set.

And so their alternatives are they can partner with a developer, in which case, then, they wouldn't be a nonprofit or they wouldn't be able to qualify for things such as the supportive housing tax exemption because they wouldn't be a 100 percent nonprofit deal anymore. Or they could partner with a HUB, in which case, my understanding is, that would still take them out of the nonprofit set-aside and you would have trouble meeting your nonprofit 10 percent set-aside like you did this past year.

I know several of our members have made comments to Cameron and have talked with others and we'll be following up on that. We would just ask that there be some consideration to allow them to be able to compete on a level playing field. If you're going to give a point for HUBs, perhaps you could also give a point if you're a 100 percent nonprofit deal.

On the experience side, some of our members have 2,600 multifamily units, others have 800 units and they still wouldn't meet the bar, so I would just appreciate the staff's consideration in trying to rectify that, how can a true nonprofit compete as a nonprofit as we move forward and meet the experience threshold requirements.

One of our members, or actually a couple of our members had some problems with using the initial inspection score as one of the criteria. As you know, that is when the property is about to go online, they go in. Things that are sometimes beyond their control can reduce the points that they get. Furniture moved up against a window will reduce points. They would suggest using the final construction inspection as a more relevant measure of their preparedness to move on and of their compliance.

So happy to take any questions.

MR. OXER: Any questions from the Board? I have a question.

MR. HULL: Yes, sir.

MR. OXER: And we are as proud as we can possibly be of having a chief of compliance who has got a nationwide reputation for enforcement compliance in this business, and as I recall, there's a black and white universe that she lives in and you're either in one side of the rule or you're not. And the problem is once a property is rented there are things that happen internal to that that the developer doesn't control, renters move the furniture, they leave a cord out, who knows. So your point is taken. How do you develop a rule that applies to that? And that's where we're going.

MR. HULL: Yes, and so the recommendation would be use the final construction inspection report which is based, I think the top you can get is one or zero, and so set some threshold around that because that is something that the developers can control.

MR. OXER: Okay, good. Thanks very much.

MR. HULL: Thank you.

MR. OXER: Good morning, Sarah.

MS. ANDERSON: Good morning. My name is Sarah Anderson, and I'm here representing S2A Development

Consulting, Sarah number two when it comes to speaking to the Board. Sarah number one, unfortunately, has been detained. She was actually going to go ahead and cover the sponsor characteristic issues, as she did last time, but I think that you've heard plenty on that.

I think the only comment I would make, in addition to the fact that we don't like as it is right now, is that this would be my ninth or tenth cycle that I'm going into. We've been awarded upwards of 40 deals in the last eight or nine years, we've worked with 20-plus different developers, in-state, out-of-state, and at the end of the day, I would say that geography is not a good litmus test to quality. We have in-state people that are horrible, we have in-state people that are great; we have out-of-state people that are great, we have out-of-state people that we don't work with anymore. So I guess I would just ask, I'm still not sure what the purpose is of it because I don't see the purpose coming from the language as written.

The only other comment I have is a little bit more esoteric, it's about the local political subdivision scoring item. And as you know, I love the way that staff has done a stair step for the amount of funding that you bring in relative also to the population of an area, so that rather than everybody having to get top scoring points, $15,000 a unit, you do a formula and it's based on the size of the city.

The top scoring item, the threshold seems to be at about 100,000 in population, so if you were a town of 100,000 or more, you have to bring in the full $15,000 per unit to get maximum points. I was talking with Cameron earlier, and I think that that population seems a little low. I think that the expectation that a city, a Longview or a Waco, can bring to the table the same amount of money that a Houston, Dallas or Austin can, doesn't seem quite correct. So I would ask that that top threshold for $15,000 be changed where maybe it's a population of 500,000 and above, a million and above, but just that that be looked at for fairness.

And also, right now the way the scoring is, it's a certain amount of points for $100 a unit, $500, I think it goes $5,000, $10,000 and $15,000, and there's only one point difference between each of those. So you could be bringing in 100 times more money per unit and only be getting four more points. I'm not sure if that's exactly correct. But I'd like to see maybe a dropping and a little bit more of a spreading out instead of five categories, maybe $500, $7,500, $15,000, and let there be more scoring differential. If I can bring in the equivalent of $15,000 a unit, I should get significantly more points.

And I think that's it.

MR. OXER: Good. Any comments from the Board?

(No response.)

MR. OXER: Walter, good morning -- or afternoon by now.

MR. MOREAU: Walter Moreau, director of Foundation Communities.

I wanted to respond to your question about instead of a inspection score, instead use the final compliance score. And I can give you a good example. Our Southwest Trails Apartments, about ten years old, the only tax credits built west of MoPac in Austin, 100 percent full, great learning center. I think our last physical inspection was two years ago -- they only come out every three years. Inspector walked around the property, knocked off eight points for furniture placement, so we ended up with a score of 81. And there were a bunch of other little things. We fixed everything. You don't get a re-inspection, but if you fix everything right away and document it, then your final compliance score, the physical inspection doesn't count against you. So our final compliance score was a zero. You get zero to 30, 30 is material noncompliance.

I think the staff have looked for what they could grab in the compliance system to use as a threshold bar for good developers and grabbed this once every three years physical inspector report. And we can't appeal it, we can't dispute it, all we can do is fix everything and then it's dropped from your final compliance score.

So my suggestion is instead of the physical inspection, you say maybe it's a final compliance score less than ten so at the upper end of your final compliance scores. You want to keep that inspection system as an incentive for developers to fix things. Now it's being used as a threshold. And that's my suggestion on that.

MR. OXER: Good. Thanks, Walter.

Okay, Sarah, I know that you had something that you wanted to say and you're running late, but you're the last one on the list, so jump in. Good morning.

MS. ANDRE: Good morning.

MR. OXER: You do have a penchant for timing. Or afternoon.

MS. ANDRE: Good afternoon. I'm Sarah Andre. I'm a consultant in the Tax Credit Program and in affordable housing. I am here to speak about the point item for selection criteria on basically the experience of a developer.

Right now there's an additional point for a developer who has three Texas 8609s, so that's a developer who has developed three properties in Texas. And I was here last month and spoke about that, and I thought that my comments that there was some level of agreement between Chairman Oxer and myself regarding providing an incentive to somebody that had been in Texas. And in fact, if you look at the transcript, there actually was some agreement. To quote Chairman Oxer, on page 123 of the transcript --

MR. OXER: That's not as rare as you might think. Okay?

(General laughter.)

MS. ANDRE: "My interest would be not to award somebody for being here but to penalize them for being here and screwing up, which is where I was headed with all that." Meaning looking at the developers experience.

MR. OXER: History.

MS. ANDRE: History, experience in affordable housing, and in tax credits, in particular, and in development.

My point is that I would still like to see the advantage for a local or Texas-based developer or someone with three Texas 8609s removed. I've commented to staff about this. They appear to need additional direction. Right now that point criteria remains.

That's it.

MR. OXER: Thanks, Sarah. I think Cameron got your point, it was right between the second and third rib over there.

(General laughter.)

MR. OXER: And looking at the hour, I'm going to ask everybody to sit still here for a second because of some recording issues we've had with noise when everybody leaves. We're going to break for lunch here, but I'm going to ask everybody to sit still for 60 seconds because there's something I have to read into the record. We're going to table this, you're going to finish up your report after we get finished with this, that will give you some time to put it all together, Cameron

But for the purposes of the recorder, the Governing Board of the Texas Department of Housing and Community Affairs will go into closed session at this time, pursuant to 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.

The closed session will be held in the small banquet room in the grill. The time now is 12:10. We'll stand adjourned until 1:30 -- make that 1:15.

(Whereupon, at 12:10 p.m., the meeting was recessed, to reconvene this same day, Tuesday, October 9, 2012, following conclusion of the executive session and lunch recess.)

MR. OXER: We're back in open session. The Board is now reconvened in open session at 1:38. We had our executive session, no action was taken and no decisions were made, but as a result of the discussion, there will be a Board action.

MS. BINGHAM ESCAREÑO: Mr. Chair, I'd like to move that the Board delegate the annual evaluation of the executive director to the Board chair.

MR. IRVINE: Motion by Ms. Bingham.

MR. KEIG: Second.

MR. OXER: And second by Mr. Keig to delegate the annual evaluation of the executive director to the chair. Is there any other comment?

(No response.)

MR. OXER: All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none. I'll take care of it.

Okay, Cameron, we're down to you, I believe.

MR. DORSEY: So just to revisit, we're going back to the item on the 2013 draft proposed QAP and all the public comment that was heard at both the prior board meeting and just before lunch.

I want to just start off by saying a few things. One is I'm not going to go into a lot of detail about public comment that we received during the past few days through email. We're collecting all that and sorting it and organizing it, but I haven't vetted all of that yet. That will be vetted as part of the recent response. My guess is it's largely in line with a lot of what we've heard at the last meeting and this one.

The other thing is I just wanted to mention, I think Dennis Hoover at the beginning mentioned unintended consequences, and we probably won't know what those are until the end, but I actually can tell you what the unintended consequences will be right now, and that is that there will be some developments that we approve that meet the rules that we would like to have crafted the rules such that that development didn't get approved, and there will be some developments in the exact opposite position that are great deals that we would have liked to craft rules where that development would have gotten an award and doesn't.

And that's all part of this process of kind of drawing lines and it's part of the process that another commenter mentioned that our QAP and our process is one of the most transparent and most subjective processes in the country, and that's what happens, you end up with this, you know, you give some of that ability to pick and choose the best deal that you see, the kind of I know it when I see it type of rules, when you eliminate those you end up sometimes with lines that aren't exactly where you'd draw them if you had to do it over again.

MR. OXER: Let me add something to that too, Cameron, because the effort, the intent is to create a QAP that optimizes objectivity, it minimizes the subjectivity, there's some latitude for Board action in it, but in an effort to maximize the transparency, that people know what the process is going to be, there's little involvement with us, we oversee the process to create a policy but it doesn't require individual input on that decision-making, that, I think, is at least my statement of what we're trying to do.

Is it perfect? Of course not. Every time you put a line down, somebody is going to be on one side of it and somebody is going to be on the other side of it. But the good news is regardless of how it works out, we're in a constant state of amending this program because we're constantly going to have more deals than we've got money. So I offer that out just as a comment from the chair.

MR. DORSEY: And the other one is this whole concept of penalty versus reward. You'll hear that people are being penalized and this is really a system that's set up to reward folks for doing certain things, not to penalize them if they aren't able to achieve that. But you know, I think in crafting rules, kind of what I look at in terms of where it becomes more like a penalty versus a reward is when you have ten folks, nine of them can qualify, one can't, that feels like more of a penalty. And so kind of the goal is to create a system where the scoring is narrow enough to really be an incentive, to be a reward, not majority of the folks can just kind of automatically achieve those points.

And so we often hear it's a reward, it's a penalty and those types of things, but this is really about trying to create scoring items that really further an underlying policy for those that are able to achieve certain very specific benchmarks or thresholds or what-have-you.

DR. MUÑOZ: Cameron, let me say something about that. I appreciate how you phrased that. I think it's very thoughtful the way you've put that because often we hear from individuals or groups that if they're not in a position to be awarded the point, it's phrased or it's sort of constructed with a discourse of change your policy, change your rubric because given how it's phrased now, we're not eligible for that point and we should be eligible for every point. And that's very different than the underlying policy that you're sort of representing now that is being purportedly advanced by the construction of these sort of point criteria, some of which a particular project or development or initiative should never be eligible for. Right?

MR. DORSEY: Exactly.

DR. MUÑOZ: And that's different, because we hear people, well intentioned, meritorious, deserving, qualified, experienced, talk that position that if you permit it to be phrased/worded in the way you're considering, Board, we're not going to be eligible for that point, so change it. And invariably, we're in the position to have to sort of consider changing item after item after item.

MR. DORSEY: Right. And it becomes a bit of a slippery slope as well, because if you don't kind of maintain the integrity of each item, then they each kind of start to slide a little bit. Well, like last year I wouldn't say was an example of that, but when you have a tiebreaker that is effectively determining the outcome of most of the awards, it's just the policy of that one tiebreaker that's really driving the process rather than the kind of myriad policies that might underline each of the individual criteria themselves.

DR. MUÑOZ: I didn't mean to distract your presentation, I just appreciated the nuance of what you were stating on the record.

MR. DORSEY: Thank you.

All right. So we'll launch into it. I'm going to cover some ground that hasn't been covered today and it will become apparent why it hasn't been covered today, it was covered last time and staff responded to it. So we'll just go kind of item by item that I've got written down here.

Credit amount. We heard several comments at the last meeting about moving the amount one could apply for from 100 percent of what was made available in a subregion to 150 percent of what was available in each subregion. And 150 percent is the percentage that was applicable last year for the 2012 cycle. In proposing the 100 percent initially in the draft, I think staff really wanted to just get the Board's feedback more than anything else on if it wanted to move back to 150 percent.

We went ahead and did that in the draft. It was kind of creating a bit of hysteria, and so we went ahead and did that, but it would be helpful just we all need to, I think, recognize that there's some risk there that a subregion may end up without an allocation at the end of the day. I don't think that is the case based on the differences this year from last year, but this is not a certainty and it could happen again.

MR. OXER: May I make a clarification because I'd like to make sure it's clarified. A subregion may wind up without an award but they all have an allocation.

MR. DORSEY: They all have an initial amount allocation.

