TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD OF DIRECTORS MEETING

John H. Reagan Building
Room JHR 140
105 W. 15th Street
Austin, Texas

November 12, 2015
10:00 a.m.

MEMBERS:

J. PAUL OXER, Chair
JUAN MUÑOZ, Vice-Chair
LESLIE BINGHAM ESCAREÑO, Member
T. TOLBERT CHISUM, Member
TOM H. GANN, Member
J.B. GOODWIN, Member

TIMOTHY K. IRVINE, Executive Director

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Requirement; Subchapter F, Tenant-Based Rental Assistance Program, §23.62 Tenant Based Rental Assistance (TBRA) Administrative Requirements; and Subchapter G, Single Family Development Program §23.72 Single Family Development (SFD) Administrative Requirements, and directing that they be published for public comment in the *Texas Register*

q) Presentation, Discussion, and Possible Action on orders repealing 10 TAC §§20.1 - 20.16, and the subsequent adoption of new 10 TAC Chapter 20 Single Family Programs Umbrella Rule, §20.1, Purpose; §20.2, Applicability; §20.3, Definitions; §20.4, Eligible Single Family Activities; §20.5, Funding Notices; §20.6, Applicant Eligibility; §20.7, Household Eligibility Requirements; §20.8, Single Family Housing Unit Eligibility Requirements; §20.9, General Administration and Program Requirements; §20.10, Inspection and Construction Requirements; §20.11, Survey Requirements; §20.12, Insurance Requirements for Acquisition Activities; §20.13, Loan, Lien and Mortgage Requirements for Activities With Acquisition; §20.14, Amendments to Agreements and Contracts and Modifications to Mortgage Loan Documents; §20.15, Compliance and Deobligation; and §20.16, Waivers and Appeals, and directing their publication in the *Texas Register*

CONSENT AGENDA REPORT ITEMS

ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

a) TDHCA Outreach Activities, October 2015

b) Report on the Closing of the Department's 2015 Series A Single Family Mortgage Revenue Refunding Bonds and 2015 Series B Single Family Mortgage Revenue Bonds

c) Status Report on the HOME Program

d) Report regarding the 2016-2017 Housing Trust Fund Biennial Plan

e) Report on Department's Fair Housing Activities

ACTION ITEMS

P R O C E E D I N G S

MR. OXER: Good morning, everyone. I'd like to welcome you all to the November 12 meeting of the Texas Department of Housing and Community Affairs Governing Board.

We'll begin, as we do, with roll call. Ms. Bingham?

MS. BINGHAM ESCAREÑO: Here.

MR. OXER: Mr. Chisum?

MR. CHISUM: Present.

MR. OXER: Mr. Gann?

MR. GANN: Here.

MR. OXER: Mr. Goodwin?

MR. GOODWIN: Here.

MR. OXER: Dr. Muñoz?

DR. MUÑOZ: Here.

MR. OXER: And I'm here. That gives us a full house, so we obviously have a quorum, we're in business.

Tim, lead us in the pledge.

(The Pledge of Allegiance and the Texas Pledge were recited.)

MR. OXER: I'd like to just take a moment at the chairman's discretion to say how much we appreciate yesterday recognizing Veterans Day and I'd like to recognize the veterans on the Board here. I have two strong Marines here to my left, Mr. Chisum and Dr. Muñoz. Semper fi, brothers.

DR. MUÑOZ: Semper fi.

MR. OXER: Mr. Gann on the side over there who spent time in the Army. Appreciate their service and for all of those, and for everybody who doesn't know about it, put a green light on the front light of your house to keep the front door open to recognize our veterans.

All right. Let's get to work. Michael, do we have anybody to recognize here today?

(No response.)

MR. OXER: All right. Let's get to work. I think we're going to pull a report item, or is that the action item, Leslie, from item 3, reports, we're going to pull 3(a) down into the Internal Audit report?

MS. BINGHAM ESCAREÑO: Yes, Mr. Chair. We'll just move the action item 3(a) report of meeting of Audit Committee into item 4, Internal Audit presentation.

MR. OXER: We'll take up a different sequence on the action items.

All right. With respect to the consent agenda, any Board member care to pull an item? If not, I'll entertain a motion to consider.

MS. BINGHAM ESCAREÑO: Mr. Chair, I'll move to approve the consent agenda as presented.

MR. OXER: Motion by Ms. Bingham to approve the consent agenda. Is there a second?

MR. GOODWIN: Second.

MR. OXER: Second by Mr. Goodwin. No public comment requested. Motion by Ms. Bingham, second by Mr. Goodwin to approve the consent agenda as presented. Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

MR. OXER: There are none. It's unanimous.

Okay. Item 3(b) then becomes the first one. Tom.

MR. GOURIS: Good morning. Tom Gouris, deputy executive director.

This item was intended to be an update on a particular workout transaction with [indiscernible]. We are continuing to make progress but we're going to come back in December and give you a full report of where we are because we've got a couple of things we still need to iron out. So just wanted to let you know that that's what it was. At any rate, this is something that's going to come back, nothing to report today.

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

(No response.)

MR. OXER: Okay. Let's go to the next item then, the report of Internal Audit. Mark. And you'll make a presentation, Mark, and then we'll ask Ms. Bingham for comments.

MR. SCOTT: Yes, sir. I'm Mark Scott. I'm the director of Internal Audit.

The Internal Audit Act says that an annual internal audit plan must be approved by an agency's governing board. Based on the standardly used risk assessment model, we developed the audit plan that is in your books. The Audit Committee voted earlier this morning to recommend approval to the full Board, and so at this point for approval of the audit plan.

MR. OXER: Questions from the other members of the Board? Any comments from Ms. Bingham?

MS. BINGHAM ESCAREÑO: Mr. Gann and Mr. Chisum and I convened the Audit Committee this morning. Mark and his team reviewed the proposed audit plan for next year to us. There were no material questions or changes made to the proposal, and so we do recommend its approval by the Board.

MR. OXER: And I assume it was a unanimous vote.

MS. BINGHAM ESCAREÑO: Yes, sir, it was unanimous.

MR. OXER: Any questions by the Board?

(No response.)

MR. OXER: Then we'll assume that you, as chair of the Audit Committee, move to accept the audit report.

MS. BINGHAM ESCAREÑO: Yes, sir. I'll so move for the approval of the 2016 audit plan.

MR. OXER: Okay. Motion by Ms. Bingham to approve the audit plan.

MR. GANN: Second.

MR. OXER: Second by Mr. Gann. No request for public comment. Motion by Ms. Bingham, second by Mr. Gann to approve the audit plan. Those in favor?

(A chorus of ayes.)

MR. OXER: And those opposed?

(No response.)

MR. OXER: There are none.

MR. SCOTT: I also went over some other items as far as Internal Audit. I went over the ongoing internal audits that we're doing, the various consulting projects that Internal Audit is doing in conjunction with management, the fraud, waste and abuse statistics, and the external audits.

I wanted to point out that there's two rather large external audits going on. One is done by the State Auditor's Office. I guess the Housing Trust Fund is the technical term for it, but they do a financial statement audit, the same one they do every year. They also audit compliance with the Public Investment Act. And then as part of the statewide single audit, that is the audit that's done of the whole state and based on risk they pick programs they're going to audit in detail, and one of them is the HOME Program that we administer. And I wanted to point out that there's an issue going on with that audit as to whether or not KPMG is going to use the new grant guidance or the old OMB circulars, and I discussed that at the meeting this morning, and I'll answer any questions on that if there are any.

MS. BINGHAM ESCAREÑO: Mr. Chair.

MR. OXER: Yes.

MS. BINGHAM ESCAREÑO: So the committee just had some questions for clarification this morning regarding that HOME audit by KPMG. Mark and also management, Mr. Irvine, answered our questions satisfactorily. We had no further questions and accepted the report, but did want to make sure that if the Board had any questions in general that the committee, management and Mark are available to answer any questions that the Board might have.

MR. OXER: What were the substantive differences between the two protocols?

MR. SCOTT: The two protocols, there's this new grant guidance called the OMNI-Circular, and basically what they did is they took all the old OMB circulars and combined them into one massive circular. The substantive difference would be KPMG wants to go as of a certain date where they say there was a memo or something and they want to audit based on that. They're going to use compliance requirements that are new, and when we entered our agreements with the subrecipients we obviously used the old OMB circulars. So the substantive issue would be that they would have probably six months of transactions they're looking at that wouldn't be in compliance with the new guidance because they were done under the old circulars. That may not be too clear.

MR. OXER: No. I think I get it. But how would they possibly expect the agency to be in compliance with guidance that hadn't been issued?

MR. SCOTT: That's kind of what we're wondering.

MR. OXER: It does create a really resonating question, I think.

MR. SCOTT: Yes. And so we've been going back and forth. Actually, HUD, the funding agency for that program, seems to agree with this agency's perspective on that issue, but auditors dig in their heels sometimes, so that's what's going on here. So they want to use the new guidance which would result in a lot of findings in an audit report that gets sent to the legislature, the Governor's Office and everybody else, so that's why we're concerned about it.

MR. OXER: Did you have a comment, Tim?

MR. IRVINE: Yes. Essentially we've got our 2014 contracts and they have standard contractual language that says they're subject to the laws and rules as now or hereafter in effect.

MR. OXER: The emphasis on now or hereafter.

MR. IRVINE: Right. And those contracts which were put together back under 2014 conditions contemplated that they would be administered in accordance with the existing OMB guidance, and that's the way that our HUD program staff looks at it, that's the way we look at it, and they have not yet promulgated official guidance adopted through the appropriate federal rulemaking procedures to tell us to do anything different. KPMG has talked with someone -- we're not exactly sure who -- at HUD who is of the view that that kind of language somehow or another opens the door to pull in 2 CFR 200 which was later enacted rules, and so we're going back and forth between KPMG and with our HUD staff trying to obtain good clear guidance as to which way it's supposed to be.

MR. SCOTT: I'll give an example of something that would be different. The new grant guidance requires that every contract have on there the indirect cost rate and the indirect cost amount for all the contracts, so to the extent that that's not on the contracts that were done under the old system, those would all be findings.

MR. OXER: And the issue is you start having findings they start stacking up, and people who see that there were findings and they don't go into the detail and recognize they were more or less trivial, from what I can tell.

MR. SCOTT: Right. Well, here's the thing, they would have a lot of noncompliance and with each of those findings of noncompliance there would be an associated questioned cost. That's a questioned cost, the auditor is flagging it, and more than likely when we went into resolution they would say that the agency doesn't have to pay it back, but in the meantime there would be this very bad audit report.

MR. OXER: Counselor, I'll ask you on this, but being expected to be in compliance with regulations that haven't been issued yet, doesn't that violate ex post facto?

MR. IRVINE: There are a lot of legal arguments that can be produced to support our position, but hopefully the folks at HUD will just work this through to the appropriate level where someone can say definitively what the outcome should be.

MR. OXER: Okay. Anything else, Mark?

MR. SCOTT: No, sir.

MR. OXER: I'm going to reserve my comments.

MR. SCOTT: Yes, sir. We understand exactly why it's so puzzling and we've been arguing with them about it.

MR. OXER: Well, if they dig in their heels, you dig in too.

MR. SCOTT: Okay.

MR. OXER: Anything else?

MR. SCOTT: Nothing.

MS. BINGHAM ESCAREÑO: Mr. Chair, hopefully this will be the last you hear from Audit Committee this year. Mark has been a great addition and has built on an already existing awesome team, so his team is here. We'd like to recognize the audit team.

MR. OXER: Why don't you introduce them, Mark, and have them stand up.

MR. SCOTT: Ms. Betsy Schwing, I think people know her. And then Barbara, do you want to get up and introduce yourself?

MR. OXER: I think you're supposed to introduce her, Mark.

MR. SCOTT: I found her after looking through numerous resumes and interviewing numerous people, but Barbara comes from criminal justice but before that she was --

MR. OXER: I'd hate to say that would be appropriate here.

(General laughter.)

MR. SCOTT: Well, before that she worked in Mississippi at the state auditor's office there, and she audited the housing programs in Mississippi, so I was very pleased to find her.

MR. OXER: Good. Welcome. Grab a stick and get in the fight. Okay?

MS. BINGHAM ESCAREÑO: The committee recognized this morning that the plan for next year is aggressive but that he's got the right team to make it happen.

MR. OXER: You've got enough horsepower to pull this?

MR. SCOTT: I think so.

MR. OXER: I'm going to spare Tom my tractor analogy on this.

MR. SCOTT: Usually you do Navy analogies but I can't think of anything to follow up on that.

MR. OXER: Enough firepower on your battleship.

MR. SCOTT: I guess aircraft carriers, and we have the appropriate firepower and other things.

DR. MUÑOZ: I don't know. Somehow that doesn't resonate as the tractor analogy.

(General laughter.)

MR. SCOTT: Okay. I'll go back to being an accountant. We have the correct expertise and I'm familiar with financial discounted cash flow models and other things that will be beneficial in doing the audit plan that has been presented.

MR. OXER: We revel in your confidence and competence, and we appreciate you being here.

And thank you, Ms. Bingham, for chairing the Audit Committee, I appreciate that you do that, and the members that are part of your committee.

MS. BINGHAM ESCAREÑO: Thank you.

MR. OXER: Okay. That's all on that item, so Monica, it looks like you're in the box.

Don't worry, Tom, I'll get to the tractor part later.

MS. GALUSKI: Good morning. Monica Galuski, director of Bond Finance.

This item is presentation, discussion, and possible action on Resolution 16-006, authorizing the issuance, sale and delivery of the Department's Single

Family Mortgage Revenue Bonds, 2015 Series C, and Single Family Mortgage Revenue Refunding Bonds, 2015 Series D. With this item staff is seeking final approval for the issuance of these bonds.