MR. OXER: Initial allocation. Now, for whatever reason, if they choose to apply for 150 percent and if it's one deal in one region they could get that deal, but if they apply for 150 percent, there's not enough there, that goes in the statewide collapse and that's a choice they make to go into the statewide collapse and the competition.

MR. DORSEY: True.

MR. OXER: Okay. So the point is that each of the subregions does have an allocation, it's not necessarily an award.

MR. DORSEY: Right.

DR. MUÑOZ: Because they've elected to exceed the amount available.

MR. OXER: It's a choice they make, not us.

MR. DORSEY: Right. Like I said, I don't think we'll end up in the same situation where we've got tied 100 percent, underfunded subregions and not enough money to hit all of them, but we could, and I didn't want it to be a position where it was like: Hey, Cameron, why didn't you change the rule to make sure this didn't happen again? Well, I'm telling you right now, I don't think it will happen if we do 150 percent, but it could.

MR. OXER: Since there are no forwards, there's nothing being subtracted out of each of the allocations this year, what would that have changed last year?

MR. DORSEY: It would have prevented us from being in that particular situation.

MR. OXER: So having no forwards to contend with in the 2013 cycle increases the likelihood that last year's event will not happen again.

MR. DORSEY: That's right.

DR. MUÑOZ: But if it does, we reserve the right to accuse you of saying --

(General talking and laughter.)

MR. OXER: All right. You know, Tom Gouris is sitting over there going: Yeah, you go, buddy, you go. It used to always be all his fault, now it's all your fault.

MR. IRVINE: And that's also why you spelled out in greater detail the way that that process works.

MR. DORSEY: That's right. We really tried to clarify it. I put in there step one, step two, step three, so that, you know, it's very clear, I think much more clear in this proposed draft exactly what will happen, and we put in actual factors for what we would look for to decide between two 100 percent underserved subregions.

MR. OXER: Okay. Those are points for the record.

MR. DORSEY: And if you want to go to 100, let me know.

MR. OXER: It's okay.

MR. DORSEY: Increase in eligible basis. I think we heard a couple of comments last time about allowing the boost for CDBG disaster or a point item that was basically the very similar wording to what we had last year which read something to the effect of if you're not in a QCT and you're doing a family deal, but you have at least $2,000 per unit in funds from the local political subdivision, then you would be able to get the boost provided you subtracted the local political subdivision funds out of basis, out of eligible basis.

What we did this year -- I think we're still kind of mulling over this concept, looking at public comment and what-have-you -- we went ahead and we felt that we needed to adjust the staff proposed draft from last time just a bit to incorporate kind of a general boost item. If the Board so wishes, we can go in that direction in the final version. Also, if we get some great public comment that kind of lays out a good rationale for further clarification of another boost item there, we have the ability to make the change if we want to.

I will say one other thing. With the boost we try to keep it fairly limited. It is a factor that does help drive where development occurs, and obviously we have certain imperatives as laid out with the remedial plan, and what-have-you, to direct into high opportunity areas and we do have the latitude to create a boost item for that type of situation, but are being fairly deliberate and careful.

Sponsor characteristics. All right. This item is an interesting one and I think it's unique and it's because everyone knows now whether or not they're going to be able to cheat it on any application they submit. A lot of the other ones, they'll figure out if they can do it based on where they're going, whether the city can contribute funds, whether a particular site location scores well, they can kind of have a little bit more control so they can just change where they want to go. This one is kind of inherent to who the developer is and their experience at a point in time.

We have heard a lot of comment, and I'm going to boil the Texas experience issue down to a couple of things. One is it doesn't matter where you're from. You can be from Mars, you just have to have Texas deals. It's not about being from Texas, it's not about living in Texas, it's not about being incorporated in Texas, it is about having a deal in the Texas portfolio. Why would we care about having a deal in the Texas portfolio? The reason is because while this is a federal program, we have a very specific Qualified Allocation Plan developed for the State of Texas that lays out all kinds of requirements.

And I was talking to Patricia over lunch and she identified a couple of areas for me that would be good examples for why we would care about this. The biggest issues of non-compliance right now, she routinely kind of runs through and looks at where are we having compliance issues, are Texas QAP specific requirements. They are affirmative marketing to veterans, that's one right now that we're having difficulty with, folks aren't doing it. Another one is with tenant services, folks providing tenant services in line with what they were supposed to do.

We felt there was value in rewarding, not penalizing, but rewarding folks that had deals in the portfolio performing in accordance with Texas compliance requirements. It's as simple as that. If that's not something the Board wants to do, then that's totally fine and we can remove the Texas piece and keep it to be tax credit specific or something like that. But Texas compliance is very different, and so we would end up not being able to gauge, for example, UPCS score type of stuff as well. The ways compliance is managed in other states is completely different, even for the normal Section 42 requirements.

And so I think what we would end up with, and we've gone down the road before of trying to look at other states' compliance scores and these types of things, and there are two in Congress that it just doesn't connect up very well. So that's the rationale.

DR. MUÑOZ: Cameron, when you looked at those non-compliant issues and you say a majority are Texas QAP specific, is it an overwhelming majority, the non-compliance?

MR. DORSEY: I can let Patricia come up.

MS. MURPHY: Hi. Patricia Murphy, chief of Compliance.

I look at a couple of different things, like what are our top sort of issues of non-compliance because that's where I know we need to do training and technical assistance sort of stuff. The other thing I look at is what are we having a really hard time getting people to fix, and if the non-compliance results in an 8823 that's going to go to the

IRS and could affect your taxes, owners fix that. It's the Texas specific thing like services, having a HUB, affirmative marketing, these kinds of things that the syndicators aren't, I don't think, as on top of and there's not as much oversight. And so that's where we see a lot of non-compliance and that's where we see trouble in getting people to correct.

DR. MUÑOZ: A lot of non-compliance or the overwhelming majority of non-compliance?

MS. MURPHY: I think the overwhelming thing is tenant file issues which should be a federal-state thing. That's probably number one, that units are leased to a household that there's not great documentation. Right behind is social services, and right behind that is affirmative marketing. And those are Texas compliance requirements. Other states might have something similar, it's not the same.

MR. OXER: Okay, Cameron, do you have any more on this particular issue, on this item?

MR. DORSEY: I don't think so really on the Texas experience issue, but there's other stuff on the sponsor characteristics.

MR. OXER: Okay. Let's go through the sponsor characteristics. I think it's fair to say that none of us up here want to limit the competition, and my sense was not that we would limit competition only to those who had experience in Texas because, otherwise, how do you get here, but a point that was brought up earlier is that one of the rural developers, since they don't have three 8609s in place would not be able to qualify for a deal, and that's something we need to think about. And rather than rewarding people for being in Texas for their experience, as long as they have experience with a tax credit deal, if they come here, there's a very specific QAP, and if you get in here and you can't play by those rules, that's your first -- I wanted to see not the experience in Texas but the history in Texas for not having been compliant, so that anybody who was not in compliance or Patricia says they scored something, they're not keeping up, then they don't get to play next time.

MR. DORSEY: Sure. I'll address a couple of things there. We do currently already, if you've got a deal in Texas you can't be in material non-compliance, for example. So we've got a measure that says if you've got any deal in Texas, you can't be in material non-compliance with anything that you've got going on. So that does exist now. That's a threshold, across-the-board requirement, and it's not just for the Tax Credit Program, it applies to all of the Department's programs, so across the board. If you have a HOME development and you're in material non-compliance on that, then you wouldn't be able to get a tax credit award.

So that crosses all of our programs as well.

With respect to competition, in my mind it's all in the crafting of the item. If it's too broad such that all of the folks who've ever done a deal in Texas can qualify for the points, then we don't achieve what we want. What we want is a point item that's narrow enough to incentivize folks to try and get those points by, when they have deals, being really good at managing those deals, really good at complying. But where it's a limited enough group that folks that can't get those points can put together a package that qualifies for points under other items, other policy issues that the Board would like to see furthered, that the legislature would like to see furthered, that they can achieve points under those and still have a competitive application. And that's kind of the goal.

So that's where issues like lowering the UPCS score from 85 to 80, well, if we do that, that might be more of an anti-competitive type of change than actually limiting the score more, going to a 90 or going to a non-compliance score which actually does allow for corrections, a compliance score of, say, under 5. Those types of things that limit it to a very small pool of very compliant deals that allow that owner to qualify, that still allows for competition, and that's ultimately the goal, I think. Eighty-five might be too low to achieve that, it might be more like 90.

And if you all would like us to do a little bit more research so that we can say: All right, we really want this point item so that we're limiting it enough so that only, say, 20 percent of the deals in the entire 2000-property portfolio would be able to hit this benchmark, and thus, an even smaller percentage of the developers that have deals in the Texas portfolio would be able to achieve those points. And that's the type of thing that we could do to make sure that we don't stifle competition. So that's one thought in that regard.

We thought about a couple of things with the UPCS score and with the issue of 8609s. One is that it is a valid point that it takes a while to get 8609s. You go through the award process, application process, award process, this is a multi-year process and you've got to do that three times and win three times in order to achieve that threshold, place them in service and get all the way down the road. What we're really trying to achieve there is they've past our final construction inspection. 8609 is the easiest way to do that because we require it to be cleared, and it helps us manage some of the issues of the people submitting timely information during the cost certification process.

However, I think we could consider going to go just a final construction inspection cleared which could happen shortly after achieving your certificates of occupancy and completing the project and is a bit more in the developer's control. And I think that that would shorten the time frame that you have to have been in Texas doing deals in Texas. That's one thing that we could do. Again, that opens it up a little bit but that's an option.

And other one, like I said, with the UPCS score, we could change the UPCS score, to raise it a little bit above 85 to 90, or we could go to a different type of system. UPCS score is physical condition standards, and let me say a couple of things with respect to this. This is a national standard, this is not something we made up, so when you hear about people being dinged for like furniture placement and stuff like this, this is not something that Patricia developed in her spare time in her office, this is a national standard for what is and what is not okay. And the scoring and how many points you're assessed for any given issue is also a pretty standardized scale. But it does require a developer to be on their game, to make sure they're very proactive because correction is not considered in that score. You have to be compliant without us looking, basically.

The other system that we could go to is the all-in compliance score. Material non-compliance is above a 30 for the Tax Credit Program, above a 30, and we could say, all right, well, let's look at our portfolio and see how many are under a ten or under an eight or under whatever, and base it on that. That does a couple of things. One is it allows for folks to correct issues and lower their score, and so they get rewarded for correcting stuff, and it considers a lot more than just the UPCS score, it's all the tenant file issues, it's all of the affirmative marketing issues, it's all of those types of issues that get rolled into that score. So those are a few considerations there we're looking at right now.

And if you all want me to, I'll look at the UPCS scores portfolio-wide and compliance scores portfolio-wide and maybe we can bring back kind of, well, 20 percent of the portfolio is kind of at this score or under or this score or under type of thing.

MR. OXER: Yes, do that, and bring us back a distribution just to give us a general sense of it. Can you do that?

MR. DORSEY: Yes.

MR. OXER: That's not a huge amount of work? You've got the statistics on that.

MR. DORSEY: Yes. We can do that. In fact, I've got them in my email, I just haven't crunched all the numbers.

MR. OXER: Okay.

MR. DORSEY: So I think the bigger question is do you all want us to keep going down the road of considering Texas experience as a specific criterion in this scoring item. I think there's a lot of support for it and there's a lot of opposition to it, depending on which side of the --

MR. OXER: Which side of the state line you work on. Right?

MR. DORSEY: Right.

MR. OXER: Professor McWatters.

MR. McWATTERS: Cameron, if we have a developer, let's say, in Michigan who is successful in Michigan, then goes to several other states and is successful in those states but has no nexus to Texas, no deals in Texas at all, why would be led to believe that even though this developer has been successful in their home state and been successful in two or three other states -- which we heard from the witnesses earlier -- why would we think they would not be successful in Texas? Why would they need coming into Texas, even though they have a proven track record of handling other QAPs in different environments that they would somehow need something special in Texas? Is there anything unique here?

MR. DORSEY: Well, our QAP is relatively unique. All states' QAPs are relatively unique, though. I think another key thing is we've actually experienced that happening before.

MR. McWATTERS: That was my next question.

MR. DORSEY: We have. And I'm not prepared to give you data on it or to say that it's like a statistically significant type of number. It probably isn't. There are a lot of folks that come in from out of state, do great deals in Texas, have in the past, a lot of the folks that qualify for points now entered into Texas at some point in the past and did just fine. It's more about, again, just narrowly rewarding those folks for really exceptional compliance with Texas deals, and I think there's some value in that is where staff was coming from.

MR. McWATTERS: Okay. So the question then is not actually receiving an award, the question is how do you implement the award once you've received it.

MR. DORSEY: That's exactly right. This is not just about development, this is not the ability to go build something, it's about the ability to build it in a compliant manner and comply.

MR. OXER: Asset management and compliance.

MR. DORSEY: Asset management, property management, et cetera.

MR. McWATTERS: Well, does that tell us something about the Texas rules that other folks can be successful and compliant in other states but come to Texas and have footfalls, or is it possible they had footfalls in other states but by the time they get here they just present a successful record? I don't know.

MR. DORSEY: I think you could probably make cases for both. You know, even with the federal rules, states implement them and have compliance monitoring procedures that do different things. Ill just say, and I won't name a state or anything, but there are some states that don't send 8823s to the IRS, almost like a policy, they don't do it

MR. OXER: Are they protecting their own?

MR. DORSEY: Yes, I think so. They think they're doing what's in the best interests for their state, probably.

So we do, we take the 8823 guide, we fully comply with the 8823 guide which is the IRS's guide for how to comply, and we implement that to its fullest extent.