The 2015 C bond will be fixed rate, the proceeds of which will be used to purchase Ginnie Mae mortgage-backed securities backed by newly originated mortgage loans and to pay related costs of issuance. Tax-exempt bond-eligible will be pooled into mortgage-backed securities that will back tax-exempt bonds. If market conditions permit, non tax-exempt eligible loans, typically those that have received an MCC through the Department, will be pooled into mortgage-backed securities to back a taxable bond component for that series. The prior amount of 2015 C bonds will not exceed $50 million and is expected to be closer to $35 million.

The 2015 D bonds are fixed rate taxable refunding bonds to take out the Department's 2006 Series A through E bond issues. The rates on the bonds to be refunded currently range from 4.50 to 5-1/8, with the vast majority above 5 percent. The mortgage loans that underlie the 2006 mortgage-backed securities have rates that range from 4.99 to 6.95. The mortgage-backed securities which are Ginnie Mae, Fannie Mae and Freddie Mac for those series, will be transferred to support the

2015 D bonds. The prior amount of 2015 D bonds will not exceed $65 million. The maximum contribution by the Department is a not to exceed $7 million and includes approximately $3 million of down payment assistance and lender compensation, $1-1/2 million of accrued interest on the 2006 bonds which is debt service we would have already paid, cost of interest and capitalized interest. The present value of savings from this refunding is expected to be at least $5 million.

Staff recommends J.P. Morgan as the senior manager, and co-managers Morgan Stanley, RBC Capital Markets, and Ramirez & Co. Depending on market conditions, this issue could price as early as December, but obviously there's a lot going on in the market and a lot of talk right now, so it may be December, it may be January. And staff recommends approval.

Are there any questions that I can answer?

MR. OXER: So we're to the point now you've been prepping this, getting people on the team, organizing the concept, getting ready for these bonds to issue. You're saying now that the final, this is what they're going to look like so you want to be ready to sell those.

MS. GALUSKI: That's correct. Normally we would have given you a little bit more notice, but we were in the middle of pricing and closing the 2015 AMD bonds and sort of saw a window of opportunity here that we think would be beneficial for the Department to take advantage of.

MR. OXER: We have a lot of confidence in the financial management expertise of the staff and recognize that there are times to be expedient and fast to take advantage of those market opportunities out there, so every time you can do that, think through that and do it. If you make the right decision, being smart, even if it's something that's troubling, we'll figure it out but be smart about managing this.

Long term this rolls down our variable rate debt, I assume. We continue to peel that down?

MS. GALUSKI: The variable debt is continuing to come down with prepayments right now. This issuance we're taking out fixed rate bonds.

MR. OXER: So we're essentially replacing it with our fixed rates.

MS. GALUSKI: So in that indenture, though, we are increasing the ratio of fixed rate to variable rate, so that does help the indenture.

MR. OXER: Right. Because long term I think that improves basically our agency balance sheet when we get to the point of having that one that it reduces our risk and the liquidity needed basically on all of this.

MS. GALUSKI: That's correct.

MR. OXER: Questions of the Board? There seem to be none. With that, we'll accept a motion to consider.

MR. CHISUM: I'll move.

MS. BINGHAM ESCAREÑO: I'll second.

MR. OXER: Motion by Mr. Chisum to approve staff recommendation on item 5, second by Ms. Bingham. There appears to be no request for public comment. Those in favor?

(A chorus of ayes.)

MR. OXER: And those opposed?

(No response.)

MR. OXER: There are none. Good job, Monica.

MS. GALUSKI: Thank you.

MR. OXER: Okay, Marni.

MS. HOLLOWAY: Good morning, Chairman Oxer, members of the Board. I'm Marni Holloway. I'm the director of the Multifamily Finance Division.

This next item is presentation, discussion, and possible action regarding approval for publication in the *Texas Register* of the 2016-1 Multifamily direct loan notice of funding availability.

You'll remember at last month's Board meeting we brought a report item and asked for input on the report item describing our plans for this NOFA. We actually called it the 2015-2 NOFA at that time but then since then have figured out that 2016-1 is probably a better titled, but it is the same NOFA. We received a lot of comments during the Board meeting and during the Permanent Supportive Housing Committee meeting prior to the Board meeting, and those comments have helped us shape and refine the NOFA that we're bringing forward today.

We will be making available $23,109,095 in combined HOME and TCAP funds. Those funds will all be available within set-asides, and we talked about these set-asides at the last meeting. We've made a couple of changes to them that I wanted to make sure that you're aware of. We are continuing with the CHDO set-aside. That is $3,236,344. The one that's changing is the deferred forgivable loan set-aside -- is what we're calling it now -- that's $3 million, and I'll describe that to you in just a moment. We're setting aside $4 million to layer with 4 percent tax credit deals, and then the balance of the funds at $12 million, almost $13 million, will be in a general pot.

The deferred forgivable loan set-aside is what we called the supportive housing set-aside at the last meeting. This change was made in order to accommodate requests that were made during the meeting and discussion of the need for units for households at 30 percent of AMI or less who don't have a voucher, that there isn't any subsidy for their rent. In order to accommodate that need and the permanent supportive housing -- or the supportive housing need -- I'm sorry, we're not using that permanent word anymore -- we have made this set-aside available for either type of funding.

The regional allocation formula will be applied to these funds and how that breaks down is in the Board book. We are continuing with our priority levels. Our Priority 1 applications are generally intended to help us meet our requirements around HOME commitments. Priority 2 are applications that will be layered with the 9 percent round. We also will have a third priority for any remaining funds that are left after that.

We are applying some scoring criteria for this NOFA. Included in that scoring criteria are the opportunity index from the QAP, project 811 also from the QAP, a per-unit subsidy amount. We're also providing a scoring item for developments that are able to provide match, HOME match over the required amounts, and we're also looking at some rehabilitation features, so points that are available for specific features of rehab programs.

We have set some maximum funding levels, and it would be a million dollars for rehabilitation projects or a million dollars under the deferred forgivable set-aside, regardless of if it's rehabilitation or new construction, and also a $2 million maximum for new construction loans.

Other than the deferred forgivable set-aside, we are making these funds available as loans with a 3 percent interest rate and a 30-year amortization.

I know that there are some folks that would like to speak with you regarding this item. Do you have any questions for me?

MR. OXER: Any questions of the Board?

(No response.)

MR. OXER: Okay. Motion to consider.

MS. BINGHAM ESCAREÑO: I'll move staff's recommendation.

MR. OXER: Motion by Ms. Bingham to approve staff recommendation on item 6.

MR. GANN: Second.

MR. OXER: Second by Mr. Gann.

It looks like we have some interest and public comment. Walter, do you want to talk on this one?

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

MR. OXER: And a housekeeping item here. For everybody -- Walter is the first one, I get to stay it when he comes up here -- make sure you sign in so we can identify you on the transcript.

MR. MOREAU: I really wanted to advocate today for supportive housing. There are some things that came out for this Board book in this loan program and the QAP that really undermine supportive housing and caught us by surprise. I really am asking for the Board to give direction to the staff to make supportive housing a priority.

Supportive housing is that type of housing that really serves with the greatest need, folks that are extremely low income or homeless. You've invested in many great examples of this: housing for kids that have aged out of foster care, housing for homeless teens and parents and kids, housing for veterans, the project in Kerrville and Capital Studios next door, we have 47 homeless veterans. Supportive housing brings available appropriate services on site to really help people be successful and get back on their feet.

We've looked at the last fifteen years of tax credits in particular and what's been invested in supportive housing, what percentage of tax credits have gone to supportive housing, 2 percent. The reason it's such a little amount is because these projects are really hard to do, they're a miracle to pull off. You can't have debt, you have to raise charitable funds, local support.

We currently have two projects in construction. We're not going to tackle another supportive housing project and pursue anything in 2016, probably not in 2017, until we get these projects on their feet.

The two things that happened that we think, the staff changes that happened, the first is in this loan program. We had committee meetings. The intent was to try to figure out how these funds could be used for supportive housing, but what came out of it was a deferred forgivable loan program that any project that puts aside some 30 percent units can apply for. We would prefer that those funds be prioritized first for supportive housing. If there are no projects next year, maybe they would go into any project that's adding 30 percent units.

And we'll talk more on the QAP but this draft QAP takes away three points that supportive housing could get to be able to be competitive with elderly and general projects. So the staff intent was let's just make all these projects score the same, keep everybody happy, elderly, general, supportive housing can all at best get the same amount of points. I'd argue that it's so extremely challenging to do supportive housing and yet it serves folks of the highest need that you should keep the QAP the way it's been the last four years.

Supportive housing is only getting 2 percent of the credits, we're getting the crumbs, we're serving the folks that have no income or very low income. I believe you have a core value from the Board that you should prioritize supportive housing. I think the staff need the direction from the Board just to make that happen. Thanks.

MR. OXER: Thanks for your comments.

Any comments or questions from the Board?

(No response.)

MR. OXER: Any other comments on this item? Joy.

MS. HORAK BROWN: Joy Horak Brown, president and CEO of New Hope Housing in Houston, Texas.

That 2 percent is an arresting figure. Isn't it how frightening that supportive housing has 2 percent of the credits over a very long period of time. These deals are so difficult to do that we are doing 4 percent bond transactions now because even with the alleged advantage, we haven't been able to score.

I know what my core values are and I know that zero percent, $700-$800 a month in income, those are not the folks that the rest of the tax credit developers serve, they simply aren't. I would be delighted if they did but they don't, and I understand why not.

We are struggling to do what we can for that segment of the population in Texas, and I would be so very grateful to you to keep the policy. This is really a policy shift, it isn't just about changing a few points here and a few points there, it's a dramatic policy shift. I even question that a policy shift is appropriate at the last minute. I'm not an expert on those rules as to what the flexibility is from the first draft to the final one, but I have some questions about that.

I thank you so very much, and I ask that you put me as a big underscore to everything that Walter had to say and that you also consider my comments. Thank you very much.

MR. OXER: Thanks for your comments, Joy.

Any questions?

(No response.)

MR. TAYLOR: Craig Taylor with Communities for Veterans, Kerrville project. I've been before you many times. Thank you again.

I came here basically to say two thank yous to you. One of the appeals I made was at least to get a ticket to the dance, and from my reading, our project will be allowed to make an application, subject to whether we fall within the purview of HUD and Texas rules. So I wanted to thank you for making that distinction and allowing us to at least possibly apply.

Second thing, Brooke may not even know, but I just found out this morning that our project was awarded in this latest round, HUD VASH vouchers for twenty units in this latest competitive round, and that is just ecstatic news. And that was sponsored by TDHCA, and I know it was a difficult thing for them to get their arms around and so forth, but it's going to be huge for us and he vets we serve. So thank you, thank you very much for that.

And then the one concern I have is it's an ironic thing because in general, not just in principle and practice, I very much support the idea of pushing the rents down and the people being served at 30 percent. However, we are the supportive housing project in rural Texas and trying to make a project work with 30 percent rents that we can't allocate PBRA to means that those projects are being operated at a substantial loss. It costs more to operate the property than we can achieve in rents for those units, and we can't offset that by getting the rent support to underlie our operating expenses. So it means that our other units then are subsidizing those units and it puts a tremendous burden just on the operational feasibility of the project.

So in a particular case, and I don't think rural permanent supportive housing will be eligible, but in a particular case here of rural housing where we're doing supportive housing for veterans, I would ask that there be some consideration given to the prohibition of utilizing PBRA with 30 percent units. In terms of public policy, I recognize it and support it, in terms of operational feasibility for a particular project, it's going to produce a substantial burden on what we're trying to do in Kerrville.

Thank you very much.

MR. OXER: Thanks, Craig.

Good morning.

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

And I'd just like to support the comments that have just been made. We too were caught by surprise with what we felt was a policy shift on rural preservation at the last minute. We made what we thought was a reasonable response and accepted the change that staff presented. I'll make more comments about that during the QAP session, but I would like to just support earlier comments saying that a last-minute policy shift of that nature is very hard to respond to and we hope we can work with staff to resolve some of those issues next year.

MR. OXER: Great. Thanks, Ginger.

Marni. I assume these are not new comments, you get a general sense of this. Even though these are the regulars that have been here, have been participating in the meetings antecedent to this issue and what we were looking at, so do you have a generic comment for all of them?

And add your comment, too, if you need to, Tim.

MS. HOLLOWAY: A couple of things that I wanted to make sure that everyone is very clear. On the deferred forgivable set-aside, it's an either/or, supportive housing or the 30 percent units. It's not a requirement that supportive housing provide these 30 percent units without additional assistance. What we've heard, as I mentioned during the Permanent Supportive Housing Committee meeting, during the Board meeting, also in other settings outside of the Board, was that there is a need in some places to uncouple services from housing, and if that is the case, there is a need to support this housing that really winds up being for the lowest income population. And that was the intent there was to respond to that request from the public.

I think that we're going to have a lot more comment and a lot more discussion during the QAP about the changes that have happened around supportive housing, and I would -- the changes are intended, frankly, to even scoring across all types of developments. If the Board has another direction that they would like us to take, then we absolutely will do that.

MR. OXER: Do you have a thought or comment?

MR. IRVINE: It's not a desire to make a policy shift so much as to expand the scope of deals that are serving very low income households.

MS. HOLLOWAY: Absolutely.

MR. OXER: So that when you get the 30 percent AMI, they're accessible to a larger percentage of the ones even that we're adding to the portfolio. Is that correct?

MS. HOLLOWAY: Yes.

MR. OXER: Ms. Bingham.

MS. BINGHAM ESCAREÑO: So I'm going to ask for a crystal ball here. Would our intention be that if we move forward with what's going to be posted in the *Texas Register* that this time next year or in the future we would see more supportive housing than the 2 percent that appear to be historically reported of tax credits?