MR. McWATTERS: But just one followup. If you did an analysis of non-compliance and you said let me compare non-compliance in indigenous Texas developers, successful ones, to out-of-staters doing their first or second deal, who is going to have the largest non-compliance problem?

MR. DORSEY: I don't think it would be from where you're from but I think doing your first deal in Texas presents some obstacles that a person that's done a deal in Texas already knows exists.

MR. McWATTERS: Okay.

DR. MUÑOZ: Cameron, and you made the point, you could be headquartered in another state, in Oklahoma, in Louisiana, and could still have successfully completed deals in Texas and then you'd be eligible for these points.

MR. DORSEY: That's right. And we have a lot of folks that are.

MR. OXER: Would it be possible -- I'm thinking through an alternative or something here -- if we take no notice of their experience in Texas but looking past the first deal. Somebody comes in from out of state, they've done tax credit deals, like Mark says, they've done in three or four other states a number of deals, come in, they say, Okay, we're brazen enough, we think we can do it in Texas. So they come into Texas, do the deal, and it's successful, they get it. As long as Patricia says they're compliant, that's good in terms of the asset management going forward. Okay. It's when she says no, they've dinged it and they're out of material compliance, that's what needs to be considered, in my mind, more stringently than the experience that they have in Texas.

What is it, wisdom is a product of accumulated distilled good judgment, and good judgment is a product of experience, and experience is generally a product of bad judgment. So ultimately, they'll know that they'll have to pay more attention to this if the penalties for not doing so are sufficiently clear and certain that they would be required to pay attention to these, and if they don't, they get one deal and then they'll have to go home.

MR. DORSEY: We can look at crafting an item like that. I do want to be careful in crafting an item like that because if we're really narrow such that only a few Texas folks that have deals in the Texas portfolio could qualify but anyone that's never done a deal could get the points, that's also an issue.

MR. OXER: Right. And potentially, as opposed to qualifying for a point, maybe there's a negative point, you get points off. But like you said, if they're in material non-compliance, they're not eligible to participate anyway. Right?

MR. DORSEY: That's right. This is a higher standard.

MR. OXER: So we're looking for something, a further discriminator, and as competitive as this program is, we have to find some discriminator that continues to raise the bar simply because if everybody qualifies for the points, there's no reason to give it.

MR. DORSEY: That's right. I mean, we could do something because the experience requirement is not specific to tax credit deals or even affordable housing, it's just you've done multifamily development of X number of units in the past and you're able to document that, so we could make this one just tax credit specific and not Texas. That would be an option as well. It's not going to capture that quality and kind of compliance aspect that we've got, and I don't know that we can very effectively capture if you've done deals in other states. That's the problem.

MR. OXER: Go ahead, Lowell.

MR. KEIG: I was going to say the UPCS score is going to be translatable, we can look and see what they did in other states.

MR. OXER: That's IRS based, they have to score.

MR. KEIG: Can we get those numbers?

MR. OXER: They aren't necessarily adopted in all states. Is that correct?

MS. MURPHY: Patricia Murphy, chief of Compliance.

Every state can use either local health safety and building codes or the Uniform Physical Condition Standards. Most states are using the UPCS, but not all states score it. So they say this is a deficiency that needs to be corrected but in Texas we take the next step, we're doing react and we are actually scoring, and I think it's a very valuable and insightful piece of information, a quick how is this property kind of thing.

I was sitting here listening. There's one other comment I'd like to make, Mark, and it was about if you were successful in Michigan, that's very difficult to define in an objective manner, the success of someone in another state. We have this whole system here for scoring all the different events of non-compliance and other states are looking at different things, and it's apples to oranges trying to compare. So when someone says they've been successful in another state, it's hard to evaluate that sentence with our expectations.

MR. McWATTERS: I was thinking more along the lines of you're still in business, you're still standing, you're in compliance, you've not been penalized, you've not been sued, you've not been disbarred, fairly high standards like that. If you've carried that off for a long enough period of time, then perhaps you're good at what you do. That was my only point.

MS. MURPHY: And it's also interesting to hear the other states give awards, that they won an award in another state for being a good developer, that a state housing finance agency recognized them. If other states did that, that would be something very interesting.

MR. McWATTERS: Sure.

MR. OXER: Okay. Go ahead, Cameron.

MR. DORSEY: Well, I think that's really what the issue is with Texas: experience. Like you've heard there are a bunch of folks that support it, there are a bunch of folks that oppose it, and I think ultimately we're just looking for a little bit of guidance from the Board. If you guys would like to reserve that guidance for me to bring back a little bit more data so that we can toss around some kind of reasonable UPCS, possible reasonable UPCS thresholds or compliance score thresholds, then we could certainly do that as well.

MR. OXER: Tim.

MR. IRVINE: Well, more data would be great, I'm sure, but don't forget that when it's before you in November you have to take final action.

MR. OXER: We're going to come down to the finishing cut bait line here pretty soon.

DR. MUÑOZ: Cameron, what about, you know, there's a phrase, sort of the subordination of and. What about something like some kind of elegant compromise like if you have two projects in Texas or five successful -- I'm not sure how you define it -- elsewhere, or... That gives a broader opportunity for reward.

MR. DORSEY: Okay. I'm wondering if they're talking about whether that would be substantial or not, but there are other states that do score the UPCS. I don't know.

MS. MURPHY: I don't really know. I have definitely already looked, I've already done an analysis by rehab, by new construction, by year of award, and so how many of these inspections have we done, how many properties scored above an 85, and you can score above an 85 if you are a rehab done in 1990. There's plenty of them that do. So it's definitely possible to achieve this, and I personally believe that an emphasis on the physical condition of the property is something that we should prioritize, it's important for the preservation of our programs and our industry that we focus on these need to be quality products that are well maintained.

MR. OXER: Well, one of the fundamental obligations of TDHCA and the Board, as a consequence of that, is to maintain the stock of affordable housing in the state, and that means we can't allow deterioration to occur which you're the front line on that defense. So given that that's the case, the property condition standards have to have an impact on this. There again, how do we get around this -- I'm just noodling back over some of the things that were said earlier -- how do you think a rural developer here in Texas that's new, brand new in Texas, but they don't have any 8609s. I mean, they'll eventually get there, age eventually catches up to all of us, you either have experience or you don't, but you stay in the game long enough, you'll have it.

MR. DORSEY: Well, you could partner with a HUB for at least one point -- well, under one of the options that I think you heard. But the other thing is to craft an item that doesn't lock you out, that doesn't let so many people with Texas deals in that someone that doesn't have a Texas deal can't get in. That's the goal. It's got to be narrow enough that maybe this is what puts ten deals over the finish line but if it puts all 45 over the finish line, then you've got a competition issue, I think.

MR. IRVINE: Well, this is a fairly small scoring item, albeit significant, and it is all really about differentiation and what the policy reasons are. And the whole reason we've got sponsor characteristics in there is because Section 42 of the IRC says you've got to address sponsor characteristics. We address sponsor characteristics in threshold requirements, experience requirements, and so forth, we address sponsor characteristics in our previous participation reviews that would kick out deals that have material non-compliance.

And this is really kind of going above and beyond what we do in those arenas to see what sort of policy objective we can articulate and achieve. And the policy objectives are certainly to promote the most effective, highly compliant developers and we believe that playing with the best of the best is always a good idea and we certainly believe that you should get additional points when you're the best of the best and you take a HUB under your wing to bring them in and turn them from merely being a HUB into actually being a developer themselves.

MR. OXER: That's the capacity-building capability because the HUBs we want to see them gain that strength here in Texas. I guess if it was easy, we'd already be doing it. Right?

MR. DORSEY: And I think something Tim touched on is important. We could probably remove this item entirely and comply with Section 42.

MR. IRVINE: Yes.

MR. OXER: Run through that right quick.

MR. DORSEY: Well, we have an experience requirement already and that addresses sponsor characteristics, and I haven't run this specific issue by our tax credit counsel, but in talking with our counsel on other very similar matters that are addressed under the same piece of Section 42, I think we achieve the level of attention that would be necessary for a comfortable compliance with the requirement.

MR. OXER: Under Section 42. So I guess that's a good clarifying point because doe this constitute a point scoring that was essentially the purpose of which might have been already addressed in the threshold requirements?

MR. IRVINE: Partially.

MR. OXER: Partially. But is the threshold requirement -- say it again -- the threshold requirement would be sufficient to meet the Section 42 requirements.

MR. DORSEY: That's right, the experience requirement that's in threshold would effectively meet the Section 42 requirement. This is a little bit above and beyond that, in line with the idea that this is something the Board may, as a matter of policy, want to further.

MR. OXER: And so what we're actually looking at here, if they've met the requirements, this constitutes a further differentiator to be able to help in the scoring, because we don't want everybody to hit it, frankly.

MS. MURPHY: This being added to the QAP is a result of public comment. This was public comment that someone suggested that this be something. So we can still comply with Section 42 and not have this in there. And I already do have a way to make the people come into compliance with all the rules and regulations.

MR. OXER: With that whip and that chair and that gun you've got, I guess so.

(General laughter.)

MS. MURPHY: All of the points for non-compliance issues, it's the non 8823 stuff that's really high scoring to say you really need to fix this stuff. Because I know they're going to fix the 8823 stuff and we have administrative penalties, we already have mechanisms to get people to comply.

MR. OXER: Okay. So at this point, if they've got the threshold, they meet the experience for doing this sort of work, tax credit or not, and then if they don't stay in compliance, if she dings them on the compliance, then that takes them out in the future. Is that right?

MR. DORSEY: That's right. And if the Board is comfortable with that system and the way that system functions, I think we could probably remove this point item entirely, or just incentivize the partnering with a HUB. We've also looked at adding HUB or nonprofit in there. There as some public comment with regard to that, that there's some value in that as well. But we could look at just that direction rather than something specific, tax credit experience, et cetera.

MR. OXER: My own just thought, as a member of the Board, but this is my own thought would be to maintain the optimum openness and transparency of the competition but reward the capacity-building, the partnering with a HUB for the future of the program because we want this thing to be on a continuously escalating ramp of improvement here as we go to the next one, because somehow, I'm guessing, we're going to be doing this again about this time next year and try to figure out how to make that scoring work.

Any other thoughts from the Board? Professor McWatters?

MR. McWATTERS: No. I concur with that, I concur. I'm very much a believer in the free market so I'm very much a believer if someone can do this work outside of Texas they should be welcome in Texas. They may teach Texans a lot, we may teach them a lot, and so the cross work between the two I think is good. But I also think the policy behind HUBs is excellent and should also be encouraged.

MR. OXER: And my inclination would be to figure a way to reward the capacity-building with the HUBs. We've got a threshold that gets them in the game. If they can come do those, then hey, here's the rule book and you either play by it or you don't, and we're going to send the ref over here and see if they're playing right, playing nice. Okay?

Any other thoughts?

DR. MUÑOZ: So what we're talking about is almost sort of, Diane, option B, building the capacity of the HUB and suspending this experience.

MR. DORSEY: That's right. What we would do is we would tie the HUB partnering to meeting the threshold experience requirement, instead of meeting the Texas experience requirement is how we would craft that. I'm fairly certain we can do that without it being substantial, but I think it probably would be a good idea after this discussion for us to maybe take just a ten-minute break.

MR. OXER: After we get through the rest of it, my schedule I was looking at was either 15 or 20 minutes, after you get finished with your part, see where we're at and then take a look at this.

Do you have any thoughts on that yet, Counselor, if we're on significant change?

MS. DEANE: I think I'd like to look at it but I think we're probably still in good shape as far as not having to go out for comment again.

MR. KEIG: I want to clarify what we are thinking about doing. We're talking about taking the Texas experience bump-up, and are we also talking about taking out the UPCS bump-up as well?

MR. DORSEY: That is part of the Texas experience.

MR. KEIG: You're moving the HUB to the threshold.

MR. DORSEY: No. The HUB would remain a point item but without the tie to Texas experience, it would just be tied to a HUB partnering with an entity that met the threshold Texas experience.

DR. MUÑOZ: Partnering in a more substantive way.

MR. OXER: A substantive partnering with a HUB based in Texas.

MR. DORSEY: We attempt the substance in the HUB item specifically, and so just removing the Texas piece would not infringe on that.

MR. OXER: Now, from what it seems like we're doing here, this opens it to competition, which I think is good, I completely concur with what Mark said, and it has the impact of --

DR. MUÑOZ: Capacity-building.

MR. OXER: Well, it has the capacity-building which it rewards somebody for taking the extra effort to take on a HUB, but it also has the impact, has the effect of doing what I was looking for which is you get to come in and play but if Patricia starts dinging your scores, yo don't get to play anymore. That's a history problem as opposed to an experience problem.

MR. DORSEY: Great.

MR. OXER: All right. Next point. Thank you, Patricia.

MR. DORSEY: I'm clear.

MS. MURPHY: Three-forty-eight.

MR. OXER: I'm not going to ask her what her fastest time was, Cameron.

(General talking and laughter.)

MR. DORSEY: All right. With respect to the HUB point item, there has been some public comment about adding nonprofits, so it's either partnering with a HUB or a nonprofit. Is there some interest in considering nonprofits in that item? Do you want to move in that type of direction?

Right now the way that one is structured and the one that we would maintain with the substance would allow even a nonprofit to partner with a HUB, which is a problem we had last year so we've alleviated that, but I think there still has been some public comment with regard to partnering with nonprofits.

MR. OXER: Have we had any prior management issues with nonprofits -- in a larger percentage than you would have with regular deals?

MR. DORSEY: I couldn't make a statement with regard to anything relative to another type of deal. I mean, we've had compliance issues with nonprofits, with for profits, with anyone you can imagine.

MR. OXER: Well, as Tom would remind you, there's a tractor aphorism that I use on this, so I just want to make sure that we're not connecting a HUB to somebody who can't pull the weight in the first place.

MR. IRVINE: Well, and I do think it's important to be looking to the future. We will always want to make sure that we meet the nonprofit set-aside and the way that you ensure that is by making sure that there are nonprofits who have learned how to do it.

MR. OXER: Right. Okay, go ahead. We digress. I think we've beaten that one senseless here, Cameron.

MR. DORSEY: I think so. All right.

Let's move on to opportunity index. We heard from Mr. Hoover on this today with regard to the poverty percentage and talking about kind of creating a level playing field reminds me of a comment I heard on NPR the other day. Frank Deforge is a commenter on sports-related stuff and always has a great little three-minute spiel, had a little three-minute spiel about sports sayings, and level playing field is one you never actually hear in relation to sports but you hear in relation to everything else for some reason.

I thought it was kind of funny. But you don't hear people out on a soccer field: Come on, you're better than us, give us a level playing field.

MR. OXER: In the business side of that, some of the things I've done, if you're on a level playing field, your strategy sucks. For the record, I want to be on the top end of that, not the down end.

(General laughter.)

MR. DORSEY: Certain terms kind of get in my head and kind of start bugging me after a while, and that tends to be one of them that said we're about creating a level playing field. But that really is why we've created the RAF, and Mr. Bowling spoke about that when we were kind of going through the allocation process and you'll hear about the RAF coming up here in just a moment, but we created that to address the issue of certain areas of the state having differences than other areas of the state. And so when we talk about the poverty rate, we tried to address Regions 11 and 13 by having the higher poverty rate that's allowed, it's 35 percent. We certainly want census tracts in every area of the state to qualify under this item, but we can't create a QAP for each region of the state, and I can nitpick this item and say, Yes, we could move the poverty percentage around for each region, but then we've got three factors. So I've addressed one factor, now I have to address the second factor, and then the school district factor which I wouldn't even know how to put that on a, quote-unquote, level playing field between regions. And then the layering of all three of those three together and the resulting number of census tracts that would qualify under this item, putting that on a level playing field is even yet harder.

MR. OXER: Both of them.

MR. DORSEY: Right. And I can kind of do very similar exercises with the rent and income targeting and the ability to do that and the fact that income levels are different in each county, et cetera. And so I think we want to stay away from having scoring items that are different for a bunch of different areas of the state. And I totally understand this because a lot of the comments come from this perspective but the comment primarily comes from the perspective of having a particular site in mind and knowing the poverty rate for that site and wanting that site to qualify. And that's also something that as staff, again, we try to look at a comment and say: Does this address a specific site, or an underlying policy issue? And in this case I just don't know that changing the poverty rate around for the different areas of the state is furthering an underlying policy issue.

MR. OXER: Mr. Keig has a question or comment.

MR. KEIG: I read something this past week that the McAllen metropolitan area -- which I believe includes Edinburg -- is one of the poorest in the nation, I believe. So I understand that we need some uniformity to the QAP but how does what we're proposing right now differ than what we've done in the past, and if there is a big difference, is there a significant possibility that developers won't want to go down to the Valley to develop?

MR. DORSEY: The point item is a bit different this year as proposed, than last year, but the poverty rate is the same for every region of the state. It's 15 percent for everywhere except Regions 11 and 12 where, as published in the *Register*, it's 35 for 11 -- I'm sorry -- not 11 and 12, 11 and 13 is 35 percent. And so that is consistent with the prior year and we did see a good number or Urban Region 11 transactions.

The other thing that's important to note is that you have Urban Region 11 competing against other Urban Region 11 deals, and so you're not going to be competing. There is at-risk and there is USDA set-asides, and those are a bit different, but presumably there was a rationale for the legislature not to address the potential regional differences in those set-asides. When it comes to the actual participation within each region, the regional pots of money, you're competing against, hopefully, deals that are dealing with similar demographic characteristics.

MR. OXER: And that's fundamentally why those regions were formed in the first place.

MR. DORSEY: That's exactly right.

MR. OXER: So I mean, you don't have to worry about competing in McAllen versus competing against Dallas.

MR. DORSEY: That's right.

MR. OXER: There may be more of an allocation for Dallas just as a consequence of the population, but the actual context of the competition is consistent between those deals in each region.

MR. DORSEY: That's right, that's exactly right.

MR. KEIG: So there's going to be money there.

MR. DORSEY: There's going to be money there and there will be someone who gets that money.

MR. KEIG: Somebody will go after it.

MR. DORSEY: And they'll be in that region, I bet.

MR. McWATTERS: So there's no kick-out, there's no defacto redlining through these regions.

MR. DORSEY: That's right. It's not a threshold, this is a point item. If someone can find a site that qualifies, then they get the points. And if no one can find a site, then no one gets the points, but they still get the money, there's still money for that region.

MR. OXER: But if they don't get the points, then nobody got the points but then they're not competing with the other regions that scored the points over there, they're only competing in that region where nobody potentially got the points.

MR. DORSEY: That's right.

MR. OXER: Okay. Good.

MR. DORSEY: There was also a comment about the school requirement. Rural areas are treated a little bit differently under the opportunity index. We wanted to make sure it was a relative item so the poverty factor doesn't apply in rural areas because we're worried about whole counties not having a poverty rate that would qualify and we didn't want whole counties to be excluded, for example, or whole metropolitan areas to be excluded either, and so for rural we went ahead and took the poverty rate factor out. Just to gauge rural areas with respect to high opportunity areas, we look at the quartile of the median income for each census tract relative to the other ones in the county.

And in addition to that, we had in there in the staff-proposed draft that none of the schools that the kids would attend, basically the kids that lived int eh development attended, could be rated below acceptable. And there was a comment by Darrell Jack last time that said: Can you make that elementary schools -- I believe that was the comment -- to make sure that it's similar because the high opportunity area for urban deals with the rating of elementary schools. And so we went ahead and we made that change.

I think it's a little confusingly worded still because we made it right before it went into the *Register* after the board meeting, and I think we do still want to clarify that but we are addressing that.

MR. OXER: Did it generate some public comment?

MR. DORSEY: I heard from a few folks about it, so there has been some public comment. I think we may receive some more public comment, especially now that there are folks in the audience listening to me talking about it. But we are addressing it. I do think that was a good comment and so we're looking to address that.

MR. OXER: Can we bring this up?

MR. IRVINE: No.

MR. OXER: Option two here. Keep going, Cameron.

MR. DORSEY: Underserved area, I'm going to kind of combine with opportunity index. So underserved area and opportunity index point items, both distinguish between elderly and non-elderly transactions, and that was part of a concept that was kind of codified in the remedial plan and we are implementing that conceptually on a statewide basis. We do think it's valid to continue to apply that on a statewide basis.

I think there have been some comments that perhaps -- well, there are some folks that just don't like that whatsoever and so they want the points to be equal, no matter what. And there are some comments that rural areas should be a little bit different because rural areas are different, and that's fine for urban areas of the state, go ahead and distinguish between general or elderly and non-elderly, but for rural areas just make it the same points.

And so I thought I would throw that out there if the Board wants to kind of go in that direction for rural areas of having the points be the same for elderly and non-elderly, then we can certainly do that.

There's one other thing that I want to address before we move on, and that is that folks of any age can live in a general population deal, so this is points for less restrictions. Does that make sense? It's points for not age-restricting your property. It's not an issue of discrimination. I think there are some valid comments that go to whether the services on a general property address the needs of seniors as well as the services provided on senior property. I think in urban areas, or at a minimum in Urban 3 we're kind of set. We've got a distinction that was part of the remedial plan. In other urban areas I think staff would strongly recommend continuing to make the distinction between the two. I think in rural areas we're a little bit softer and open for if the Board would like to make that distinction or not.

MR. OXER: Just as a generic comment, I think that while I understand that there's a certain number of services that as we age we all get to the point we need it, we hope we get there and need it, and having those services available in affordable housing is important in that sector. But I personally think that warehousing by age increment here or age cohort is not necessarily good for the state. A community is made up of all generations, and I think it enlivens the elderly community to have younger generations there and it adds depth to the younger generations to have people they can call on there. I generically don't particularly care for senior deals that limit it, but then I'm one voice out of the number up here. I concur with having the points available for not age-restricting.

Any other thoughts from the Board?

(No response.)

MR. DORSEY: All right. Let me move through a couple I can knock off real quick here. Development size, we got a comment last time, we had a point item in there for 50 units or under and there was a comment could that be 50 tax credit units or under so that you could have some market rate units. And we went ahead and made that change in the draft -- I believe we did, if we didn't, we'll make it because that seems reasonable.

The Wounded Warriors added to special needs, I don't think we're opposed to that, we just need to look at it. I think we did add veterans to that point item. I'm not sure exactly what the definition of Wounded Warriors is, but we'll take a look at that.

The greatest distance to the nearest tax credit property, we did mean 9 percent and 4 percent they have tax credits, no matter what kind they are.

Definition of rural, there are two definitions of rural within our statute, and we have had a good amount of discussion with our general counsel and with Tim about it, and I believe it's in 2306.004, either .003 or 004, is the definition we're going with. It's the most legally supportable path, legally defensible path, I think, to take there. Which, just for everyone's knowledge, I think the key to that definition is the $50,000 limit where you're eligible for USDA funding, just so everyone in the audience knows.

The positive comment under QCP that was made, that was part of the remedial plan, that whole concept of if you didn't have support or if you got opposition last year but you convert that to positive support, then you get a little bump in points. That was part of the remedial plan and I think we do strongly recommend implementation of that on a statewide basis.

Development cost per foot. This is one where we have TAAHP has come together and agreed that this is one that they would like to revert back to last year. I will say that staff is resolutely just as intent on recommending what we have proposed. Let me talk a little bit about this item.

Last year we had an $85 a foot threshold -- I'm simplifying a little bit -- and a $95 a foot threshold, and if you were under those you got points depending on what development type you were proposing. This year we've moved to a deviation from the mean kind of concept, so the idea there is we're not good at cost fixing or determining what would be a reasonable cost for what development, et cetera, and we had problems in the past as well. I'll talk about that in just a moment, those problems.

But what we've moved to is, basically, if you're within X percent from the mean of, quote-unquote, like development types, then you get max points, and if you're a little bit further away you get slightly less, and if you're a little bit further away you get slightly less. And we've got three categories of development type: there's a rehab one and then the other two are exactly the same or almost exactly the same as the $85 a foot threshold and the $95 a foot threshold categories were last year. So the single family development or elevator-served mid-rise type buildings have its own category, and then just a typical garden style development would be in a different category than something that's going vertical five stories.

MR. OXER: What's the population of your statistics?

MR. DORSEY: We would use the actual application figures that year. So it's blind and folks didn't like that. It is objective but it's blind. Folks didn't like that. I will say that other states routinely do these types of things. In fact, a lot of states do ranking type things where they'll rank applications from the highest to the lowest and the highest gets X amount of points and the lowest gets no points, and that isn't determined until the application is submitted. And so while I understand some concern about not knowing when they submit what their points will be, I only am sympathetic to a point.

MR. OXER: Just as a collateral comment, everybody wanted to have competition to come in here, and that's as cold a competition as you can get. Right?

MR. DORSEY: Yes. And I think the concern is -- and this is where it gets a little bit interesting -- the concern is that we're lumping development types that might cost different amounts into the same category.

MR. OXER: Different cost bases.

MR. DORSEY: Well, I've got a couple of things to say about that. One is that's why we have a certain percentage from the mean, so there's a window there that you can fit in.

MR. OXER: You've got a zone you can land in.

MR. DORSEY: You've got a zone, it's not like within .001 percent. And the second thing is this, if we used last year as any guide, then we would have most folks scoring the max points. And that's actually what is of concern is that when we put out there $85 and $95 a foot, those become targets to hit, and those aren't representative of actual costs, those are representative of what people need to get max points, and it adversely affects our ability to effectively underwrite deals and it just doesn't achieve, I think, what we really want which is we don't want them to tell us costs that aren't real, we just want folks to give us their real cost.

Now, that doesn't mean that this is going to be perfect in achieving that, in fact, I don't think it will, but at least there will be a risk of not getting points if you don't tell us your real cost. There might also be risk if you do tell us your real cost, but you don't know, and that's kind of the beauty of the item.

We did one other thing, though, as a compromise here, we did this, we sat down with TAAHP, we talked to TAAHP and we talked to other folks about this as well, and we said, Look, if you're under $80 a foot for your building cost which is kind of slab-up, going vertical, then you get a kind of held harmless point level of eight, and the max points is ten, so you're only two points behind. And that's to kind of ease into the implementation of this concept. So that's kind of what the deal is with this item. And like I said, when I talk to folks about it, I kind of get into this circular debate where it's like: but that's not representative of real costs; but if you use last year they were; but those weren't our real costs; well, that's what the problem is.

And so it's not perfect, we're trying to move in a different direction, and I think fear is not the reason to revert back to last year, fear of what this might look like. I think we need to attempt something differently, just because we haven't in the last years doesn't mean we shouldn't.

MR. OXER: We've been cutting some new ground on this thing to begin with, so figure this one out.

MR. DORSEY: That's right.

If the Board would like to see us kind of move back to that, just kind of laying out the thresholds, then certainly staff will do that.