MS. HOLLOWAY: And that's -- I don't know, I can't answer that question, I don't have that predictor. I can tell you that this NOFA does provide that set-aside for supportive housing. If the supportive housing deal was coming in for 9 percent credits, they could, yes, layer these funds in with them. Whether that will generate more units remains to be seen. We've just heard Mr. Moreau say that he's not planning on a new deal this next year.

MR. IRVINE: So I think what you hopefully would see as a result of the incentives in the NOFA would be more units serving 30 percent households.

MS. HOLLOWAY: It's a new option. It's an option that we haven't had available and it's an option that because we uncoupled the deferred forgivable from a requirement to use tax credits -- and that was a request that we received at the Board meeting, that we uncouple those things -- it could very well be that we'll be seeing applications from organizations that we might not have been able to work within the past who are serving this very specific population that has this tremendous need.

MR. OXER: So this is opening up new options in the future rather than making other options available for prior. So we're potentially adding to the portfolio but distributing -- more of a distribution of those amongst more deals as opposed to specifically for that sector of the population.

MS. HOLLOWAY: Yes.

MR. IRVINE: And as additional funds are made available in future periods and we develop additional NOFAS, we'll absolutely want to be engaged on these issues, and if this particular idea doesn't prove as effective as we hoped, then we'll try something else.

MR. OXER: We'll try something else.

MS. HOLLOWAY: Absolutely.

MR. OXER: And the good thing is we're exploring a bit to see if we can make this work because I think just from a policy standpoint it makes a lot of sense for disaggregating of that population so it's more of a mixed economic population on any single deal.

MS. HOLLOWAY: And we're also participating in supporting another model around the housing needs of folks with disabilities and folks with very low incomes.

MR. OXER: All right. Any other questions? Joy, do you have anything else over there? I will remind everybody that the front row is for those who wish to speak on the item. Well, look who's here.

MS. ANDERSON: I was back there.

MR. OXER: You couldn't keep your mouth shut. It's okay.

(General laughter.)

MS. ANDERSON: Sarah Anderson, S. Anderson Consulting. I just couldn't keep my mouth shut on this issue, just because I want to be on the record again for the same thing that I said last time about the continuation of the way that these are being underwritten and the 3 percent, 30-year amortization.

And I still don't feel like necessarily this is -- this seems to be a huge policy change for the Department, and I've yet to hear a discussion of the implications of underwriting at those terms versus what we sort of have done in the past where they've at least been able to go down if the deals need them.

I understand the reason behind it. We keep hearing that we're trying to mitigate risk but I would question what that means because I don't know exactly what it means. This is money that we've gotten from HUD that doesn't have recapture requirements, that's not the risk. There is some risk of not being paid back, but you're talking about money that is being leveraged with, for the most part, tax credits that have a one-half of 1 percent foreclosure problem. We're not talking about high risk. What we're talking about is losing money that is needed for the hardest to finance deals, and 3 percent, 30-year am is market rate right now, and if you put that in the NOFA, you have no ability to help what are really ultimately the rural deals that need this money.

Also, keep in mind that even when we're talking about what is essentially market rate now, you've got Davis-Bacon wages, you've got Section 3 requirements, this money is more expensive to use, so even at market rate it's not really attractive. And what we're hearing is -- and I have a deal that's closing in two weeks, and some terms changed on the tax credit side and we're getting calls from the Department saying we're worried about the risk to our money and so we're going to change the terms that in agreement make the deal worse but are better for you guys.

And I just feel like this is a huge policy change. I've never thought of the Department as being a bank and that's what we're being faced with now: Is the Department a bank or are you the lender that is to help the hardest to fund deals to help the hardest to serve people. And I just don't feel like that policy discussion -- I haven't heard that that's what you guys want, and maybe that is, maybe just by going along with this, that's what you want, but I've never before seen underwriting dictate policy before as this particular item does.

And so I still would like to hear a little bit more of the conversation from you guys that this is what you want to do, that TDHCA is now serving as a bank. And if that's what you want to do, that's fine. I just haven't seen enough discussion that leads me to believe that that is what you guys are looking to do. Maybe I'm wrong, maybe I've missed something. Anyway, I just wanted to be on the record saying that. Thank you.

MR. OXER: Okay. Thanks for your comments, Sarah.

Any other thoughts, Tom?

MR. GOURIS: If you have questions on that comment, I'll be glad to respond.

MR. OXER: Are there any questions from this?

(No response.)

MR. OXER: Apparently not.

MR. GOODWIN: Obviously, Tom, you have something to say about it.

MR. GOURIS: No. I wanted to be able to respond to the concept of the Department being a bank.

MR. GOODWIN: Respond to her comments about being a bank.

MR. GOURIS: Well, I think we have heard from this Board that risk is important, that return is important. We've been talking about these concepts for years and intensified those comments, and over the last couple of months as we've talked about this funding source, it's not just TCAP, it's TCAP and HOME, so there is this liability with the HOME piece of it. We're trying to make them similar enough so that we can use them to our advantage to maximize our usefulness with the TCAP funds.

Certainly we've talked about the idea that the original inception of TCAP funding we've faced a lot of pressure to make those deferred forgivable loans or make those zero percent loans or make those non-recourse, which would mean we wouldn't have this discussion right now at all, we wouldn't have the resource that we have. We instead realized that there was an opportunity here that deals needed funds but they didn't need to be free funds. It's a misnomer to say that a 3 percent mezz that is what the market is because if you can go find mezz debt at 3 percent, you should go find mezz debt at 3 percent and get as much of it as you can.

That's what we are, we're secondly in debt, and we're taking on that risk of a second lien lender. We're not a perfect bank but we need to use banking principles and be responsible for those funds, and that's what we've been trying to do. And it's not just for our conventional developers, it's also for our supportive housing developers and other developers. We're trying to do more with the resources that we have.

If there are any other questions, I'll be glad to answer.

MR. OXER: Good comment.

MR. GOODWIN: Are there a segment of these developments that will be done using this money?

MR. GOURIS: Absolutely. So we tested this philosophy with the last NOFA. We didn't do it very artfully, frankly. There was a lot of miscommunication about how we were going to do that. And nothing in the NOFA prohibits the Board ultimately from providing a lower interest rate on a transaction, and that was sort of the message we were trying to get across last time, that message continues to be. We're just saying we're underwriting it this way, we're evaluating it this way, it should be structured this way. And if you have a great case to be made for a zero percent or a 1 percent loan or something else, we will not recommend it, but we'll still bring it to the Board, and you all can listen to the case that's made and say, Hey, that's really worthy of this better financing strategy.

And you'll see what other applicants we get. If we don't get applicants for this money, then we'll have made a mistake and we'll need to adjust our thinking. I think we will get applicants for this money because this is second lien debt, this is mezz debt that's at a very affordable price.

MR. OXER: So essentially we're saying here's our basic underwriting policy for any of these that would fall under this particular -- or applicants for this particular availability of capital. They come in, you underwrite it at 3 percent, 30-year amortization. If they're turned down or if it doesn't work or whatever, but we assume that if it will work at 3 percent, it will work at anything less than that, so if it comes in and they're turned down, they continue to have the option to appeal to the Board for changing that, and the Board then acts as a loan committee.

MR. GOURIS: And we'll see. I mean, if there are no other takers for the funds, it might be the best thing we could do with the money. If there are ten folks deep on the waiting list that all can satisfy our underwriting criteria, you may have a different opinion. And that's a decision, that's a policy decision.

MR. OXER: That's a policy.

Are there any other questions? Ms. Bingham.

MS. BINGHAM ESCAREÑO: I have just comments to make relative to the prior public commenters. Just one, recognizing Marni and Tom and the team relative to the fire hose of feedback that you got and the timeline that you guys are working within to try to come up with some combination of something that's going to achieve what we're looking for.

And then relative to Joy and Walter's comments, so I do believe the Board knows our values and I think you as a staff know that we're very interested in supportive housing, and so it sounds like we've come up with the best option that we can right now to try to foster that development. But for what it's worth, just wanted to make sure that we were on the record of how very, very important it is to us that we try to foster that growth.

But I'm still a little taken aback by the 2 percent deal and I know that we're doing everything we can but that's very concerning to me, really, really concerning to me, and I would assume to a lot of the Board members also. So to the extent that it gets published in the *Texas Register* based on whatever the vote ends up being and to the extent that we have the ability to continue to do the best we can to modify and adjust to foster that growth, knowing that when we start talking about the QAP in a little while that there's some areas statutorily or legislatively that we might be a little challenged.

But I am very grateful for everything that you and your staff are doing, but I'm also very grateful for our community members very respectfully reminding us of what our charge is here. That's it.

MR. OXER: And I appreciate those comments too. From a policy standpoint, yes, we're trying to create policy. If it seems like it's a sudden lurch to one direction, I assure you it's not, we don't lurch very well -- irrespective of the fact they call me Lurch occasionally.

(General laughter.)

MR. OXER: A major policy implementation and a change, the recognition of the 2 percent, if you look back at the history of the Tax Credit program, while we've got thirty years worth of data and there's 2 percent on it, but we're increasing that now. I can't tell you what they did in the first twenty-five, but in the last four that I've been here, we've made at least a concerted effort to get ourselves lined up to make sure that that population is considered. And I think those of you who know the tag line on my TDHCA signature I hope would recognize that that's something that I have a great interest in also.

That said, we're going to try something in increments. If it works, good; if it doesn't, we'll keep trying. And I think all of you here will be able to see from the changes that are made in the QAP and that have been made and will continue to be made, it is not etched in stone, we didn't carve anything into it, it is a continuously evolving document to be able to respond to the needs of the present which are continuously varying with the policies that we're given, the adventures or misadventures, depending on your perspective, of those folks in that pointy-top building down the street here. We don't make this up, we're given things to do, we're not freelancing, we're told what to do and we're basically told there's a job that needs to get done and we're doing the best we can to figure out how to do that.

I concur with what Ms. Bingham said, and she said so much more eloquently that I might have, but those of you who are concerned that this seems to be the last thing, trust me, it's not. It will continue to evolve and if it doesn't work, we'll try something different, but we'll eventually get that up and working.

So with that, are there any other public comments on this item, item number 6?

(No response.)

MR. OXER: Who did we have here, was it Ms. Bingham and Mr. Gann with the motion and second?

MS. BINGHAM ESCAREÑO: Yes.

MR. OXER: Okay. With respect to item 6, thanks for your time, Marni. The motion by Ms. Bingham, second by Mr. Gann to approve staff recommendation on item 6. Those in favor?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

MR. OXER: There are none. It's unanimous.

Good job walking the line, Marni. Like I've said, if this was easy, anybody could do it. That's why we've got you.

MS. HOLLOWAY: I appreciate the confidence.

MR. OXER: For the smallest item on the list here, it's got two lines on the agenda, you seem to attract a lot of attention.

MS. HOLLOWAY: I know.

MR. OXER: All right. Go for it, number 7.

MS. HOLLOWAY: Item 7(a) is presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 11 concerning the Housing Tax Credit Program Qualified Allocation Plan, and an order adopting the new 10 TAC Chapter 11 concerning the Housing Tax Credit Program Qualified Allocation Plan, and directing their publication in the *Texas Register*. There's going to be some comment.

MR. OXER: Some? Gee, you think?

All right. We're going to do a little housekeeping here. Jeff, Mark, you guys move over here to this second row where Raquel and Theresa are. We're going to take public comment. These first two rows here, since we're anticipating a real circus here, the first two rows are going to be for those who want to make a public comment. We'll take them from this corner right here, you'll get to be first, and work that way on the front row and then back that way on the second row. The single seat there is where you get to sit until this is all done, whoever the staff member is on this thing.

So given that, the floor is yours, Marni.

MS. HOLLOWAY: Great.

MR. OXER: And sorry to interrupt. I'll point out obviously we're going to have a packed agenda, there's going to be a lot going on. In public comment, I'll remind everybody to sign in so we can identify you, so that Nancy can tell us who you are on the transcript. There will be a three-minute hard cut -- reminder, hard cut on the time because we've got a lot of folks that want to speak on several of these items. If those of you who have something to say who have said it before, you can say we've made comments on this and refer to that, you don't need t spend that three minutes saying what you've already said. If you have something new, we're particularly interested in something new coming up that will give us an opportunity to evolve our rules within the QAP.

So with that, Marni, you want to jump in?

MS. HOLLOWAY: Let me start by talking about the next QAP. We are going to be starting next month on the Wednesday before the Board meeting, that afternoon, having our first meeting starting to talk about our plan and what's going to go into the 2017 QAP. We want to hold those meetings, those roundtables, whatever we're going to call them, on a monthly basis at least, probably more than monthly, throughout the process so that when we get to the next QAP we have something that's been thoroughly discussed and hopefully what we're bringing to you is something very clean and something very workable.

I will say that for this QAP there were more than ninety commenters. Some of those commenters submitted more than ten pages; there was a huge volume of comment, it was almost twice as much as was on the QAP last year.

I know that you all have heard this before but I need to say it again, without Theresa's work to synthesize all of those comments and start to create that reasoned response document, there's no way we could have done this, and I'm so appreciative of all that effort.

MR. OXER: And that just goes under a subset of the heading that I made sure was on the record several times: it's real easy for us to look good up here because you guys do all the work, we just get to take credit for it. So we much appreciate what you've done. It goes from here down that we appreciate all that's being done.

MS. HOLLOWAY: So the QAP was published in the *Texas Register*, the final was published on September 15. It was open for public comment until October 15. As I said we received comments from more than ninety individual commenters. As we synthesized that and worked through our reasoned responses, we published the final in the Board book a week ago. Since then we've had a lot more conversations and a lot of questions that have come in to us, and as a result of that, have taken a look at some of the items that were in that published QAP and realized that we needed to make some changes.