MR. OXER: Do you have the data quickly available where you could run a quick stat on this thing to see what it would look like so you could tell us next month?

MR. DORSEY: Yes.

MR. OXER: Okay. Just show it in there.

MR. DORSEY: For last year.

MR. OXER: For last year. That rule applied to last year.

MR. DORSEY: I'll try to do kind of an apples to apples type comparison.

MR. OXER: As best you can. Just general indicators, that way it will give us an idea of whether we could set a collar or a floor on this thing so that nobody gets beat up too bad but there is some differentiation.

MR. DORSEY: The other thing that we thought of was we could say: Look, we're going to make this scoring item so that the 50 percent of the deals that are closest -- we're going to take the 50 percent that are closest to the mean and they'll get max points and then go down from there, or the 20 percent that are closest to the mean. That way you're not setting out the percentages ahead of time but you're saying 20 percent of the deals will get max points and the next set will get slightly less and the next set will get slightly less. We could also move into that type of thing.

MR. IRVINE: Well, it's not so easy to move that way. The Administrative Procedures Act rears its ugly head here because what is out there for public comment right now is the staff proposal on deviating from mean. The TAAHP recommendation to revert to 2012 approach, what's out there for comment is nothing like the 2012 approach.

MR. OXER: Doesn't include that.

MR. IRVINE: So if the Board wanted to go that direction, it would probably require re-posting.

MR. OXER: Bring us the stats anyway, so I want to see how this worked out in terms of deviations on it.

MR. DORSEY: Okay.

MR. OXER: Anything else on that one?

(No response.)

MR. DORSEY: All right. Leveraging of private, state and federal resources. I'm going to kind of here, I think one of the main commenters on -- well, we heard about modifying this item to allow project-based vouchers and other PHA subsidies to count as leveraging, but I think what they really meant was to comment on the unit of general local government funding. They used the term leveraging which we really don't use with that other item. So I'm going to talk about what I think they meant. And we heard from folks from public housing authorities today that would also suggest that they meant to comment under the unit of general local government item.

We've heard from several PHAs, the folks that came up here. I had a discussion with many of them over the phone as a group the other day

With the unit of general local government funding item, we're trying to be narrow. There are a few things we've done. One is we eliminated our own funding from being able to qualify under this item, so this isn't just something where we've eliminated PHAs funding, we've even eliminated our own funding which, by the way, did help us utilize HOME funds, but we felt that that was what was best to more effectively comport with the statutory language.

And what I will say is that there are several areas where PHAs achieve, at a minimum, quote-unquote, level playing field or advantage, and those are the areas I want to highlight because while they're not able to achieve points using their own funds contributed to their own deal under this item, they can achieve points under other items.

One, they have access to 100 percent property tax exemption. Well, we don't have a point item for that but that provides all kinds of benefits. For example, the ability to deep written income target easier and doing it with less tax credit support. Deep written income targeting is a factor and so they do have a distinct ability to achieve those points, whereas, a developer that must pay property taxes and doesn't have the option has a more difficult time.

Access to Section 8 vouchers also provides rents in 30 percent units that are probably comparable to what they get in 60 percent units, whereas, a developer that doesn't have Section 8 project-based vouchers would not be able to do that.

All these things affect the dynamics of a deal that allow you to structure a deal to target lower income folks and still get the points and do it a little bit easier than a developer that doesn't have that type of benefit.

Also under the leveraging item, that is rewarded. The leveraging item doesn't distinguish between where the funding is coming from, it distinguishes between efficient use of credit and slightly less efficient use of credit. So if the tax credit request is under 7 percent of the total development cost, for example, then you might get points, whereas, if it were a bigger tax credit request, then you wouldn't get as many points. And having resources such as the Choice Neighborhoods funding is specifically called out as a source of funds under leveraging and allows PHAs to get those types of points, and other PHA subsidies would help achieve points under that item in a manner that allows a PHA to be very competitive.

The other thing I want to mention is staff can't really come up with a really great policy reason why we would say a PHA deserves to be able to get more points inherently under this item than another developer type. We just didn't see a reason to distinguish between types of owners. And so that's a key point.

And the other thing is the related party nature. We've got a provision in this item that says that the unit of general local government that is providing the funds can't be related to the owner, basically related to the applicant. Okay? And the reason that is is because we ant that arm's length, we want it to be true city support of a development, and a PHA has this unique ability to function as both an instrumentality and an applicant. And so that was also a distinct consideration there as well.

The CDBG disaster funds, we heard a little bit about those. Those have pretty much their own revitalization option. If you have CDBG disaster funds and you're putting those into an area targeted under the CDBG disaster plan for that city, you can achieve points under the revitalization plan. And I think we've provided a good amount of accommodation for CDBG disaster funds in that regard without having to kind of work it and weave it in in other point items.

The deal with regard to existing public housing and redevelopment of it being exempt from like the 300 feet requirement, et cetera, I will first say that that's not part of the QAP, it's technically part of the Uniform Rule. But we are still kind of looking at that issue. That item was part of the remedial plan. We're giving very careful consideration to it is what I'll say at this point.

The HUB and the 5 percent minimum -- I forgot to talk about this when we talked about the HUBs -- that Diana mentioned, having kind of a minimum there so that you didn't have them getting almost none of the cash flow or almost none of the developer fee and all of something else, seems reasonable to me. Unless you all don't want to do it, we can incorporate that type of thing into the final version.

The applicable federal rate on unit of general local government funds I think also a pretty reasonable comment. I think it would be probably easier for us to just kind of come up with a fixed percentage, say, 3 percent or under or something to that effect to make it clearly below market, but something that's easy for everyone to gauge and is still pretty reasonable.

Point deductions, and we've heard from folks, this was a top consensus item, and Mr. Bowling commented on it last time as well, about removing -- we had this point item built in for point deductions, and that is if you elect points and you fail to prove up your ability to get those points -- in other words, you don't really qualify -- then you don't get those points and you get dinged one point for electing points you never qualified for. Let me talk a little bit about that.

We had almost every at-risk application shift points this year. I think there were only a couple of them that actually ended up a the same point value that they started with, and the reason is because there's no barrier or there's very little barrier to electing points that you don't qualify for. In fact, you can elect points that you don't qualify for and you can know you don't qualify for them up front and you can still do that and maybe staff will miss it. Right? Some do that.

MR. OXER: Challengers probably won't, though.

MR. DORSEY: They really are trying to qualify, they think they do, and they just don't. Those are tough ones. Right? Well, what we did as an accommodation or to try to kind of come down in the middle, because we have issues with staff time and reviewing these apps, we spend a lot of times reviewing them and we want to be efficient, we don't want to review applications that we never had to review in the first place because they didn't qualify for the points they elected, we want to create a disincentive for that. But we also acknowledge that there are certain point items that are very new this year and that people might try to qualify with and make a good faith effort and just they don't hit it, they don't hit the bar we were trying to set.

And so we've specifically carved out things like community revitalization plan, cost of development per square foot. Since that's a blind item, we're not going to hold you accountable if you elect -- well, we probably wouldn't even ask you to elect your points on that one. So there are several point items, QCP is another one, state senator or representative support is another one. We specifically carved out about six point items from the point deduction criterion so that if you elect points under those and you don't get them, you don't get dinged. But if you elect points under something that's really black-and-white, really objective and you clearly don't qualify, then we would still deduct a point.

So that's kind of the accommodation we made and we would still recommend going in that direction, unless the Board feels -- I think there was some sentiment that maybe the QAP was just so new this year that we didn't want to do that last time, but like I said, we did make accommodations for the items that I feel like that are a little bit more murky than other ones.

MR. OXER: I think the concept of anything that's black-and-white, you'll know you do or you don't. That makes good sense. You're essentially evaluating their capacity to score themselves?

MR. DORSEY: Right. And eliminating a lot of unnecessary work.

MR. OXER: This is like checking your resumé and making sure that you're not overstating things?

MR. DORSEY: Right.

MR. OXER: I like that.

MR. DORSEY: Let me just make sure real quick, I've tried to cover the vast majority. I'll leave it at that right now. If anyone in the audience feels like their comment wasn't discussed, then please let me know and I'll make sure to bring it up at the next one, at the next meeting during my discussion.

MR. OXER: Okay. Here's what we're going to do, we're going to take a ten-minute break starting, basically, right now. Everybody get up and we'll get back in our chairs at a quarter past 3:00. That's ten minutes, it's 3:05 right now, 3:15 back in our chairs and we'll get going. And you'll still be in the hot seat, Cameron.

All right. See you I a minute.

(Whereupon, at 3:05 p.m., a brief recess was taken.)

MR. OXER: Let's get started again, let's get underway here.

We're going to give Cameron a brief recess here to make room for Elizabeth so that she can take care of an item that we have some scheduling issues with. Elizabeth, go for it.

MS. YEVICH: The item before you is 5(a) and ths is The Contract for Deed Prevalence Project study. And I am pleased to present for you today the final report on the contract for deed study.

As you'll recall, back in August 2011, TDHCA entered into an agreement with the University of Texas at Austin for this study. We commissioned this project to fulfill the 2010 Texas Sunset Advisory Commission's recommendations to conduct a one-time study on the current prevalence of contracts for deed in Texas Colonias and to report the results to the Texas State Legislature by December 1, 2012.

The research team consisted of professors, staff, students from the School of Public Affairs, the School of Law, the School of Sociology, and the Department of Community and Regional Planning. Dr. Peter Ward, professor of Public Affairs and Sociology, presented before this Board at the July 10 meeting, as did Heather Way. And since then, the team has completed the study and Dr. Ward and a member of his team, Lucy Wood, is here today to brief you on these conclusions and recommendations. Following Dr. Ward's presentation, staff recommends acceptance of the study.

MR. OXER: Good. Dr. Ward.

DR. WARD: Thank you, Elizabeth.

Chairman Oxer, thank you for accommodating us in this afternoon session. Members of the Board. My name is Peter Ward, for the record. I'm from the LBJ School of Public Affairs. I've also had responsibility for the financial management of the project through the LBJ School.

MS. WOOD: My name is Lucille Wood. I'm a lecturer at UT Law School and also co-investigator on the project.

DR. WARD: Very briefly, as Elizabeth just mentioned, we've delivered the report in a timely fashion, the 31st of August, as was agreed. You have a copy of an abstract, you have a copy of the executive summary -- the executive summary is twelve pages, the abstract is two pages. The report, which I assume you have access to but I don't expect you to have read it -- is 120 pages, also a substantial number of appendices to the report, statistical appendices and examples of different contracting, and so forth.

We've also delivered the basic database in Excel and in SPSS, the database of the major survey that we conducted, 1,300 cases, you'll remember, obviously with all identifying information redacted from that. But this is a database that I think a lot of researchers will find useful. Assuming acceptance of the report today, the report, the appendices and the database will be uploaded to a website at the LBJ School of Public Affairs and will become publicly available at that point onwards.

Today I just want to very briefly, last time, of course, we gave you an update on Phases 1 and 2 which were the core elements in terms of identifying the numbers of recorded contracts for deed and then estimates of the unrecorded contracts for deed which were the two elements. Today I want to talk very briefly about Phase 3 which was a more broader study of informality that breaks out of the survey that we conducted.

You'll recall that in terms of the contracts for deed, the big picture result -- if you refer to the project abstract, we're looking at the second set of bullet points here which I'll just very briefly mention -- the key results of the study were that the use of recorded contract for deed peaked in 2000-2001 at around the 1,500 level across the ten counties where we investigated the use of contracts for deed. Remember, we were looking at the use of contracts for deed from 1989 through 2010, and what I think the Board was particularly interested in was essentially the impact of legislation in 1995 that required contracts for deed to be recorded, both in '95 in the border region, 2001 outside the border region.

And sure enough, what we see is essentially a peaking as developers and purchasers recorded their contracts for deed post '95 through to 2000-2001, and then it's declined and it's leveled out at around 450. So across the ten counties in which we actually worked and gathered information, we're looking at an annual rate of around 450 contracts for deed that have been recorded.

In total, just over 16,000 recorded contracts for deed for those ten counties in the period 1989-2000, and of those, around a third, 5,400 of those contracts for deed were still active. So I suppose the bottom line here is the contract for deed remain alive and well in Texas Colonias and informal subdivisions.

When we actually investigated, arising from, I think, Board Member McWatters' question about the extent to which contract for deed was a successful mechanism to deed, we were able to disaggregate a single case where we had good data from the title company, that of Maverick County. And to our surprise, and I think to yours as well, we found that recorded contracts for deed have a relatively low success rate in terms of finally arriving at a deed, and we've provided some of the information on that in the third bullet point under the prevalence of contract for deed key findings. Only about 20 percent of the Maverick County buyers had made the transition to deed, 37 percent were still active, but a lot of people had dropped, just under half, basically, hadn't made it.

In terms of Phase 2 which was looking at really the underbelly of contract for deed which is unrecorded contract for deed, where we really had to vest a huge amount of our resources and time and energy, and through essentially conducting a random survey in the Colonias, randomly selected in the six counties, in some new subdivisions that we discovered were being developed in Hidalgo County in particular, in El Paso County also, but particularly in

Hidalgo County.

So post '95, of course, no new Colonias were allowed to be developed, but we are finding a lot of new subdivisions, or substantial numbers of new subdivisions being developed under mobile subdivision rules which you have very, very poor housing, and so we also decided -- we haven't extrapolated from these but we did decide that we would look at a number of these new subdivisions because we were interested in what was going on, and you'll see developers are very active there.