The first supplement to the QAP was posted on November 9. It corrected a couple of items that have been in the reasoned response but had been left out of the QAP itself, so clerical errors, and it also sought to correct some issues that we had around House Bill 3311 which we're going to talk about as we go through the items that were changed.

After we published that supplement we had even more conversations and even more questions. The second supplement, which was available out here on the table and is available to everyone here at the meeting, corrects a couple of other clerical errors and speaks to tenant services points, and we'll also talk about that as we go through. The changes in the second supplement will be incorporated into the QAP that goes to the Governor's Office and that ultimately is published in the *Texas Register* and becomes our final rule.

So highlights of the changes that we've made as a result of those comments and also our review of the statutory requirements, there are about a dozen and a half changes. We're just going to walk through them so that if you have any questions about it we can address that, and then all of these folks are going to get to talk and I'm going to just sit and listen.

First change, really simple one, we adjusted the 10 percent test due date for consistency with other Multifamily rules. That was really simple.

The second change in 11.4(b), the maximum request limit, this item was added as a result of public comment, addressing the maximums created by House Bill 3311, and it was further clarified in the second supplement just to make the language more understandable. House Bill 3311 in this instance creates a cap on the amount of funds that can be invested in developments for the elderly in certain regions of the state. It seeks to balance the funding that's going to those elderly developments with general population developments.

You look like you have a question.

MR. OXER: Go ahead.

MS. HOLLOWAY: So that was the second item was inserting that language into the maximum request limit.

MR. OXER: So that's a maximum on the seniors projects as opposed to a limit on the other projects.

MS. HOLLOWAY: Yes.

The third change was to the award recommendation methodology. Also 3311, as we had originally drafted, we had included elderly developments that were coming out of the at-risk set-aside in that calculation. As a result of conversations with Chairwoman Alvarado's office and some internal conversations, we clarified those calculations in the supplement and we also made that same change to the statewide collapse. So basically what that was is as we were designing what that calculation was going to look like in those subregions, we were including any developments that would come in under the at-risk set-aside in that elderly cap. As a result of conversations later, we realized that it needed to come out, so we're just applying that cap to the subregion and not including the at-risk set-aside developments.

The next change was to tiebreaker factors. We removed a limitation on the third tiebreaker that it was applicable only to general population developments, so whatever type of development is getting to that third tiebreaker, if it's general or elderly, it's going to apply to all of them.

The fifth change -- and this is one that probably some people are going to be happy about -- criteria promoting development of high quality housing.

We had previously had a scoring item that was tied to previous participation history. There was a great deal of comment on this item. As a result of that comment, we have removed it from scoring. We are continuing to consider previous participation history as part of our EARAC process, the process that we go through internally before an award recommendation is made to you all, so it's not like the previous participation goes away, it's just not a scoring item any longer.

Next one, levels of rents and tenant services. We changed the description of the points required and the opportunity index so where rent levels and tenant services tie to opportunity index, to reflect the addition of a new scoring item in that section, this is a change that we made in several places. There are several scoring items that reflect back to opportunity index and they had said five or seven points, we added a six point option, so now it says a minimum of five points. Easy change.

In the second supplement -- and we'll talk about this item -- we made a change to the opportunity index, and this is the next change moving through the QAP. We removed the provision that would have allowed an urban or rural elderly development to receive seven points if it's within two miles of services for seniors. As we described in the opening paragraph on the second supplement, there is a concern --

MS. BINGHAM ESCAREÑO: Pardon me, Marni. I'm making notes and just trying to keep up. So that would be which section, is this 11.9(c)(5), or is this in our supplement 11.9(c)(3)?

MS. HOLLOWAY: In the second supplement it's 11.9(c)(4).

MS. BINGHAM ESCAREÑO: (c)(4), I see it.

MS. HOLLOWAY: And there's the (a) and the (b), (a) is urban and (b) is rural.

MS. BINGHAM ESCAREÑO: Gotcha. Okay.

MS. HOLLOWAY: So what we've done is we've removed the line that discusses elderly developments. So we are required statutorily to consider certain scoring items in descending order, so as we're working down that descending order, one item that's further down the list can't have the same or a higher score than another one.

MS. BINGHAM ESCAREÑO: Marni. Excuse me, Mr. Chair. And that is statutory or that's 3311 related?

MS. HOLLOWAY: That's statutory. 3311 is about the elderly cap and then some scoring items that we'll discuss later. This is tied to concerns regarding tenant services.

MS. BINGHAM ESCAREÑO: Okay.

MS. HOLLOWAY: So by taking this out the next highest scoring item, if we had left these seven points in when combined with tenant services could potentially score higher than or equal to the next one up in line, so that's why that elderly proximity to services was removed.

MR. OXER: It sounds like on a lot of these we're walking a razorblade to start with just to get down a pretty thin path.

MS. HOLLOWAY: Yes.

MR. OXER: You pull something over here and something else gets loose over here.

MS. HOLLOWAY: It happens over here. The words "unintended consequences" have come up a number of times in the last week.

And I'm sorry, I do have that. The concern was that we would exceed the twelve points that are the maximum cap on cost of development per square foot which is the next item up statutorily.

Under educational excellence, supportive housing has been limited to two points total under educational excellence in order to balance the additional points those developments are able to access under tenant services and rent levels of tenants. So supportive housing developments are able to access three points under these two other categories, so we've sought to balance it by reducing the points they're able to access under educational excellence. We've heard repeatedly in comment that supportive housing developments that the educational opportunities are not as a focus for those developments, so that's why we put that there. And Walter and Joy have already mentioned it, and I'm sure you'll hear some more.

The second supplement corrected the description of the paragraphs under which supportive housing can receive those points. Clerical thing, was my fault.

So still under educational excellence, the three point scoring item was modified to require that the development be within the attendance zone of at least two of the elementary, middle or high school that have a met standard rating, so meaning they're not underperforming schools, and they have an Index 1 score of 77. That 77 is the statewide median. We also added an allowance for schools in Region 11 to have an Index 1 score of 70, and that aligns with other parts of the rules.

DR. MUÑOZ: Marni, I've got a question. I was reading this section that has quite a few corrections to it, and I don't understand. It seems like you have removed one of these distinctions that can be awarded to an institution, there's no sort of benefit for that, or is there? And why bifurcate, why separate or why aggregate elementary, middle and high school in terms of met rating? The TEA reports them individually.

MS. HOLLOWAY: Right. Yes, they do.

DR. MUÑOZ: Okay. So I mean, you may have a high performing elementary and middle school and maybe a low performing high school, or vice versa. These are a lot of points based on the assumption that the quality of the school is an incentive or not.

MS. HOLLOWAY: Right. So students living in our general developments may be going to elementary school, may be going to middle school, may be going to high school, they may be progressing through all of those schools in those attendance zones. In order to assure that students living in the developments that we are participating in have access to the best educational opportunities, that's why that tiered scoring is there.

DR. MUÑOZ: That met standard is the same for each one, 77 is the same for each one of those levels of education?

MS. HOLLOWAY: That is the statewide median, yes, it is. That's why we've applied it there. I understand that there was some comment that we received regarding elementary schools at a 76 in the latest TEA ratings -- and I'm sure some folks here will speak to that -- but over time it has been the statewide median that we've clung to, that we've stuck to, and that's at 77.

DR. MUÑOZ: Okay.

MS. HOLLOWAY: We added a one point scoring item to educational excellence. That's for developments in the attendance zone of an elementary, middle or high school in which either all have a met standard rating or any one of the three has a met standard and an index score of 77. So that speaks to that not all the schools meet that standard, but it only allows one point rather than three. That also includes an allowance for schools in Region 11 to receive one point if the middle and high schools have an index score of at least 70, and that aligns with other parts of the rule.

Next one, underserved area. This item was modified so our changes modified the requirement that a place that has never had a tax credit development, in order to receive two points under this item, that tax credit development must not have been serving the same population. So the development that's already there is an elderly, you're coming in with a general, you still get those points because they're not serving the same target population.

MR. OXER: How big is a place?

MS. HOLLOWAY: It's a census term.

MR. OXER: Census tract?

MS. HOLLOWAY: It's larger than a census tract, and I believe the item in rule reads something like a place, or if it's not a place, the county.

Also under underserved area, we clarified item (e) which was a one point item, to better describe the requirements for a census tract. So that one we cleaned up.

We also removed items (f) and (g) from underserved area. These items were added to the QAP as a result of comment way back in September, and so we put it out there so everybody had an opportunity to take a look at it and see what they thought. Received quite a bit of comment and quite a bit of questions about how we were going to score those items. We, staff, just were never able to find a data source that was reliable and consistent and that we felt comfortable would be the best way to score these two items that are tied to job growth and population growth. These are items that it could make a lot of sense for us to consider for the 2017 QAP but it's going to need to cook a little bit longer, we need to dive deeper into those.

Number 11, tenant populations with special housing needs. This is the 811 Program item. You have heard previously quite a bit of comment regarding the 811 Program and the option to put units in existing developments and get three points, and there has been a lot of concern that that creates an advantage for certain developers. In order to address that concern and even the playing field, we've taken that to a two point item. So developers can put units in an existing development, they can put them into the development that they're currently applying with, or there's a third option to set aside units for populations with special needs. If you're not in an 811 area, you can take that option and also get those two points. And in the first supplement we corrected the maximum points in the first paragraph; we had changed it below, we hadn't changed it up above.

MR. OXER: You pulled a thread at the bottom and something came unraveled at the top. Right?

MS. HOLLOWAY: Exactly.

MS. BINGHAM ESCAREÑO: You said that's two points?

MS. HOLLOWAY: It's two points all the way across now.

Aging in place. Aging in place was first modified from requiring all units to be fully accessible to a standard that would allow tenants who are not in wheelchairs to live comfortably and safely. So as originally presented, aging in place would have required all units to be 100 percent accessible. This new option calls for walk-in showers and handrails and blocking so that it's safe but it's not a fully accessible unit. We also refined the description of the tenant service coordinator which was part of the original aging in place conversation, and we raised the maximum score from three to five points to create parity with educational excellence. So this is all these strings that are being pulled all over the place.

Language was added in this item to limit supportive housing developments to two points to match the limitation in educational excellence to balance the three points that they're able to get in other sections, which we've discussed previously.

With the first supplement the limitation for this scoring item to elderly developments was removed in order to comport with House Bill 3311. So we talked about the elderly cap earlier in some regions. The other part of 3311 requires all general population developments and all elderly population developments be able to receive equal points for the same scoring criterion. With that requirement, we are not able to reserve this part of scoring just for elderly developments. So that's why we took that out with the first supplement.

With the second supplement we removed the tenant services coordinator subsection so that the maximum for tenant services were not able to exceed those for cost of development per square foot. That goes back to the statutory question about equal or higher scoring on those statutory items.

Next one, proximity to important services. We received some comment requesting that those radiuses be a little bit larger, so we've gone to one and a half miles in urban regions and three miles in rural regions. That's access to grocery stores, pharmacies, that kind of thing.

We have added a provision to the local political subdivision section stating that once a letter has been submitted to us, it may not be withdrawn or changed.

Under quantifiable community participation, we have removed the ability for a neighborhood organization to register with us, as was pointed out by comment, that appears to be redundant with the statutory requirement that they be registered with the state or county. We also corrected a citation on that one.

We expanded the description of problems to be identified or that might be identified in an urban concerted revitalization plan to include infrastructure neglect such as inadequate drainage.

And then the last one, we limited the number of points a development may receive under historic preservation if the site is only eligible for one or three points under educational excellence. So you don't get as many historic preservation points if you're in a location that the schools aren't as good, basically.

Those are all of the changes. I'm sure you'll have lots of comment. Are there any questions for me?

MR. OXER: I have a comment. My head hurts listening to you.

(General laughter.)

MR. IRVINE: May I offer a comment?

MR. OXER: Go ahead.

MR. IRVINE: What I've heard and read indicates basically a dozen or more policy initiative which are clearly distinguishable and they're all in the mix here, and what I really sense as a desire going forward is to begin this next year's process with articulating and prioritizing our policies. If everything is your policy, it could be argued you don't have a policy. So I really hope that we can focus on a handful of true policy initiatives, put them in their assigned rated prioritized status, and then develop a QAP that achieves those policies, that says this is our highest and most important policy objective, therefore, the QAP supports you developing a winning score. And right now what we've got is a QAP that tries to give everybody the possibility of competing and winning regardless of what their particular policy focus might be. And that's my comment.

MR. OXER: And just to add to that, the purpose of all of this, I heard several comments that, well, we can't get those points. Yes, but there are other points that you can get that another applicant wouldn't be able to get. And the whole idea is to balance those differing concepts of the developments, whether it's general population or supportive housing or elderly or whatever, so that everybody has access to something that essentially is a balanced opportunity for the entire community. So I'll start it off by saying that everybody is not going to have access to every point, period. It's just not going to happen.

But I tell you what we're going to do. We've got a lot of comment coming up on this, we've been in the saddle here for an hour plus, we're going to take a break. Right now it's 11:20. We'll be back in our chair here at 11:30 and we'll hear comments, we'll get a motion to consider and we'll hear comments, but let's be back in our chairs at 11:30.

(Whereupon, at 11:20 a.m., a brief recess was taken.)

MR. OXER: All right. Let's get back to work.

Procedurally, I know it took you half an hour to list all of these and what was behind them, so I guess from a procedural standpoint I would, I think, advise the Board that we're taking all of these at once, we're going to hear public comments, we'll get a motion to consider, whichever direction that goes, we'll have all of these at once, they'll all be considered together unless we have a modifying comment at the end of the public comment.