And then also, we looked at a number of informal subdivisions in counties outside of the border, such as Hays and Guadalupe, nearer to home where there's also been a proliferation of Colonia type subdivisions in the last 15 years.

But when we come to look at unrecorded contracts for deed what we're finding are, again, large numbers of unrecorded contracts for deed. These are no longer unrecorded contracts for deed from developers, they are unrecorded contracts for deed in Colonias in which consumers, people who bought 15-20 years ago, are now trying to sell off their own properties through seller financing. And when we started to dig deeper and to try to ascertain, and these are often little handwritten notes where they are conveyancing, so it's even more informal contracts for deed than we had previously experienced.

When we look at this we find that something like in the six border counties for the Colonias which we randomly surveyed, our moderate estimates are around 14 percent, 13.8 percent of people currently had an unrecorded contract for deed, and if you extrapolate that to the number of households in Colonias in those six counties, we're talking about 6-1/2 thousand households with current unrecorded contracts for deed. If you take the liberal estimate, and we think that the moderate estimate is the more realistic, but a liberal estimate would be that there are 32 percent of households have unrecorded contracts for deed. That would be about 15,000, so the range would be between 6- and 15,000, but we think the 6,000 is about the number, about 14 percent.

So what that means, contract for deed is alive and well, unrecorded contract for deed are alive and well. Unrecorded contract for deed are not going to go away because seller financing is the only system whereby people can seek, often unsuccessfully, but seek to sell their homes, and they're often doing so in even more informal conveyancing mechanisms than we've ever seen before. That was Phase 1 and Phase 2.

Phase 3, I just want to highlight a few of the key findings that have come out of the research that we've done. And the reason why we were interested in doing this research was so that we weren't just responding to your request for what has been the history of contract for deed in the past, we were trying to understand better the shape of things to come in terms of what are the new conveyancing mechanisms, what are the kinds of developments, what are the new challenges that people living in Colonias and informal subdivisions are facing.

And I think there are four key findings. One relates to the aging of these Colonias and the population of homeowners. They're now getting to the stage in their 50s, 60s and 70s, and so they're confronting the issue of succession and inheritance. As you know, less than 10 percent of these populations have wills so most of these transfers are going to have to take place under intestacy laws.

The median value of these properties in our research was around $53- $54,000. And so there's a concern that unless we think carefully about how the inheritance process is going to take place, that currently valid titles are going to become clouded through intestacy and subdivision. So we're beginning to think -- and I'll come to this in a second -- how to move forward in terms of trying to minimize the clouding of existing titles and deeds that are being received.

We never really thought about Colonias and informal subdivisions as being important places for renting, but in our survey 82 percent are owners but about 16 percent were found to be renters. These aren't apartment renters, what these are usually in our research are usually people who find that they can't reasonably sell their properties through seller financing, they can't find a buyer or they can't find a buyer at the right price, but they're obliged to move for whatever reason, and so what they're doing is they're turning over their properties to rent, kind of logical. We don't see this as a problem, but it is a feature, it's an emerging feature that we came across in terms of the research. They either do that, or I think 2.5 percent, instead of renting they were just handed over to kin and let kin live there rent-free, paying utilities.

So the first point is the question about inheritance, the second point is the rise of renting. We continue to find a large number of lots in Colonias and subdivisions that are out of the market, they're vacant, often they've been abandoned. We're finding increasing evidence of actual abandonment of properties, not just land but also dwelling units due the crisis but also due to their inability to sell these properties. The market is not working for a variety of reasons that we also talk about in the report in terms of possible policy-making downstream.

The fourth point really relates to these new subdivisions, these model subdivisions that have been developed by developers. Developers there, they're not using contract for deed, they're using a whole series of warranty deed with lien. We found other forms as well. The key thing here is that this has become the new realm of developer practices, and we found in Hidalgo County, in particular, one very large settlement aggressive contracting and flipping of properties. In that particular settlement, this very large settlement, we found that 50 percent of contracts or deeds had been flipped back to the developer and most of those were occurring within one year. What this means is that people are buying property under warranty deed with vendor's lien, getting into trouble or finding they can't meet the payments and it's being flipped back to the developer.

When you look at who those people are, you see that they're often living in campers and in trailers, dilapidated shacks, anything that they can actually move off site if they need to, and so what you get is a kind of a defacto renting rather than an actual real long-term view towards ownership.

I mention this because I think this may not be high on your agenda right now but I think it is going to be something that I think the legislature is going to want to come back to and look at because this is the new wave of developer practices to promote low income housing, albeit with services. So the legislature will not consider these as Colonias but they're some of the worst conditions that we found.

Just to wrap up, the public policy responses to informality that we've identified, first and foremost, I think it's going to be very important to think about reforming the land information collection and data systems. I think we've mentioned in the report some of the really considerable difficulties we had just gathering this information, counties have very different systems, they have different levels of technological capacity, presenting these materials, land records are often archaic and costly, many are not online at all. Texas is way behind the curve of other states in terms of records, county records and appraisal districts. Some are very, very good; they tend to be the exception rather than the rule.

Second would be a whole series of policies to try and improve clean title and ensure more effective recording. For example, legal assistance for low income homebuyers, automatic conversion of contract for deed, promotion of deed of trust templates in Spanish and English so people can move away from rather quaint, handwritten in Spanish notes to a much more systematic format which could also be tied to requirements on the template that this now be recorded, that it's going to cost you $10 in the county court.

Also, it might be tied to another point that we say in terms of people's access to Texas homestead tax exemptions. We were surprised to find how few, relatively few owners take advantage of the Texas homestead tax exemption, and that's largely through lack of knowledge. We talked a little bit about this before. So policies to improve clean titles, and we have a whole series of suggestions in terms of policy lines.

Policies to support clean titles associated with property inheritance and succession. This is a twofold process, sensitive campaigns to encourage people to take wills, but also but also tied to that to think carefully about reducing or how to reduce the cost of probate for low income homeowners, because it's one thing to be able to sort of promote wills but if people can't then liquidate the asset, and they often can't, it's going to revert to informality.

And then policies to improve housing and land market performance, consumer education -- we talked about this before -- mediation services, and expanding access to the Texas homestead tax exemptions.

There's a lot more in here and we've greatly enjoyed doing the research on behalf of the Board. I think there's a lot in here that will respond immediately to your needs, but I think over the next legislative, the next two or three legislative sessions, I think there's going to be a lot of material in here with which we can work.

Thank you.

MR. OXER: Any questions? It seems very extensive, Professor Ward. Awed by the fact that we still have this level of problem in a state where housing is considered something we should all have, and land rights. I still find it fascinating that the issue exists.

You had been particularly interested before Lowell.

MR. KEIG: Yes. I just want to say thank you for all you work in putting this together. We appreciate it, and like the results we've gotten.

And I would move to accept the report.

MS. BINGHAM ESCAREÑO: Second.

MR. OXER: Motion by Mr. Keig to accept staff recommendation which is to accept the report, second by Ms. Bingham. Are there any questions from the Board? Any comments, Mark?

MR. McWATTERS: I do have a question. What are the principal impediments for the inversion of these recorded contracts for deed, not even getting into the unrecorded ones because it's difficult, I'm sure, to get data on that.

DR. WARD: Probably, you might like to answer this as well, but first and foremost, I would say what we talked about before, lack of information. One lack of information, these need to be recorded, and that's why I mentioned a template just saying you should now record it and what the advantage is of recording I think would be very, very helpful. So lack of information.

In the past when it was developers, it was really left to the developers as to whether they wanted to record it or not and who was paying the taxes. There may be an element of people who are undocumented who are purchasing who somehow think that this actually potentially would imperil them. I'm not sure of that because most of them recognize that they have to pay the taxes, they do pay the property taxes.

MR. McWATTERS: What about the conversion of the recorded contracts for deed? I mean, it's very low, not surprising but it's a very low rate. What can be done about that? Is that just indicative of the entire system and problem here from top to bottom that conversions don't happen?

MS. WOOD: Well, I think the staff of the department could better articulate the challenges involved in effecting a conversion. However, I think you're right, that it's not clear why more people are not taking advantage of that avenue, and I think I would cite the reason Peter gave you which is public education and lack of information as the biggest barrier.

MR. McWATTERS: I can see people may think in good faith that they're actually buying a piece of property, but they're defacto renters and they're may be defacto renters that are at an above market rate of interest for a considerable period of time and end up with nothing other than the right to live somewhere for an above market rate which is not a good public policy. And I like you recommendations, they're ambitious but they're needed. So thank you.

MS. BINGHAM ESCAREÑO: I have a question too. As you were doing the boots on the ground research, did we come across any resources that we could capitalize on? I'm in healthcare and Colonias have what are called promotores now that are boots on the ground healthcare, usually lay people but they're at least providing education and the contact that people need with the right resources. Did you see anything like that out there that we could already capitalize on, or will an education effort require new resources?

DR. WARD: The one that springs to mind is Texas

Rural Legal Aid. However, county by county they seem to have their own agendas focused on whether it's labor relations, contracts. In Hidalgo and Cameron they have a very strong focus there on promoting wills, so they're kind of anticipating what I've mentioned today. The problem there is that they tend to be under-resourced. But I think that is a resource that could be used if what you're talking about in terms of trying to move forward on this in a serious sort of way, I think part of it will be identifying agencies or non-governmental organizations that are out there already that can be brought in, either mediation services or whatever.

But the promotores you mentioned, yes, we actually originally intended to use promotores to conduct the interview and the work, as I had done ten years ago when I worked in Rio Grande City. On this particular occasion they were tied to Texas A&M to the CHUD and they're no longer have time for that. So we ended up going back and employing our students.

MS. BINGHAM ESCAREÑO: And just out of curiosity, how many homesteads on the large Hidalgo County settlement where you noticed the flips?

DR. WARD: Well, it popped up when we were looking at the selection of Colonias and I was just blown away because Hidalgo County Colonias are very numerous, far and away the most, but small. This one is called Puerto las Llamas, it's off on the west side, and we're talking about 1,200 lots.

MS. WOOD: It's interesting to note that the flip rate that Peter is talking about in the Hidalgo community is mirrored in the communities where recorded contracts for deed are in use as well, so even though they're recorded, the flip rate was, for the most part, they were exiting within two to four years of purchase. So we're seeing that even with a recorded instrument and then even with the switch over to warranty deed with vendor's lien, you still see this pattern of aggressive flipping.

MS. BINGHAM ESCAREÑO: I hate to sound jaded but I'm sure there's a method to that madness, I'm sure there's motivation behind that. Right? I mean, those recorded deeds aren't just for the good of the owners. Right? I mean, it's an interesting trend.

MR. OXER: Any other questions? Those of you who are interested, copies of their presentation are out front if you care to have it, but extensive, scary.

This is a report item, Elizabeth? We had a motion by Mr. Keig to accept and a second by Ms. Bingham . All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: There are none, it's unanimous. Thank you very much, Dr. Ward, and your team.

Okay. We've got two items that have to be taken up today and I want to make sure we get to them. Is the RAF the first one?

MS. DEANE: Right. The RAF we really need a vote on that so we can get that draft out there so that it coincides with the adoption of the QAP. And I don't know what folks' schedules are, we're trying to make sure we maintain our quorum long enough. So we may be fine, but I think the RAF, that's got to have a vote, and then we need today to have the public hearing, although if we have to, we can have that outside of the board meeting.

MR. OXER: Okay. How much time do you need to finish up your piece, Cameron?

MR. DORSEY: One minute, unless you have questions.

MR. OXER: Commence firing.

(General laughter.)

MR. DORSEY: During the break I touched with base with Barbara, Barbara touched base with some of the other attorneys, and I think we're pretty comfortable with being able to change the HUB item as we've kind of discussed some. And I don't think that there were any other items, unless specifically mentioned, for example, Tim mentioned the cost per foot, that presented any issues.

MS. DEANE: As far as re-posting.

MR. DORSEY: Right, as far as necessitating a re-posting.

MR. OXER: Right. So we're good not needing to re-post but we'll incorporate things we talked about today.

MR. IRVINE: Well, I did hear a question during the break from a member of the public that I think requires a response and clarification. No action is being taken here today, nothing is being limited, the QAP is still out for public comment. The discussion, I think, is used primarily so that we get a sense of the Board's policy direction, but we will still go through line by line, comment by comment, every single public comment, and they will all have reasoned responses. It will simply be useful to staff in forming its recommendation to the Board for a QAP for final adoption, but as always, the Board makes the ultimate decision, and I'm sure that there will be additional public comment once the recommendation is published.

And also, several of you have expressed that you would like to meet with Cameron or me or whomever to discuss ideas in greater depth. These are complex subjects and we certainly welcome the opportunity to sit down and visit with you and understand them better because we want to put out the best possible recommendation for adoption, but underscore, it ain't final till they say it's final next month.

MR. OXER: Okay. Is that it?

MR. DORSEY: That's it.

MR. OXER: All right. The process here, the QAP is still underway, we're still expecting comment, so it's a report item and a discussion item at this point. Great. Thanks.

Okay. Elizabeth.

MS. YEVICH: Good afternoon again, Chairman, Board.

The item before you now is 5(b) which is the presentation, discussion and possible action to approve and publish the 2013 Regional Allocation Formula methodology for public comment, and a bit of a background here.

The Regional Allocation Formula, commonly known as the RAF, was created in 1999 through the passage of Senate Bill 1112. The bill directed TDHCA to use this newly created formula in distributing Housing Trust Fund, HOME and Housing Tax Credit funds to the uniform state service regions across the state. So since its creation over twelve years ago now, the RAF has striven to objectively measure the affordable housing need and the available resources in the state's 13 service regions which are divided into 26 subregions for these three programs: HOME, Housing Trust Fund, Housing Tax Credit.

However, since its inception over a decade ago now, new information has become available, and after careful and thorough analysis, staff recommends a series of substantial changes to increase accuracy and transparency. Benefits of the proposed changes include: increased ability for developers and community members to predict funding availability; elimination of large swings in funding from one region to another each year; and a simplified process that will be easier to explain to the legislature, board and public.

If you recall, last year at this time there was a clear effort by the development community to understand and participate in the 2012 RAF process. There as substantial comment for the 2012 version, and in response, staff went back to the basics and decided to rework the formula. This rather arduous process of recalibrating the RAF began late last winter, continued throughout the spring with many in-house staff meetings led under the capable direction of Naomi Trejo, who works in the Housing Resource Center.

And I want to point out why the RAF lives in HRC, the Housing Resource Center. The resource center coordinates plans and reports and other required items that would affect more than one program area, so since the RAF applies to these three programs, Housing Tax Credit, HOME, Housing Trust Fund, the Housing Resource Center leads this effort. Of course, interest in the RAF always seems to be with the Housing Tax Credit Program. Therefore, HRC has worked very closely with Cameron Dorsey and Tom Gouris in formulating this new methodology, and Tom and Cameron are on hand -- they better be -- this afternoon to participate in this discussion once Naomi Trejo walks you through the preliminaries.

I also wanted to point out that the Housing Resource Center has taken several steps to vet this version presented to the Board today. By late summer we had two proposed models that came out of these staff meetings and these proposed changes to the RAF were outlined in a position paper and discussed via an online discussion forum which was held open for a month from August 10 to September 10. As a result of that month long discussion forum, two additional models of the RAF were developed and presented to the public at a roundtable specifically for the Housing Tax Credit RAF, and that was held just two weeks ago on September 26.

As a result of the roundtable, an addendum to the position paper was created two days later on September 28. Additionally, a public comment period for the RAF will begin next Monday, October 15, and end on October 29. There will also be a public hearing on Wednesday, October 24.

So the position paper, the materials presented at the roundtable and the addendum to the position paper are all located in your board book as attachments A through D. You will note that this is well over 130 pages. Through this volume of materials presented, you can see the organic process of this 2013 proposed RAF, with the back-and-forth among the analysis of the data presentation to the public, the public responses and staff's adjustments.

At the late September roundtable, I am pleased to report that a consensus was reached by the approximately 50 in-person and call-in attendees who represented both the development community and the public. This consensus was in favor of what we have been calling the Compounded Need Model.

And with that, I'm going to turn it over to Naomi Trejo to lay out this new RAF methodology, the Compounded Need Model, and how we got there.

MS. TREJO: Thank you, Elizabeth. My name is Naomi Trejo. I'm the administrator of the Housing Resource Center.

MR. OXER: Quick question. Reporter, are you picking her up?

THE REPORTER: Yes. I have a microphone near her.

MS. TREJO: We warned her that I would be here.

Good afternoon, Chairman Oxer and Board members, and thank you for the time this afternoon to present this recalibration. This will be about a 15-minute presentation to walk you through the steps that we took this year, and we'll outline the substantial changes between this year's RAF and the last twelve years of RAF.

MR. OXER: Just one more piece we're rebuilding from the ground up. Right?

MS. TREJO: It is from the ground up, but I'm glad you mentioned that, because while we've been talking a lot about each little point and how they affect the project, this is more of a step back. So this is a broad overview whereas we have been talking at a very micro level.

So let's start from the beginning: What is the RAF? The RAF is required by the Department's governing statute 2306. In it we are required to develop a formula to measure housing need and availability in order to determine funding levels for the Department's 26 subregions.

MR. OXER: Naomi.

MR. IRVINE: Just a question. Are the people who are watching this streaming, are they seeing this same screen?

MS. TREJO: No, they're not. But all the material that's in the power point presentation is also in the board book.

MR. OXER: In the board book. So anybody that's watching online can pick it up.

MR. IRVINE: Follow through the online version of the board book.

MS. TREJO: Right. The power point isn't presented in the board book, but the information is.

MR. OXER: Okay.

MS. TREJO: So the RAF sets the funding levels, and keep in mind that when distributing funds, the need and availability for the entire region is taken as a whole, and when awarding funds a market study is required for a specific site. So there's some differences, macro versus micro level. The RAF's goal is to take limited resources and distribute them equitably where they would have the most impact. Also, it should be noted that the RAF is run each year by the Housing Resource Center and not in the program areas.

So why calibrate now? We have been discussing changes to the RAF internally since last year because of comments on the 2012 RAF. Last year there was a clear effort by the development community to participate in the process and there was substantial comment. In response, we went back to the basics and reworked our formula, and you will probably be hearing from Cameron and Tom today, as they have been integral to this process.

Also, the original RAF was developed in 2000 and based on data sets that were available at the time, mainly the 2000 decennial census. Since that time, over the past twelve years, new data sets have become available, they're released yearly instead of every ten years, with the census. Finally, the Department wanted to simplify the process before the next legislative session and to make the RAF easier and transparent.

So what are we going to talk about today? We're going to examine measurements of housing need, examine measurements for housing availability, convey the rationale for the relationship between the housing need and availability, and set funding levels for urban and rural areas.

So we started with what is housing need. We asked: Who needs housing assistance? We analyzed several factors: we looked at income measurements such as area median family income and poverty; we looked at the ratio of income to rent with a cost burden measurement; we looked at population growth over the next three years which would impact the demand by the time the multifamily development was on the ground; we looked at substandard housing, lacking kitchen or plumbing, housing stock 30 or 50 years old; we looked at overcrowded units with more than one person per room, including kitchen and bathroom; and we looked at existing waiting lists for housing assistance.

Staff considered all these measurements and we recommended using persons at 200 percent of poverty as one of the variables. There is a strong link between persons at 200 percent of poverty and households who will qualify for a majority of HOME, Housing Trust Fund and Housing Tax Credit programs.

We went further with our analysis and also recommended rent burden as a measurement of housing need. This is nationally defined as paying more than 30 percent of a household's income on rent.

Overcrowded units is the final measurement staff recommended for housing need. While substandard housing or wait lists for housing assistance were considered appropriate, data for these factors was not available or the data did not have the data integrity necessary at this level.

While population growth was also considered appropriate, staff recommended using the most direct and fewest factors in order to increase the impact of those factors for the RAF.

Next the statute directed us to include housing resources. We asked: What counts as a housing resource? We considered three different measurements of availability. Last year's RAF, the 2012 version, used awards, we measured awards, mainly awarded multifamily developments. However, we found that sometime the awards fell through, or at the very least, were built two years after they were counted in the RAF. We decided not to include awards in the 2013 RAF.

Instead, we considered including the number of building permits issues, as this would translate into new housing on the ground. While building permits is an appropriate measurement, we decided to recommend not to use it in order to keep the fewest number of variables in the RAF. We recommended using vacancies to indicate housing need, as you will see on the next slide.

So vacancies include market and non-market units. For clarity in this presentation, I'm going to refer to vacancies as unoccupied units. The data on unoccupied units is from the census field representatives who visited the sites personally and talked with landlords, owners, neighbors, rental agents and others. In addition, based on an internal check of TDHCA's multifamily properties as of July 2012, we found that the statewide distribution of the department's unoccupied units varied less than 3 percent from the census distribution of unoccupied units throughout the state. The

Department's units are inspected by the Department and include only habitable units.

Another stipulation of the statute is that we set funding levels for urban and rural areas. As we talked about already today, there are several definitions of rural, and one of them is in 2306. I'm just going to read it briefly so you can see what it entails and the complexity.

It states that: Rural areas need to be outside the boundaries of a metropolitan statistical area (MSA), or it can be within the boundaries of an MSA if the area is 25,000 or less and does not share a boundary with an urban area, or if the area is under 50,000 in population but eligible for USDA funding. As you can see, this is a very nuanced, and some might say arcane definition, and we will examine its consequences in the following slides.

So in the 2012 RAF we used what is called a place level designation to interpret the statute. A place is a city or area within a county, so Austin and Round Rock are places within Travis and Williamson counties. This map shows how we count our variables by place. See that all the white areas are not counted at all because they are not cities, towns or census-designated places. There was so much of Texas left out by this interpretation that we looked at alternatives on how to distribute funding.

When we count by county, all the people and units are including, making use of the blank white areas we saw in the last slide when counting just places. For renters with cost burden alone, over approximately 117,000 more households are counted when we include all of the counties' data. If we look at all the variables together, the white areas include approximately 2 million more households or units than included in the place map. Remember that the formula is counting on the macro level, not the micro level. By including the entire county, we are more accurately calculating the need that can be met by RAF funding.

While governing statute includes a definition of rural, it also gives the flexibility to the Department to set funding levels based on factors it believes is relevant. Counting only places in the RAF undercounts the households in need and the resources available. The white areas in the place level map you saw constitutes a factor that is relevant to the distribution of housing funds. Therefore, the 2013 RAF will include county level counts. An example of how this works is on the next slide.

In 2013 we'll be setting funding levels for urban and rural areas based on whether the county is part of an MSA or not. If the county is part of an MSA, the housing need and availability there are counted toward the urban funding levels. If the county is not in an MSA, the housing need and availability there are counted towards the rural designation.

Now that we have identified the factors and how to count them, we need to relate the factors to each other. The 2013 RAF consists of two to three tables. This is different than the 2012 which had ten or more tables. You can find these tables in item 5(b), Exhibit E, and I have also passed out Exhibit E separately just in case you want to follow along, and there's also copies for the audience in the back.

The first table shows the variables used in the RAF. The second table shows the relationship between the housing need and availability factors. The third table, which is applicable just to Housing Tax Credits, shows the $500,000 adjustment which requires that all 26 subregions have a minimum of $500,000.

So when considering the Housing Tax Credit tables in Exhibit E, the variables include people at 200 percent poverty, an approximation of households at 200 percent poverty, renter households with cost burden, and renter households with overcrowding. The unoccupied rental units are the availability source, so that's the last column.

For Table 2 we're going to look at how the housing need and availability are related to each other. With the 26 subregions, the charts get rather long, so let's take MSA Region 1 as an example. So this is the first column blown up so you can see it a little bit better. Here are the variables for Region 1 with MSA counties for the Housing Tax Credit RAF. Notice at the bottom are the numbers for the state as a whole.

First, all the need variables are added together. For example, in Region 1 with MSA counties, a household at 200 percent poverty, renters with cost burden, and renters with overcrowding are added together to make approximately 109,000 households in need. The need factors are related to each other proportionally, or you could say the need factors are compounded. This is why we call the model a Compounded Need Model.

Then a proportion of the combined need is taken from the state's total. The approximately 109,000 households in need in Region 1 is taken as a percentage of approximately 4.8 million households which is the cumulative need in the state. A percentage is taken from each subregion for the state's whole. For example, in Region 1 with MSA counties, it has 2.3 percent of the need of the state. The same is done for the availability factor, so in Region 1 with MSA counties, it has 2.1 percent of the availability of the state.

There are four variables and there are four weights and each is weighted equally at 50 percent. Therefore, 150 percent of the weight is given to the need variables which is 50 percent each for each of the three needs variables. The unoccupied units weight is negative to show that a high availability of resources indicates less need for assistance. So the unoccupied housing variable is negative 50 percent weight. The weighted funding levels are then added together to give an initial funding amount.

Because the HOME, Housing Tax Credit and Housing Trust Fund offer different kinds of activities, their RAFs are slightly different. For the Housing Tax Credit Program, because the program provides funds for reduced rent apartments, only rental data is used. For HOME, because the program funds a variety of activities such as rental assistance and homebuyer assistance, a combination of renter and owner data is used. For Housing Trust Fund, while the program offers a variety of activities, staff chose to say the RAF only applies to activities with more than $3 million. Therefore, only homebuyer data is used since with the current funding levels the RAF would only apply to the Bootstrap Owner/Builder Program.

Not only do they offer different activities but they also have different statutes. So for the Housing Tax

Credit Program, statute requires the program to ensure a minimum of $500,000 for each 26 subregions. This is done by proportionally taking funds from the subregions with initial funding amounts over $500,000 from the relation of housing and need we just saw, and redistributing those funds to those subregions with initial funding amounts that are less than $500,000. In addition, statute requires 20 percent of credits to be awarded in rural areas. Usually 20 percent of the awards to rural areas occurs naturally, but if not, additional awards in rural areas will be made from the statewide collapse.

For HOME, 95 percent of the funds are spent outside of participating jurisdiction, per statute. Participating jurisdictions are areas that receive HOME funding directly from the federal government. To account for this in the RAF, the housing need and availability in the participating jurisdictions is not included in the RAF.

As stated before, for the Housing Trust Fund no activities less than $3 million are run through the RAF, and because of current funding levels, the RAF is rarely used. In addition, activities specifically for people with disabilities are not run through the RAF, and this includes the Amy Young Barrier Removal Program.

So as you can see in all the attachments you have, there has been quite a lot of analysis on these versions to get to this version that we got to today. It is important to remember that swings in the RAF are not new. If you take the 2011 and 2012 Housing Tax Credit RAF, adjust for $40 million and take out the forwards, you will find that there is a range of 80 percent. For a comparison between 2012 and 2013, the regional changes have a larger difference but remember that we are not simply trying to recreate the 2012 RAF. We are making a new formula to equitably distribute funding based on need and availability.