MR. IRVINE: So what staff is recommending is as reflected in the second supplement.

MS. HOLLOWAY: Yes.

MR. OXER: As reflected in the second supplement, as discussed, all of the details.

MS. HOLLOWAY: All those items that we talked through.

MR. OXER: So we're going to consider them all at once, unless there's a compelling item or compelling issue to address through an amendment to the original motion as considered. All right. The Board understands, we're all clear?

Do you have anything else you'd like to add?

MS. HOLLOWAY: I don't at this time.

MR. OXER: Okay. With that, we will attend to a motion to consider.

MR. GOODWIN: So moved.

MR. OXER: Motion by Mr. Goodwin to approve staff recommendation as presented by Ms. Holloway.

MR. CHISUM: Second.

MR. OXER: Second by Mr. Chisum.

We have public comment. Michael, do you have a couple of letters?

MR. LYTTLE: Yes, sir. I have two letters from members of the Texas Legislature.

The first one is dated November 10, it is to the Board from Senator Carlos Uresti, and reads as follows:

"Dear Chairman Oxer and Members of the Board: I am writing in support of the policy change the San Antonio Housing Authority has proposed to the Housing Tax Credit Program Qualified Allocation Plan on the agenda for your November 12 meeting.

"This amendment would reflect a sensible policy and would support investments into an area of my district known as EastPoint which has long been neglected. I believe our efforts at the state level could further advance an area that has recently gained national attention from its federal designation as a Promise Zone. As a Promise Zone substantial community resources are being invested to improve the academic standing of schools in the area.

"While change will not occur overnight, the Promise Zone's goals, job creation and workforce development, increased economic development, improving educational opportunities and family stability, reduce poverty and increase supply of affordable housing, improve public safety and leverage private capital investment, are not only mutually beneficial to each other but rely on their collective attainment to truly transform this once distressed community.

"As the mission of the Texas Department of Housing and Community Affairs includes the goal of invest its resources strategically and develop high quality affordable housing which allows Texas communities to thrive, I hope you will fully consider, including criteria in the QAP, that allows Texas to leverage our housing dollars strategically in areas undergoing rapid and positive changes due to investments of the federal government and the local community.

"Thank you again for your service to our state and to our communities, and I would like to thank Department staff for their hard work in serving our most vulnerable Texans.

"Sincerely, Carlos Uresti, State Senator, District 19."

The second letter also addressed to the Board comes from State Representative Rafael Anchia, Texas House District 103. It reads as follows:

"I'd like to comment on a proposed change to the 2016 Qualified Allocation plan which, if authorized, would create a strong disadvantage to developers within my district."

He references Section 11.9(c)(7)(A) Tenant Populations with Special Housing Needs, Applications may qualify for three points if determination by the Department of approval is submitted in the application indicating participation of an existing development in the Department's Section 811 Project Rental Assistance Demonstration Program.

He basically goes on to reference Section 11.9(c)(7)(A) -- I don't think you want me to reread the rule again -- but what he says basically is: "I urge you to either delete Section 11.9(c)(7)(A) in its entirety to prevent an unfair statewide advantage for those developers whose portfolios include Section 811 PRA program eligible inventory, or Section 11.9(c)(7)(A) should be limited to no more than two points rather than three points in order to provide statewide fairness to all developers.

"Sincerely, Rafael Anchia."

MR. OXER: Okay. We have a multitude of comments that folks want to make, which we anticipate in this meeting every year. I would remind everybody that if you have made comments and we have those on record, it would behoove us, it would benefit the process we're going to take on today to simply say you'd like to reinforce that.

Tim, do you want to make a comment right quick?

MR. IRVINE: Yes. While Representative Anchia's letter is fresh in everyone's mind, I think it would be good for Marni to come up and explain specifically how we've treated that item.

MS. HOLLOWAY: So you'll recall when we were talking through the changes that have been made in the QAP, as we went to the final before you, one of the items that we've received a lot of comment about is the same one the representative is addressing through his letter, and that's that three point scoring item for units in existing developments under 811. In order to just even the playing field on that item, that has been reduced to two points which is exactly what has been requested.

MR. OXER: So we're essentially doing what he was asking for.

MS. HOLLOWAY: Yes.

MR. OXER: Okay. Good point on that one. Thank you for that.

MR. IRVINE: And I have a virtual certainty that some of our early commenters will be addressing this same issue raised by Senator Uresti.

MR. OXER: And if that's the case, if that's the only comment, just say that you support Senator Uresti's and Representative Anchia's comment. We welcome your comment but recognize we're on a short clock today and we're struggling with maintaining a quorum till we can get through all of this.

Okay. We're going to have a hard clock, three minutes. If you've made these comments before, please refer to them because they're in the transcript and in the mix for a reasoned response. If you have something new to add, this will help us identify the comments that are new to the particular issue you're speaking on. You have three minutes on a hard clock. I'll remind you to sign in when you get there. So let's get started. Ginger, you're up.

MS. McGUIRE: Thank you. Ginger McGuire, representing the Rural Rental Housing Association of Texas.

Attaching to my earlier comments about policy, I would like to say that we do recognize as an association that staff has hard choices and they have limited funds. Every one of us serves a population that's deserving but I would like to talk about our deserving population a little bit.

We have 24,212 units in Texas that we

represent. That's approximately 35,000 residents at any given time. The average income of these residents is less than $10,000. Fifty-six percent of these residents in rural areas are elderly; of that 56 percent, 39 percent are disabled. The USDA funded these properties originally under cost containment, so the materials and the design, everything about it is in need of repair. We did a recent survey and found that there is an immediate need of more than $635 million in these 24,000 units.

I would like to talk about one issue in particular and it's where we were caught off guard. We read about it for the first time in the draft, and that was adding USDA farm worker housing new construction -- which can come from an urban area as well as a rural area -- to the USDA set-aside. And my reading of statute says that it's a 5 percent set-aside and that the USDA rehabilitation properties can only come from the USDA set-aside.

We made what we thought was a reasonable response to this first time information in the draft, saying that we realize that these are deserving populations, we are too, we believe, and we asked that you limit to $750,000 in credits any one transaction. We asked that you limit new construction coming out of the USDA set-aside to only one new construction per year. We felt that was reasonable, we still think that's reasonable. That reduces us to about a little under 3-1/2 percent for the existing 24,000 units needing that $635 million.

We hope we can work with staff in the coming year to do something that serves all of us in the 2017, and I hope that you would consider the $750- today and the one new construction.

MR. OXER: Okay. Let's see $635 million for 24,000, that's about $26,500 per unit that you're saying each of those units needs.

MS. McGUIRE: It's about $35,000 per unit on 75 percent of the units. Some of the units don't need rehab. But yes, if you want to do it that way, yes. I'm trusting your math.

MR. OXER: I can do math on my feet. The $1 million maximum, just out of curiosity to make sure we have a point of that, because we limit the deals to $1 million, that's defined by our policy or is it legislative?

MR. IRVINE: Legislatively it establishes maximums. We have latitude within that statute, I believe.

MR. OXER: We can go up to that but we're not limited to that.

MR. IRVINE: Correct.

MR. OXER: Just a point of clarification.

MS. McGUIRE: We would ask for the $750,000 limit. Like I said, it reduces the rehab that we have in those properties, available to us in those properties.

MR. OXER: Okay. Thanks, Ginger.

Any questions from the Board?

(No response.)

MR. OXER: Okay. Next.

MR. NISIVOCCIA: Good morning, Mr. Chair and members of the Board. My name is David Nisivoccia. I'm the interim president and CEO of the San Antonio Housing Authority, and I definitely support Senator Uresti's letter that he put in the record for your consideration today.

I'm here to talk about the educational aspect of the QAP, and there's some speakers behind me that will get directly to the point that Dr. Muñoz raised regarding the met and the differences between the elementary, secondary and high school and the impact that has on our community, but I also want to talk about a global perspective.

I think the first thing we want to do is recognize staff's hard work on this item. We understand it's a large undertaking and they can't please everybody who comes before you regarding the items they wish to discuss, however, it's our belief that there's been a slight over correction regarding the educational excellence, and it's an impact regarding the adverse impact lawsuit. And what the nature of this does is it moves the opportunity for neighborhoods like Wheatley Courts, where it's seen $200 million of investment on a federal, local and state level which is raising that opportunity, that neighborhood that's in progress, in a position of correction, to compete unfairly against neighborhoods of opportunity who already have those linkages and school systems in place. As I said, you'll hear other discussions later by our SAISD superintendent which will stipulate to the progress that we're making in this community and it's all very positive news.

And the last part that I would like to stipulate and talk to you about is this Board has been rather generous to the City of San Antonio regarding the housing authority and awarding us two previous rounds of tax credits, and what we're looking for is a third tax credit round to compete which would close out our project. The people you see behind me are members of our community, are residents of our community who have come forth in numbers today in unison to speak on how important, how committed we are as a community to ensure that this development, this neighborhood has a lasting impact.

We believe in educational excellence. We believe you're going to hear really good news. In fact, when you looked at the stability of the neighborhood and the impact that our clients had moving in and moving out, the scores have never been so good as when our clients are in this neighborhood.

So I come before you asking today that the friendly amendment on the language that the San Antonio Housing Authority put forth be considered, and I appreciate very much your time. Thank you.

MR. OXER: Thanks, David.

Any questions?

(No response.)

DR. STRIPLING: Thank you and good morning. My name is Dr. Morris Stripling. I'm the chairman of the board for the San Antonio Housing Authority, and I understand the time constraints and I want to make this as succinct as possible.

We don't disagree with the QAP regarding points for educational excellence. Our issue is we are in the middle of a vital revitalization for Wheatley, which is now EastPoint. As you guys may know, we have three large federal grants: we have a Byrne Grant which is to mitigate crime in the area, we have Choice which is the housing, and also the Promise Grant which is in the middle of making sure that educational excellence is met.

When I read about the changes that might occur, it brought to my mind my own kids. I have three kids. They are in what you might consider neighborhoods of educational excellence. I have one son who is autistic, and because of the public education system, I have two kids in college and he is a functioning adult. And so we want to see the same thing happen in this neighborhood. We don't want for our progress, which we're right in the middle of, to be disrupted because of this change. We just think you should take into consideration that these three federal programs are in progress and we're making strides from an educational standpoint and we think that ought to be taken into consideration when the QAP is put together finally. Thank you.

MR. OXER: Thank you, Dr. Stripling.

DR. MUÑOZ: Just a minute. I've got a question.

DR. STRIPLING: Yes.

DR. MUÑOZ: You said you have a Promise Grant in that neighborhood?

DR. STRIPLING: Yes.

DR. MUÑOZ: What's the amount, is it $25 million?

DR. STRIPLING: Yes, it's $25 million.

DR. MUÑOZ: And what year are you in?

DR. STRIPLING: For us this is our second year for Choice and Promise is four.

DR. MUÑOZ: You're in your fourth year of the Promise? It sunsets in the fifth year? We have one in Lubbock. Those are very difficult to acquire. It takes a huge amount of partnership, unprecedented, very few were awarded.

MR. OXER: Thank you, Dr. Stripling.

DR. STRIPLING: Thank you.

MR. MARTINEZ: Good morning. My name is Pedro Martinez. I'm the superintendent for San Antonio ISD, first year in the district.

And really what I am here to ask of you is to not punish our community for what we feel is a blip right now that happened in one of our schools. Last year one of our schools, Wheatley Middle School, did not meet standard which would then take San Antonio Authority's application and they would be penalized by those three points. And we see that as a very temporary blip, and let me tell you why.

First of all, when I look at the progress that has been made in this community since we joined forces with this Promise Zone grant, our three elementary schools have all made double digit gains across all the core subjects in the last three years, all three schools have met standard all three years, two of them have gotten the state distinctions, the majority of distinctions across the state, and again, this is one of our highest poverty neighborhoods in our district.

DR. MUÑOZ: They met or comfortably exceeded?

MR. MARTINEZ: They have all met and the two with distinctions have exceeded it because they've gotten three distinctions, which means that they rank in the top quartile of any schools that have similar demographics.

And our high school actually last year had the highest graduation rate it's every had, over 80 percent, with the highest percent of children attending college. And so Wheatley had met standard the year before in the school year end '14, they didn't meet it last year, and we see that as a blip. And keep in mind, to give you context, our state has made the assessments much more rigorous, which we believe is a good thing, our standards have changed, and again, we think those are all positive things. So that's created a lot of noise in our state and with accountability systems, but again, we don't want to make excuses.

As superintendent, I've been in Wheatley, I've been in the classrooms. I can tell you the area we struggle with, we actually would have done well with math and reading but we struggle with science and social studies. So we are implementing more stem programming than ever before at Wheatley Middle School, we're introducing more technology, we have a brand new principal there who has a very strong track record, both at middle school and high school. So for us, again, we see this as a temporary blip.

And what I would ask of you is let's not penalize the progress that's been made in this community. The housing that's being created is right across the street from the middle school, and I've got to tell you, the energy level that exists, not only in our school but in the community, it is so positive because this community has been ignored for so many years. And I'm brand new to Texas, I'm brand new to the community, and I can see it because I grew up in a community just like that. And to see that energy becoming so positive and uniting around the school, again, we just want to make sure that progress continues.

And I would, again, be happy to take any questions. Thank you, gentlemen.

MR. OXER: Thank you, Mr. Martinez?

Any questions?

(No response.)

MS. ALBRIGHT: Hello. I'm Shari Albright. I am the chair of the department of education at Trinity University in San Antonio. I'm also a professor and I am a proud partner of the community that is working with the Eastside Promise neighborhood. Thank you so much for letting us be here today.

So I wanted to talk a little bit about I'm at a university that's a Tier One university that gets pulled on a lot to join partnerships, and we pick very specifically what we join up with. We look for partnerships with impact, we look for partnerships with a growth trajectory that we can join and add value to, and that's why we joined in with the Eastside promise neighborhood, frankly, in its formation and its grant writing prior to receiving our Promise Neighborhood Grant.

We are a proud partner in that work, and I personally get to be a part of that work every week through our school leadership program. I'm in the schools as a leadership coach working with our leadership candidates and the leadership teams at these schools on a weekly basis, and I can personally attest to the change we have seen over time with our promise neighborhood and the promise that it holds for us to continue to push towards educational excellence.

You know, as well as all of us do, the world is changing around us, expectations are ratcheting up constantly, we're trying to stay ahead of that in schools. It is a marked challenge, and it's a marked challenge if you don't have the entire system aligned moving in that direction. That was what was so compelling to us about the Eastside Promise Neighborhood. All the pieces are being put into place from housing, to social service wraparound services, to workforce development, to educational improvement, and so we do believe the trajectory is strong.

I'm an educational wonk so I'm going to quote to you just briefly from a recent study from the Harvard Graduate School of Education and it's about school change, and I just want you to think about this in light of what Superintendent Martinez has been telling you. It says: There are no breakthroughs or dramatic turnarounds in the improvement of schools. There are, however, predictable periods of significant improvement followed by periods of relative stasis or even decline, followed again by periods of improvement. This pattern of punctuated equilibrium is common across all types of human development, individual, organization, economic and socio-political -- and I would say educational.

That's what you're seeing here. You're watching a blip on our radar screen of a trajectory of improvement of all of the schools in this community and in particular Wheatley Middle School, and I just wanted to be here as a community partner to say that we think we're on the right course, we think the trajectory is right. You've said it's hard work, and we would like you to make a consideration for a community that has invested greatly to try to lift up and entire area of San Antonio. And please don't let us just get two-thirds of the way through without your support and your help in this initiative through your policymaking.

I thank you so much for letting us be here today.

MR. OXER: Great. Thanks, Shari.

MS. BURCHETT: Good morning, Chairman and Board. My name is Sallie Burchett and I'm with Structure Development. As a certified planner, I'm ethically obligated to serve the public, and that will be the intent of what I say today.

For several years I've been mapping the community assets for Sarah Andre and when I would have to include a fast food restaurant to meet the six assets, it would make me frown and sad and then I would get excited when I found a grocery store really close by, and so the grocery store and pharmacy item is really important to me.

At the roundtable back in June we talked about better policies for community development and we tossed around proximity to healthy food, and grocery stores and pharmacies and originally it was a threshold item and then it turned into being within one mile and two miles which is consistent with the other community assets. And as Marni stated, recently it's been moved to one and a half and three miles per the development community.

The concept is great. Access to healthy food is the most important tenet for healthy physical and mental health, and conversely, sprawling land use policies are doing the opposite and creating unhealthy community members. I have comprehensively assessed the radii overlaid with city limits and infrastructure and I feel like the one and a half and three mile radii cover the vast majority of areas that are served with water and wastewater. If it's an incentive item to have policies to have better places to live, I feel like the one and a half mile and thee mile is watered down and it's not serving its purpose as an incentive or to differentiate different sites.

This is an opportunity to make a real difference in the lives of the future residents to give them high opportunities to live, work, learn and play. I feel like staff had it right at one mile and two miles, and I respectfully request that the radii be consistent with community assets and be at one and two miles for urban and rural, respectively. Thank you.

MR. OXER: Great. Thanks, Sallie.

Who's next?

MS. GORMAN: Good morning. My name is Jackie Gorman and I'm the executive director of San Antonio for Growth on the Eastside. I am also a member of San Antonio's Housing Commission for Preserving Diverse and Dynamic Neighborhoods.

SAGE, San Antonio for Growth on the Eastside, is one of the five lead partners for the San Antonio Eastside Promise Zone. Our area of focus is economic development. What we've learned over the years of this work in our community is that community revitalization is like a three-legged stool. If you think of the community as the seat, the three legs are economic development, housing and education. We know that none of those things can exist in isolation, that we depend on each other and the other legs to make sure that we raise our community up to stability.

Our work in this community is finally starting to bear fruit. Just last week we announced that nineteen new businesses have started in this community since January of 2015. We're talking about businesses that range from restaurants to law firms to government contractors to a movie studio. The work that is being done around Wheatley is serving as a catalyst for private investment. Home sales and property values in this community are rising and we're headed toward being a truly mixed income community.

As this community becomes revitalized, however, there is a real fear of gentrification. At the housing commission we're working to try to find local solutions to these very complex problems to try to avoid gentrification of our inner city communities and displacement of our lower income residents. We understand that these issues are complex and we understand that the issues that you face are complex, but there is one absolute: we must ensure that our low income residents have a place in these newly revitalized communities.

Therefore, we're supporting the recommended changes to the QAP that our partner, the San Antonio Housing Authority, submitted that would allow applications under the at-risk set-aside that have a nationally recognized educational initiative in place and/or receive funding from Choice Neighborhoods to receive three points, regardless of the school rankings. Our community is working hard to move forward and completion of this project and making sure that our lowest income residents remain in this community has to be paramount.

Thank you so much for your time.

MR. OXER: Thank you, Ms. Gorman.

Any questions?

(No response.)

MR. OXER: We're glad to hear that it's moving along because we had some questions several years ago when this first came up, so we're glad to see it's moving along.

Who's next?

MR. ARELLANO: I'd just like to say I'm a former resident of the Wheatley Courts.

MR. OXER: And you have to tell us who you are.

MR. ARELLANO: Daniel H. Arellano, Jr., and I'm also a volunteer from the Wheatley Courts and the vice president of Wheatley Courts, and I'm here today to speak on behalf of the community of the Wheatley Courts.

First of all, all the help that you've been giving us, it really does help. I've seen it in the people in the community. All the programs that you've brought to it, it does help, and all the funds that you've given, it does help. So if they could have the 3 percent, then they can move forward and finish with the project because there's 247 apartments that they knocked down so there's 247 people of families that were out. So they all want to come back home but if we don't get that, then we cannot come back home, there's only going to be some of us coming back home. So if you could help us and finish what was started, that would be great.

Thank you.

MR. OXER: Okay. Thank you, Mr. Arellano.

Just for the record, who's got on a yellow T-shirt? He's obviously brought his posse today. Everybody that's got a yellow T-shirt that's representing San Antonio, raise your hand.

MR. ARELLANO: Eastside.

(Cheering and applause.)

MR. OXER: Well, we're glad to see that the projects we're supporting are recognized and appreciated where we try to put them in there.

You're next.

MR. ETIENNE: Good afternoon, Mr. Chairman, members of the Board. My name is Mike Etienne. I'm with the City of San Antonio. I'm here on behalf of the mayor, Mayor Ivy Taylor, and our city manager, Sheryl Sculley, to essentially support our partner, the Housing Authority's request to amend the QAP, Section 11.9.

The Wheatley Courts project is extremely --

MR. OXER: Don't make us dizzy again with all those numbers.

(General laughter.)

MR. ETIENNE: The Wheatley Courts project is very important to the City of San Antonio because we see that project being the catalyst that will help revitalize the entire Eastside of San Antonio. We believe that if we want to be a world class city, all of our neighborhoods must thrive, including the ones that have struggling schools.

We have invested almost $200 million in that community, specifically to improve the streets, the drainage, sidewalks, curbs and gutters. We've added more police officers to the neighborhood to the point where crime has been reduced by 7 percent. We've seen improvements in our school district where our graduation rate went from 45 percent to 84 percent at the local high school. But most importantly, we are improving the lives or transforming the lives of the people who live there.

The city is currently working with the partners to transform a current vacant school into a one-stop job training center to provide free job training opportunities to residents in the community in the areas of welding, CNA, certified nursing assistants, manufacturing, IT, because we feel that if we can connect those residents to good paying jobs, ultimately that will improve the overall quality of life of the families, and of course, the children will improve.

So again, I'm here today to ask for your support in amending the QAP Section 11.9 to make sure that this project continues. Again, the city is very grateful for your funding or allocating the first two phases for tax credits. Phase I, you approved that, Phase II, you approved it, so we are now close to asking for support for Phase III. That's the final phase. So we are grateful for the support you've given us so far and we would like for you to continue that by funding Phase III because, again, this project we see it as the catalyst that will revitalize the entire Eastside of San Antonio.

So again, on behalf of the mayor and the city manager, thank you again for all your support, and thank you.

MR. OXER: We appreciate your comments, Mike. And your police chief -- I'm sorry, tell me his name again.

MR. ETIENNE: Chief McManus.

MR. OXER: Chief McManus. He came and spoke to us it's been what, two years ago now? At least two years back. Tell him we're glad to hear things are going in the right direction, and the most important thing you can offer to your residents of Wheatley is hope.

MR. ETIENNE: Thank you.

MR. CHISUM: Mr. Chairman, I have a question.

MR. OXER: Yes, sir.

MR. CHISUM: You mentioned the job training center. Who's funding that, please?

MR. ETIENNE: That is funded through Alamo Colleges, and Alamo Colleges receives grants and also support from the Texas Workforce Board.

MR. CHISUM: Thank you.

MR. OXER: It's an interesting concept that we'll have to talk about again later too.

Thanks, Mike.

Who's next on this one? Hey. I knew we were going to see you today.

MS. SISAK: Trying to get done early and get back to my paying job. I'm Janine Sisak. I'm here today representing TAAHP as the chair of the QAP committee. I'll keep this brief because I know a lot of people have a lot to say.

I do want to thank staff for all their efforts in synthesizing all the comments. I know this year has been a challenge with the new legislation. It's been a challenge for everyone to kind of grapple with the language and how it needs to be interpreted, and then, of course, synthesizing that into the QAP rules.

MR. OXER: And if it was easy, anybody could do it. That's why they've got us and that's why Texas ranks number one in this program nationwide.

MS. SISAK: There you go.

MR. OXER: And for the record, it's because of the efforts of everybody out in this room, and we're just trying to make all this work.

MS. SISAK: I agree, and that's kind of in line with some of my comments today.

We as TAAHP wished in retrospect that we would have engaged with staff much earlier in the process. We know that this year has been kind of a bumpy road.

MR. OXER: You'll get a chance to do that next month, by the way.

MS. SISAK: I know. You're stealing all my thunder. We are committed to working with staff early on in the 2017 QAP and getting some of this stuff worked out.

So that being said, it's been an interesting year. I think we started with last year's QAP, there was an early draft that created a lot of consternation with the stakeholders. The development community submitted a lot of comment which Marni commented on, and I think a lot of that has kind of been rolled back, but I think there was a lot of damage control which is great that we could work together to get to this place. But when I kind of step back and look where we are today on the QAP, it really is not all that different from last year's QAP with the exception of the senior parity and the change with LPS which are, I think, steps in the right direction, and TAAHP leadership was very instrumental in making some of those legislative changes happen.

So I could comment on a lot of things substantively; I'm not going to. Staff was really generous in seriously considering and adopting a lot of the TAAHP comments that we made during the public comment period.

I will make one comment on the second supplement that was issued today with regard to the aging in place category. You know, I don't think TAAHP is opposed to making that point category available to all applications, general population, supportive housing, and elderly. For a lot of people in the room who haven't really honed in on this, I think the real problem is that educational excellence and aging in place are no longer either/or categories. So I think under the reading of the senior parity bill, HB 3311, how it reads now is all populations, all applicants can get both, regardless of whether you're taking points on one or the other.

I think the concern with that is there's a concern that certain applicants will chase the aging in place accessibility features, will commit to do accessibility features in general population applications just to get the points, and I don't think that's a good policy. It's just not a good use of resources. It doesn't make sense for general population applicants to take points for doing higher toilets, a handrail in the hall, blocking in the showers. I just don't think that makes any sense.

So I think TAAHP's position on this is either go back to making them either/or scenarios or just take out aging in place altogether, we'll work on it with the 2017 QAP and really trying to achieve senior parity in different ways.

So those are my comments. I think that's all you're going to hear from me today. Thank you all.

MR. OXER: Thanks, Janine. Appreciate you sticking to the clock.

Okay. Bobby, you're up, because we're going that way and coming back around.

MR. BOWLING: Good afternoon, Chairman and members of the Board. I didn't mean to cut the line; I thought I was at the end.

(General laughter.)

MR. BOWLING: I want to also speak on that item that Janine just spoke on but I want to hit not the exact same points, in respect of your time. I again think that the way that it's worded now that they're two separate items, that it's a point chasing item and I think everyone will chase these points, and I think it is a very expensive point chasing item. I'm estimating, just this morning as a lifelong contractor primarily before I got into this program, that these ADA requirements are going to increase the cost of each unit by about $10 a square foot. And I don't think, like Janine said, a good use of your resources. I think everyone will chase this point, I think you're going to increase the cost of your housing across the board by $10 a square foot, and that squeezes out the number of units at the end. You're going to have less units and less money to dole out for less units, and instead making this accommodation.

From my perspective in my region -- and I know I'm a little bit unique -- we have a very young population, we have very few elderly people living in our general population deals. The things that are here on this list, one of them is a walking bar along a corridor, that's just going to be a gymnastics bar for my five and six and seven year old kids that are there. It's just not going to serve the intended purpose. I can get it if you're going to want to do these in elderly only.

I do disagree with one thing Janine said, I don't want you to make this an either/or unless you've just made it elderly can just get this, but if everyone can get this either/or -- and maybe that's what she was saying, maybe I don't disagree with her at all -- if you let a general deal do either the educational excellence or these ADA accommodations, I think you're gutting your ICP remedial plan where educational excellence was something you submitted to the court to try to address the low income stuff.

MR. OXER: You know, for the record, you could have talked all day and not brought up those three initials.