The last slide. The final funding levels for the RAF show an accurate distribution based on macro level measurements that are available on a statewide basis. The distribution reflects the most up-to-date data available. This map shows where a majority of the funds are distributed. By taking into account poverty, overcrowding and cost burden, the proposed RAF methodology takes limited resources and distributes them more equitably where they will have the most impact.

This concludes the presentation on the recalibration. Staff recommends the proposed methodology for the RAF, called for the past month the Compounded Need Model, as described in this presentation and presented in this board book.

Do we have any questions?

MR. OXER: Well, I was going to say you're gaining your Cameron Dorsey credits for carpet-bombing the details.

Professor, please.

MR. McWATTERS: Well, I was going to suggest we recess so that I can go home and get my calculator.

(General laughter.)

MR. OXER: A couple of questions. You said that when you're looking at unoccupied units, that only includes habitable unoccupied units, so those that are condemned but unoccupied don't count because they would wind up having to be renewed to be able to allow occupancy.

MS. TREJO: That's correct. So the census field representative is on the ground, and what they get is a response from a landlord or other tenants or neighbors or someone like that, so they are relying on that information from the people on the ground that they're talking to. When I mentioned habitable units, that is based on the internal analysis that we did on TDHCA units, and I know those are habitable units because Patricia --

(General talking and laughter.)

MS. TREJO: And we do have some numbers of units that are being rehabbed and those are called down units and those were not included in our calculations. But we did the

TDHCA units just to see if the census units were the same distribution, and they were.

MR. OXER: Okay. So does this include any of the D properties? You get the C and D properties that are getting to the point they need some major rehab and they sort of fall off of that list, so anything that is not on that list is not considered in your statistics.

MS. TREJO: I don't believe so. What the census has, it has for rent, it has for sale, it has vacant other, it has migrant seasonal farm worker, it has a lot of categories, so I believe that they take that into account, and so we're relying on this nationally recognized data, but I don't believe that they counted.

MR. OXER: Does the impact of the changes in this year's RAF increase -- you showed some distribution here between regional changes or between minus 30 and plus 98 percent, and that means that some regions are going to get their funding, or the allocation under the 2013 RAF that you propose would be reduced as much as 30 percent, and some would have 98 percent more than they had last year. Is that correct? Does this generally increase the funding towards the rural areas or not?

MS. TREJO: The rural areas go up and down. The median change is there's been no change because most of the rural areas already get $500,000.

MR. OXER: Okay. One of the persistent criticisms of the Tax Credit Program, looking at this on the Tax Credit side only, not on the HOME and Trust Fund, but on the Tax Credit, it's difficult for the regional areas to compete with those larger urban areas, and even though they were two separate regions, it was difficult for them to compete in terms of the allocation. Is there more money being made available in those regional areas? Because it doesn't take into account things like the advent of the shale gas development in places like the Eagle Ford formation from Carrizo Springs all the way up to an area north and west of Houston.

MS. TREJO: So I heard two questions there.

MR. OXER: I'm sure there were.

MS. TREJO: Okay, good. One is I heard is there more funding going to rural areas. I would have to look at it on a subregional basis that some areas go up and some areas go down.

MR. OXER: What you're saying is fundamentally the median was static so the funding is just moving differently, although it's about the same distribution between rural and urban, more or less.

MS. TREJO: For the most part.

MR. OXER: That's fair. Okay.

MS. TREJO: And then the second question I heard was whether it takes into account some of the recent booms.

MR. OXER: Short-term demands. It had the impact of sucking up all the availability for affordable housing, and because they could get the rents for it, it tends to push out those who have the most need or that are most in need. Because those people come in with resources, they're able to run those rents up.

This is a current need, it's a snapshot of what the need is. You know, boomtowns three to five years from now, we think, will change, and so that's an issue associated with those places like in shale gas developments. But it doesn't change the current impact on the need for improving the availability for affordable housing for those that are low income and not able to participate in the economic surge that's going on in those areas.

MS. TREJO: There's a couple of points to make on that one. First of all, all data ha a little bit of a time lag, so it's not going to reflect something that happened last month, it has a little bit of catching up to do. The second thing is that when there's booms that are occurring just in certain areas, unless I have data statewide, I'm not able to incorporate that into the RAF. So I need something that's uniform for every county; otherwise, I'm not going to be able to make sure that something counted in one region is also counted in another region, and it wouldn't be fair. So with those recent booms for shale and gas booms, I have not found a data source right now that can incorporate those into the RAF.

That said, eventually we will see some of that in the current measurements that we're using. Rent burden, we'll see it; also overcrowding, we will see it. So it just takes a little bit longer.

MR. OXER: They had an effect in this thing we used to call racing turbine legs, the demand coming up faster than your data can catch up to it.

Did you have a comment, Professor McWatters?

Extraordinarily good presentation, by the way.

MR. McWATTERS: Oh, excellent.

Is this program or is this approach, this analysis, is this specifically tailored to Texas, or do other jurisdictions allocate credits and the like in a similar format using similar methodology?

MS. TREJO: So the question as I hear it is what other states do to allocate funding.

MR. McWATTERS: No. You have certain methodologies, certain approaches you were using in doing this. Do other jurisdictions use a similar approach, or is this something that we have specifically tailored for Texas?

MS. TREJO: I'd have to do a little bit more research.

Cameron, do you have comment?

MR. DORSEY: Sure. Ours is tailored to specifically meet the specific elements laid out in statute, which obviously wouldn't be applicable to other jurisdictions. Other states and other funding sources do have relatively similar formulas. For example, HOME funds and CDBG funds are allocated on a formula basis that considers factors like poverty and those types of things.

In a lot of states -- we're a massive state with a massive allocation, in a lot of states they're much more simplistic allocation for tax credit type formulas, so it will be like we won't allocate more than one deal in a county, or those types of just more simplistic methods.

MR. McWATTERS: Okay. That's helpful.

MR. OXER: So it tends to be, as a consequence of that, perhaps more sophisticated and complex just because of the nature of the need here.

MR. DORSEY: It's a combination of the nature of the need and what statute is requiring us to do. The reality is that these are pretty close to what population alone would produce, but statute doesn't say you can use population alone.

MR. OXER: Good. Okay. Where are we on this?

MS. BINGHAM ESCAREÑO: Are you looking for a motion on staff's recommendation to go ahead and publish in the *Register* for public comment? I'll make that motion.

MR. OXER: Is that what you need, Naomi?

MS. TREJO: Yes, that's what we're looking for.

MR. OXER: Okay. So motion by Ms. Bingham.

MR. McWATTERS: Second.

MR. OXER: Second by Professor McWatters to approve staff recommendation to use the current Compounded Need proposal for the RAF for next year, 2013. With that, are there any more comments from the Board?

(No response.)

MR. OXER: Okay. Michael, we have a letter to read in, as I understand.

MR. LYTTLE: Yes, sir, as a matter of fact, we do. This was sent to us yesterday, directed to Elizabeth Yevich, director of the Housing Resource Center, from State Senator Jose Rodriguez. It reads as follows:

"Dear Ms. Yevich, I am writing you today in support of TDHCA staff's recommended changes to the Regional Allocation Formula, specifically, the proposed methodology described on Exhibit R of your website, also known as the

Compounded Need Method, as a way to fairly distribute affordable housing funds around the state.

"While prior models of the RAF have served the state well, I want to commend your staff for re-looking into the model and developing a consistent methodology that relies on better data sets that are now available through the American Communities Survey and other sources of data.

"When Senator Shapleigh originally authored Senate Bill 1112 in the 76th Legislature, TDHCA was overlooking the need for, and the availability of, affordable housing, as well as the extreme levels of poverty along the Texas border in allocating its funds, and instead, allocating based mainly on population around the state. I understand that at this time there is some pressure being applied from some of the wealthier, more affluent areas of the state to take a step backwards and again use population as the guiding factor for distribution.

"As you well know, the intent behind the statute that is on the books now as a result of Senate Bill 1112 was to establish a method of distributing affordable housing resources to people with housing needs and sparse availability of housing, as opposed to just taking the number of people in an area, regardless of income, and allocating funds based on a head count.

"Again, I commend you on your work and ask that you notify your Governing Board of my support for your recommended methodology as published on October 3, 2012 on your website for the Regional Allocation Formula. Your current recommendation for the RAF is the best method for compliance with statutory order that this office has authored.

"Sincerely, Jose Rodriguez, State Senator, District 29."

MR. OXER: That's a pretty nice compliment, and you're to be complimented and rewarded for that.

All right. Looks like we need to move along here. So are there any other questions from the Board? There's no request for public comment. All in favor of staff recommendation?

(A chorus of ayes.)

MR. OXER: All opposed?

(No response.)

MR. OXER: There are none. Thank you.

MS. BINGHAM ESCAREÑO: Great work.

MR. OXER: Good job.

Okay. We are down to the very bottom of the agenda here.

PUBLIC HEARING

2013 STATE OF TEXAS
CONSOLIDATED PLAN:
ONE-YEAR ACTION PLAN

4:23 p.m.
October 9, 2012

Capitol Extension, Room E1.028
1500 North Congress Avenue

Austin, Texas

MR. OXER: The next item is number 5(c) which is the holding of a public hearing to receive public comment on the 2013 State of Texas Consolidated Plan: One-Year Action Plan.

At this time the Board will accept comment on the draft Consolidated One-Year Action Plan. This plan serves as the planning document for the U.S. Department of Housing and Urban Development funded programs, the Community Development Block Grant Program, the CDBG, by the Texas Department of Agriculture, the Housing Opportunities for Persons with Aids Program, or the HOPWA, by the Texas Department of State Health Services, and the Emergency Solutions Grant, ESG Program, and the Home Investment Partnerships, or the HOME Program, by the Texas Department of Housing and Community Services.

The plan is available for review on TDHCA's website and a copy is at the front table where you came in this morning.

Based upon prior approval of the TDHCA Board on September 6, 2012, the plan became available for public comment on September 21, and written public comments will be accepted through October 22, 2012, or about two weeks from today. Oral and written comment will also be accepted at the consolidated public hearing being held tomorrow, October 10, at the Stephen F. Austin State Office Building, Room 172, at 1700 Congress Avenue here in Austin, zip is 78701, at ten o'clock in the morning. Comments also may be provided in writing via mail or email to Elizabeth Yevich at TDHCA, P.O. Box 13941, Austin, Texas 78711-3941. You can also fax it to 512-475-0070, or email Elizabeth at Elizabeth.yevich@tdhca.state.tx.us.

The final version of the plan will be presented to the TDHCA Board for approval in November, and it's due to HUD by December 15, 2012.

This meeting serves as the public hearing for the consolidated planning purposes. Is there anyone present who would like to provide public comment or make comments on the plan?

(No response.)

MR. OXER: And there appear to be none from the chair's perspective.

For anyone interested in speaking, all you need is to fill out a witness form. If you're not and if there's no one here, we will establish that the hearing is now concluded.

Is there any other comment? Anything else, Counselor?

MS. DEANE: I think that's it.

MR. OXER: Okay. We have concluded the comment. That hearing is completed.

(Whereupon, at 4:25 p.m., the hearing was concluded.)

P R O C E E D I N G S (RESUMED)

MR. OXER: Now we are at the point in the agenda where we take comment from any of the members of the public who are here and wish to make comment on anything that was not addressed on the agenda items today. Is there any public comment?

(No response.)

MR. OXER: There appears to be none.

I'll also offer the same opportunity to the staff that are here, if there's anything you'd like to bring up at all.

(General talking and laughter.)

MR. IRVINE: I have a comment.

MR. OXER: Yes, Mr. ED. You have a senior position here, but you're welcome to comment.

MR. IRVINE: You said staff. I'm staff.

MR. OXER: Yes, sir. You're staff.

MR. IRVINE: I just want to day, as evidenced by Naomi's presentation and Elizabeth and Cameron and this whole gang, it's just a scary smart bunch of people who work their backsides off, Megan, Jeff. I mean, they're just amazing, and frankly, it's kind of intimidating to work around people like this.

MR. OXER: I like to be the dumbest guy in the room. It's pretty hard to keep up with this crew.

The last -- that's staff opportunity -- to make an opportunity for the Board members who are present. Professor McWatters, Mr. Keig, Ms. Bingham, I appreciate your service on behalf of this Board, and I'll offer you an opportunity to speak.

MS. BINGHAM ESCAREÑO: Thank you. I'll decline.

MR. OXER: Anything else, guys?

(No response.)

MR. OXER: All right. As the chair, I get the last word, that's the way this works. So I have to tell you, sitting up here, driving some of this and sort of just feel like my obligation is just to keep the conversation going, I could sit back and it would work on its own. I'd like to think eventually I'll work myself out of a job. You guys can do this by yourself because you're a whole lot better than I am. I appreciate more than you can measure the effort that you make and the contributions that you make to the effort that this agency is responsible for.

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

MS. BINGHAM ESCAREÑO: So moved.

MR. McWATTERS: Second.

MR. KEIG: Second.

MR. OXER: Motion by Ms. Bingham, a couple of seconds. All in favor?

(A chorus of ayes.)

MR. OXER: We are adjourned. See you in a month.

(Whereupon, at 4:27 p.m., the meeting was concluded.)

C E R T I F I C A T E

MEETING OF: TDHCA Board

LOCATION: Austin, Texas

DATE: October 9, 2012

I do hereby certify that the foregoing pages, numbers 1 through 199, 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.

10/15/2012
(Transcriber) (Date)

On the Record Reporting
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