MR. BOWLING: Well, I'm sorry about that, Mr. Chairman.

MR. OXER: We're trying to get that thorn out of our side.

MR. BOWLING: We're trying to make our buying decisions for next year's round and this is a huge policy shift. If you make that an either/or, then it just kind of guts what I've been doing for the last six months was just trying to find sites that you have identified as high scoring sites with the educational excellence and the high point criterion you have in that.

So I understand what you're saying about 3311, that you can't limit these point criterions to either elderly or general. I think maybe if that's the case that some more thought needs to go into item number 8 and maybe bring that back next year with something more reasonable. But I think this is a very expensive list of changes with this ADA -- anything to do with 2010 ADA sections and Section 504, those are expensive accommodations, and if they're not necessary in a general population unit, and you can't specify that they can only be used for elderly because of 3311, then I would advocate that just strike the point item and bring it up next year and let's have some more discussion.

MR. OXER: Good. Thanks for your comments, Bobby.

Any comments, questions?

MS. McIVER: Diana McIver, DMA Development Company.

And as much as it pains me to say this, I'm actually in agreement with Janine and Bobby on striking.

MR. OXER: Wait a minute, let me get a calendar and a gold star here.

(General laughter.)

MS. McIVER: I know. I was one of the people that was very excited when I saw aging in place as an alternative to educational excellence because I thought that was a way to have a senior point category that was a little more comparable and meaningful to seniors than the educational excellence was. But at this point, aging in place has been watered down so severely, and the name alone, it's bad public policy to say that we have housing with 25-year-olds aging in place. No, that is not what we want. Our 25-year-olds, our 30-year-olds in family housing, we want to help them with jobs, we want to help them with education, we want to help them buy homes, we don't want them aging in place, we don't want them living with us when they're 76 years old.

So I just say at this point in time I think that we're going to have an Urban Affairs interim charge that deals with this program, let's scrap aging in place -- it pains me -- let's scrap aging in place and let's work on it over the summer and see if we can't come up with something meaningful.

MR. OXER: Great. Thanks, Diana.

Donna, now you're up. If you want to say ditto, that's fine.

MS. RICKENBACKER: Good morning. Donna Rickenbacker with Marquee.

Tim, I want to thank you and staff. You all did a great job with the reasoned responses. I know that was a lot of work.

I'm not here to talk about aging in place, I'm here to talk about another scoring category, opportunity index. This scoring category allows an applicant to score a maximum of seven points if their site is located in a census tract that's in the first or second quartile and depending on the performance achievement of the elementary school that the site that the apartment's occupants are zoned to attend. Staff uses 77 or greater to determine the performance level of the elementary school because it's the statewide median for both elementary and all other schools combined. Last year 77 was the statewide median for all schools combined; it also was the statewide median for each of the school types: elementary, middle, and high school. This year the median for the elementary school is 76.

Since the elementary school is the basis for which you get the opportunity index points, we requested that that category, the elementary school, be dropped from 77 to 76. This recommendation, by the way, was not only made by Marquee, it was made by TAAHP, it was made by TXCAD, these are percentage-wise some of the largest stakeholders in this industry.

This recommendation is consistent with the methodology that staff has been using all along to determine the performance of schools. Staff has acknowledged this year in their reasoned responses that the statewide median for elementary schools has dropped to 76.

And last, but most importantly not least, Chairman, you mentioned that everybody is not going to receive all points this year, and I fully understand that. I do want you to understand, though, that everybody is chasing the same sites out there. It's driving prices on sites and also there's some games being played out there. With all that said, if we are able to reduce the opportunity index, elementary performance in the opportunity index to 76, this is going to open up some high opportunity sites that have good performing schools and will allow an applicant to achieve these very critical points to have a competitive application. So I ask for your consideration in that regard.

There's one more point I wanted to bring up. I wasn't planning on doing it, but you asked what is the size of a place, and I kind of want to go into what a place is. A place is a defined term in our rules and it's inclusive of --

MR. OXER: Fifteen seconds.

MS. RICKENBACKER: It's inclusive of a city, it's inclusive of a county, it's also inclusive of CDPs, census designated places, a very small area that can be part of multiple census tracts, by the way, all of which could have a LIHTC development in it. And so technically you can achieve the highest score in that point category for being in an area that could potentially be across the street from a LIHTC development. I hope you all keep that in mind in the definitions. Thank you so much.

MR. OXER: Thanks.

DR. MUÑOZ: I've got a question.

MR. OXER: Okay. Question by Dr. Muñoz.

DR. MUÑOZ: You said this year TEA has established that threshold of 76 for elementary?

MS. RICKENBACKER: It's the statewide median for elementary schools. Yes, sir.

DR. MUÑOZ: When was that determined?

MS. RICKENBACKER: That came out this year, the 2015 TEA established the ratings of all the schools.

MR. OXER: When does that report come out?

DR. MUÑOZ: Was it last week, was it four months ago?

MS. HOLLOWAY: August.

DR. MUÑOZ: August. Marni, why would we use 77 for elementary, middle and high school if in August it was 76?

MS. RICKENBACKER: It's 76 for elementary only.

DR. MUÑOZ: I get that. Why not have 76 for elementary and 77 for middle and high school? I mean, if that's the metric that we're using, why not use what's in place?

MS. HOLLOWAY: The metric that we've been using all the way through has been the statewide median, it hasn't been the metric for each individual elementary school and middle school or high school, it's has been that statewide median.

DR. MUÑOZ: Well, here's what I understand, maybe I'm understanding incorrectly -- that the statewide median for elementary is 76.

MR. OXER: But the statewide median for all schools combined is 77. That's what's been used historically. Is that not correct, Marni?

MS. HOLLOWAY: Yes.

MR. OXER: That's the difference, that's the issue in question.

DR. MUÑOZ: The 77 is an aggregate of the three types of schools?

MS. HOLLOWAY: Yes, it is.

MS. RICKENBACKER: And last year the statewide median was 77 but it was also for each of the individual school types, so last year it made sense to use 77 in the opportunity index because it also was the statewide median for the elementary school which is tied to the opportunity points.

DR. MUÑOZ: And so now it's 76 for elementary.

MS. HOLLOWAY: For just the elementary schools, yes.

DR. MUÑOZ: So I mean, this would also impact the San Antonio situation?

MS. HOLLOWAY: Actually, I don't believe it would. I believe that the San Antonio situation is a little bit different.

MR. OXER: It's going to be unique.

MS. HOLLOWAY: Yes.

MR. OXER: Okay. Thanks, Marni. Thanks, Donna.

MS. FINE: Good morning. I am Tracy Fine with National Church Residences, and I want to thank the staff for all their time and dedication and listening to all of us as a development community and trying to make as many accommodations as possible.

I'm up here today to echo Joy and Walter's comments on supportive housing, and I'm asking you not to approve the changes that would decrease the amount of points available to supportive housing projects. We are considering a supportive housing project serving chronically homeless adult individuals without children, and additional disabled. We can barely compete as a supportive housing project even when the three points are included.

Our residents must have access to public transit. Ninety percent of our residents do not own cars. They are most successful in urban core areas that have a variety of services accessed with public transit. I cannot serve this population at sites that score under high opportunity. They are only in city fringes and suburban areas or in locations that we cannot afford or that would have such NIMBYism that we would never be able to put a chronically homeless project in a community like that.

The three points barely give us an advantage. It's because it's only three points. High opportunity is seven points, educational excellence is five. We are only at the table if we are in a community revitalization area.

Serving chronically homeless individuals maximizes public resources. That's because these individuals are chronic users of public resources like emergency rooms, jails and hospitals. It's averaged that for every single person housed we save $16,000 a year; for a 100-unit project that's a savings of $1.6 million, and $24 million over a 15-year compliance that the tax credit project covers. This does not include individuals that are able to rejoin the workforce due to supportive housing services that allow them to be stabilized and get training to be productive members of society.

I'm asking you to allow these projects to remain competitive or at least be at the table and not take away these three points. Thank you.

MR. OXER: Great. Thanks, Tracy.

Any questions from the Board?

(No response.)

MR. OXER: Jean, welcome back.

MS. LATSHA: Thank you. Good morning. Jean Latsha. I, for the record, am not here representing an application or an applicant, but these are simply my own thoughts.

One thing I do want to say, I appreciate staff's efforts to comply with House Bill 3311 and what Tim said earlier about I do think that the QAP is basically a list of objectives that the Department wants to meet, and with the combination of that plus 3311, basically it compels the Department to create that list and then assign value to it.

One thing I do want to point out with respect to that is historic preservation scoring item right now, as I understand it, actually rewards more points for an application that does not meet another objective of the QAP and that just kind of doesn't really make sense to me. You get five points if you're not in attendance zones of goods schools but you get two points if you are in attendance zones of good schools, and it's just kind of backward thinking, in my view.

One thing also that has not been mentioned with respect to 3311, it was mentioned earlier, I understand that there were some conversations about include at-risk developments in the elderly cap. The plain language of the rule, I'm not sure that that really does comply with the bill. It says: Except as necessary to comply with the nonprofit set-aside that the Board may not allocate to developments reserved for elderly persons and located in an urban subregion. The fact is at-risk developments are located in urban subregions. You won't find the word subregion anywhere else in 2306, they refer to state service regions. The only reason the term is used here is to distinguish between urban and rural areas and that this should only apply to urban areas, but at-risk developments are absolutely located in an urban subregion, and therefore, they should apply to that cap.

I also mentioned to staff I think it will be easier for them if they simply publish a number and not a percentage. Point one percent of $11 million in one of those regions is $10,000 in credit, and quite frankly, that can affect whether or not someone has to wait for a collapse or it can affect which subregion is more underserved than another. I just think it would make their lives easier.

One last thing I would like to say. Marni alluded to this when talking about the previous participation scoring item. She talked about the fact that this is going to be considered in EARAC still because it's clearly an objective of the Department to have compliant developers and owners. I would argue that it is much more efficient to make this a scoring item than to deal with this in EARAC. EARAC is senior level department heads. You've got $900,000-plus worth of salaries sitting around a table for four hours talking about compliance records of people, and instead you could have a scoring item or a tiebreaker that says we would reward you for being in, I would say, a Category 1 or 2 with respect to previous participation.

There was a lot of comment on that item, but there was a lot of comment on a lot of items, and this is the only one that got completed deleted because of the comment. Some of that comment also was that it should just be modified to include Categories 1 and 2. I still think it should be a priority of the Department.

I can answer the questions on the schools, if you'd like, with respect to the 77 and the 76. I think 76, all you're doing is manipulating data. You can manipulate it to say 75, 76, 77, and it also gives the high schools a median of 78 or 79, so you'd want to look at those averages too. I think 77 is most consistent to use across the board.

MR. OXER: Great. Thanks for your comments.

MS. LATSHA: Thank you.

MR. OXER: All right. We've got more comment coming and there's going to be a whole bunch more. I can hear the stomachs rumbling up here. We're going to take a break for lunch, we're going into executive session. I want everybody to sit still and listen here for a second so that this is clear on the record.

The Governing Board of the Texas Department of Housing and Community Affairs will go into closed or executive session at this time. The Board may go into executive session pursuant to Texas Government Code 551.074 for the purposes of discussing personnel matters, pursuant to Texas Government Code 551.071 to seek and receive the legal advice of its attorney, pursuant to Texas Government Code 551.072 to deliberate the possible purchase, sale, exchange or lease of real estate, and/or pursuant to Texas Government Code 2306.039(c) to discuss issues related to fraud, waste or abuse with the Department's internal auditor, fraud prevention coordinator or ethics advisor.

The closed session will be held in the anteroom of this room which is John H. Reagan Building Room 140.

The date is November 12, 2015, and the time is 12:31. We'll be back here at ten after one o'clock.

(Whereupon, at 12:31 p.m., the meeting was recessed, to reconvene this same day, Thursday, November 12, 2015, following conclusion of the executive session.)

MR. OXER: Welcome back. The Board is now reconvened in open session at 1:24. During the executive session the Board did not adopt any policy, position, resolution or regulation, or take any formal action or vote on any item. So we're back in the game.

All right. We've had a motion by Mr. Goodwin, second by Mr. Chisum, as I recall, on item 7(a). Item 7(a) we've heard staff recommendation and public comment. Is there any other public comment? There appears to be none.

Peggy, you've got a couple to read in?

MS. HENDERSON: Several. Peggy Henderson, TDHCA.

Registering public comment for item number 7(a), all of the following names are against staff recommendation for item number 7(a): Sylvia Molina, San Antonio Housing Authority; Beverly Watts Davis, San Antonio Community; Arrie Porter, San Antonio Housing Authority; Elyse Harris, San Antonio Housing Authority; Lorraine Robles, San Antonio Housing Authority.

Also against are: Tresia Jones, former Wheatley resident; Sabrina Malana, Wheatley Courts resident; Kevin Rodriguez, former resident; Gloria Gonzales, former resident; Jose DeHoyos, former resident; Linda Ann Najera, former resident; Michael A. Perez, Public Allies, SAHA Choice; Lakisha Hazel, CASA office of EastPoint; Stephanie Moreno, Americorps Public Allies; Georgia Baines, CASA; Nehemiah O'Neal, San Antonio for Growth on the Eastside; LaShawn Roberson, against; Sarah Jones, Urban Strategies; Stephanie Rivera; Olga Kayttman; Lakiesha Bean, Public Allies; Tim Alcott, San Antonio Housing Authority; Mike Etienne, City of San Antonio; and Dr. Emilio Castro, San Antonio ISD. All against item number 7(a).

MR. OXER: That was a total of? It's like fifteen, eighteen, twenty?

MS. HENDERSON: Yes.

MR. OXER: Are there any other questions from the Board? Did you have a point, Tim?

MR. IRVINE: Comment, yes. Staff would like to revise its recommendation to include removal of the aging in place scoring item.

MR. OXER: I assume, Mr. Goodwin and Mr. Chisum, you'd be willing to modify your motion to that effect?

MR. GOODWIN: So willing.

MR. CHISUM: Yes.

MR. OXER: Both have agreed to do so. It seems like it was a big piece of the work here. Anything else from any of the Board?

(No response.)

MR. OXER: Okay. Motion by Mr. Goodwin, second by Mr. Chisum, as modified by Tim's recent comment to take aging in place out as a criteria, or out as a point, or out as a component. Those in favor, aye.

(A chorus of ayes.)

MR. OXER: And those opposed?

(No response.)

MR. OXER: There are none. It is unanimous. Okay. That's the QAP. So Marni, you've got part (b) here to get going on.

SPEAKER FROM AUDIENCE: I think there were several people who were unaware that public comment was going to end before lunch. We thought 7(a)'s public comments were going to be taken up after lunch as well.

MR. OXER: That's why I asked if there was any more comment on it. Do you have any additional comments? Walter, did you have something you wanted to say on 7(a)?

MR. MOREAU: Yes.

MR. OXER: We'll put it into the record, but just do it in sixty seconds, okay, because we're fighting a quorum issue here.

MR. MOREAU: We are against the change to supportive housing. It's going to be very hard for any supportive housing project to compete. This was thrown in at the last minute and wipes out three points.

MR. OXER: Point noted, position noted. And you are, just for the record.

MR. MOREAU: Walter Moreau, Foundation Communities.

MR. OXER: Great. Thanks.

Joy.

MS. HORAK BROWN: Joy Horak Brown, president and CEO of New Hope Housing in Houston, Texas.

I'm sorry, I misunderstood your direction, Chairman.

I would just like to request some clarifications. If the aging in place is removed, how does that further impact supportive housing and the educational excellence? It's a momentary change and I believe it has some impact and I am unclear.

It is also true that in educational excellence supportive housing can receive up to two points but only subparagraphs (a) and (b) are included, (c) which is met standard schools and one point is not even an opportunity.

So I would just like to ask that a deep breath is taking and there's some clarification, if that's possible. Thank you.

MR. OXER: Is there a clarification on that item? Can you clarify that, Tom or Marni?

MS. HOLLOWAY: Marni Holloway, director of Multifamily Finance.

Regarding the question about supportive housing and aging in place, we had already pulled out the supportive housing linkage to the aging in place item before it was removed today.

Regarding the educational excellence item, there are three scoring options there, five, three, and one points. We are limiting supportive housing to two points under (a) or (b) which would be five or three, they can still get the one point if they're in a district that's in that one point level.

MR. OXER: Okay. Good. Thanks.

If you need some more clarification, Joy, we can set you up a meeting with staff, you know that.

Sir, did you have something you wanted to add? We'll put it on the record, but I think it's evident where this is going. Okay?

SPEAKER FROM AUDIENCE: Sure. I'll just pass then. Thank you.

MR. OXER: Okay. Theresa.

MS. MORALES: Theresa Morales, manager of Multifamily Finance.

Item 7(b) involves a number of rules that govern the Multifamily funding applications, specifically subchapters A, B, C and G within Chapter 10. I will highlight some of the things that were changed within each of these subchapters in response to public comment.

Beginning with Subchapter A which contains all of the definitions, we added a definition for qualified entity which then led to a clarification made for the definition for right of first refusal. Both of these changes were to more closely align with the recent statutory changes to the right of first refusal process.

Changes to Subchapter B which includes the site development requirements and restrictions primarily involve the mandatory community assets where we provided clarification to some existing assets and added some back that were initially removed in the draft.

With Subchapter C which outlines for the most part the threshold requirements, in response to public comment staff is recommending that the documentation supporting a property tax exemption be submitted at the time of commitment or determination notice, as appropriate, instead of at the time of application.

Another change that staff is recommending is that the site design and feasibility report be moved out from under the third party report section and under the more general threshold items such that if components of this report are missing, it could be cured through the administrative deficiency process instead of possible termination that the market study and some of those other reports are subject to.

One of the other noteworthy changes to Subchapter C includes a clarification under the waiver section regarding the various requirements within these subchapters where waivers could be granted by the executive director, but the section still retains his authority to defer to the Board for consideration and action.

Staff recommends adoption of the repeal and the new of 10 TAC Chapter 10, Subchapters A, B, C and G.

MR. OXER: Any questions from the Board?

(No response.)

MR. OXER: Then we'll need a motion to consider.

DR. MUÑOZ: Move staff's recommendation.

MR. OXER: Motion by Dr. Muñoz to approve staff recommendation on item 7(b). Do I hear a second?

MR. GANN: Second.

MR. OXER: Second by Mr. Gann.

Joy, did you have anything you wanted to speak to on 7(b)? Any other questions from the Board?

(No response.)

MR. OXER: All right. Motion by Dr. Muñoz, second by Mr. Gann to approve staff recommendation on item 7(b). Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

MR. OXER: There are none. It's unanimous.

It looks like you're back up; it's your time of the year.

MS. HOLLOWAY: I am. Marni Holloway, director of Multifamily Finance.

Item 7(c) is presentation, discussion, and possible action to adopt the 2016 Multifamily Programs Procedures Manual. Included in your Board book is a basic outline of the manual that includes some general information. After the rules have been fully adopted, that will be updated and available to applicants providing guidance regarding rules and processes in order for them to access funding. Your approval today would include flexibility to update that manual as a result of that rule adoption.

MR. OXER: Any questions from the Board?

(No response.)

MR. OXER: Motion to consider.

MS. BINGHAM ESCAREÑO: So moved.

MR. CHISUM: Second.

MR. OXER: Motion by Ms. Bingham to approve staff recommendation on item 7(c), second by Mr. Chisum. No request for public comment. All those in favor?

(A chorus of ayes.)

MR. OXER: Those opposed?

(No response.)

MR. OXER: There are none. Good job, Marni.

Brent, looks like you're up.

MR. STEWART: Good afternoon, Chairman Oxer, Board. My name is Brent Stewart, director of Real Estate Analysis.

This is item 7(d) which is a request to repeal the 2015 underwriting rules and approve the new 2016 underwriting rules. These rules are Chapter 10 in the Multifamily Rules, Subchapter D. A draft of the 2016 proposed rules was published on September 26. We received twelve comments. The Board writeup includes a summary of those comments and changes to the rules that result from those.

The first section is relating to market rents.

Staff had proposed a rule that would limit the maximum market rent assumption to the 60 percent rents if a property had 15 percent or fewer market rate units. We received public comment on that issue. One was use the 60 percent gross rents instead of the net rents. Staff agrees and we've made that change. The other was to provide an alternate option in situations where they're in high market rent areas that would allow the applicant to provide an investor commissioned market study along with the application and that would allow rents to go up to 30 percent over the gross rents. Staff agrees with that and has made that change, adding that the investor has to indicate that they have reviewed that market study.

The next section related to the section that's basically the operative part of the REA rules related to how tax credits and how loans are sized. The staff proposed changes were strictly clarifying in nature and it outlined that the rules that we use in that process, there are terms and conditions that would be superseded by NOFAS or other program rules which we've discussed earlier about the HOME/TCAP NOFA earlier today.

There was a request to add some provisions indicating that adjustments to that sizing and those loan terms would be acceptable to the first lien lender or syndicator, that adjustments to achieve a DCR would not result in a deferred developer fee exceeding 50 percent which would have an impact on scoring. There was a comment about reducing the floor on Department loans, the DCR floor from a 115 to a 110.

Again, this section is really the sizing section of the REA rules, primarily for tax credits, as well as sizing Department debt as it relates to DCR. We don't size lenders debt or third party lender debt or mandate terms or any of those things, we just make assumptions and use them as a sizing exercise. The 50 percent deferred developer fee issue, from an REA standpoint, that's really an item that should be addressed in the scoring process because actually that particular one relates to points under leveraging state, federal and local resources. So staff does not recommend any changes in that section.

Third big area of changes related to developer fee, staff had proposed a 20 percent increase in developer fee for public housing authorities that are converting public housing through the RAD program using tax-exempt bonds. We received a comment in support of that and we received a comment that suggested adding transactions that had higher levels of debt that normal to also get a higher developer fee due to the increased risk associated with the development having higher debt.

Staff's recommendation for the higher fee is related to -- anything related to a higher fee would be related to additional scope of work. It's not related to the additional risk in a transaction, it's what else does the developer have to do. We struggled with this one but came back to these are complex transactions that housing authorities put together and so we are making the recommendation that that part of the fee be allowed to go up to 20 percent, and that's based on increased scope, not risk.

There was another comment asking again for increased fee related to an identify of interest transaction allowing for a developer fee on the acquisition cost of the property itself. And staff disagrees that a developer fee should be paid on selling yourself your own property. We don't believe that that activity has the same level of scope of work than going and finding a different property to purchase and negotiate a contract and deal with those types of things. So we disagree with that comment.

Third, and probably most notably, is staff had recommended a provision that would have limited the amount developer fee used in basis to be fixed at the time of initial underwriting. You can imagine that we got quite a bit of comment on that one, and you know, there's implications on some of these things on other applicants that sit behind these deals. This particular one, in essence, would have an impact, could have an impact on applicants down the road in the sense that these would be consuming more credits than what had originally signed up for to take. I said that really wrong. They could have an impact on other applicants because they're using credits that otherwise, except for the normal cost increases that should occur, not from a lack of due diligence, those credits are foregone to people who are further down the list.

The last item related to documentation for proving up property tax exemptions, staff had requested that along with the application the applicant should provide certain documentation supporting that. That has been changed such that -- and actually changed to other parts of Chapter 10 -- where you only have to provide that documentation if you actually receive an allocation on July 30 and you have to prove it up by commitment.

So those are the issues or those are the changes to the draft rules. We recommend approval.

MR. OXER: Good. Looks like you didn't attract too much attention with this one.

Any questions from the Board?

MR. GOODWIN: Move approval.

MR. OXER: Motion by Mr. Goodwin to approve staff recommendation on item 7(d). Do I hear a second?

DR. MUÑOZ: Second.

MR. OXER: And second by Dr. Muñoz. There's no request for public comment. So motion by Mr. Goodwin to approve staff recommendation on 7(d), second by Dr. Muñoz. Those in favor?

(A chorus of ayes.)

MR. OXER: And those opposed?

(No response.)

MR. OXER: There are none.

Raquel, wake up.

MS. MORALES: I'm awake.

MR. OXER: Just been waiting the whole time to get up here, anxiously.

MS. MORALES: I'm always last. Item 7(e) is presentation, discussion, and possible action on the repeal of 10 TAC Chapter 10, Subchapter E which is our Asset Management rules, and the adoption of the new Subchapter E 2016 Asset Management rules.

The final rule clarifies, corrects and adds information in some sections to ensure that we are accurately processing all of our post-award activities and hopefully having more effective communication with our development owners.

We published the rules in the *Texas Register* and accepted public comment through October 15, and we received a whopping seven comments on our Asset Management rules.

MR. OXER: Does that mean you're doing good or bad?

MS. MORALES: I think it means we're doing good -- well.

MR. OXER: I guess it depends on who you ask. Right?

(General laughter.)

MS. MORALES: Most of the comment that we received agreed, I think, with staff recommendations on some of the proposed language that we made to the rule to clarify certain processes or activities, and staff agreed with the majority of those. And we received a lot -- or not a lot but we did receive some proposed amended language and staff looked at that and agreed with the comment received but proposed amended language that would hopefully clarify cleanup language wherever it was needed.

We did receive some comment with respect to our cost certification section. I think that's one of the items where we did receive some opposition in Section 10.402(j) and the comment received was with respect to in that section of the rule we list out the items required for cost certification. Staff proposed changing requiring the pro forma to go out fifteen years to thirty years, and we did get comment proposing that change, asking that we revert back to the 2015 language to be consistent with what we do at initial application.

So staff disagrees with that comment. We still propose and recommend including the 30-year pro forma for a couple of reasons, primarily that the 15-year pro forma is something that's used at application along with other tools that help us to ensure the long-term feasibility of a development as required under our statute under 2306.185 and under Section 42(m). And so given that, we no longer have those same tools or cannot use those same tools at cost certification. For example, the expense to income ratio, we felt that incorporating a 30-year pro forma again would allow us to do what we're required to do.

We did also reorganize Section 10.405 which is related to our amendments in hopes that we would be able to provide some more clarity on that section. I'll say that there is still work to be done on that section and maybe some of our other rules. Staff is open to having those conversations now to get ready for next year's rule where we can make it clearer than it is now on what type of amendments come to you as a Board for decisions and what we can handle administratively. So we tried to reorganize the rules to kind of make that a little bit clearer and hopefully easier for the outside community to work with us.

MR. OXER: Offer them some guidance on what they should come ask us if they're unhappy with what they get from you.

MS. MORALES: Right. And that's pretty much it. Staff recommends approval of these Asset Management rules.

MR. OXER: Good. Okay.

MR. GOODWIN: So moved.

MR. OXER: Motion by Mr. Goodwin to approve staff recommendation on item 7(e). Do I hear a second?

MR. CHISUM: Second.

MR. OXER: And second by Mr. Chisum.

Tamea.

MS. DULA: (Speaking from audience.) Actually I think I'm more appropriate in public comment.

MR. OXER: Okay. Appreciate hearing that.

There's a motion by Mr. Goodwin and second by Mr. Chisum to approve staff recommendation on item 7(e). There's no request for public comment. Those in favor?

(A chorus of ayes.)

MR. OXER: And opposed?

(No response.)

MR. OXER: There are none.

Okay. We've reached the point in the agenda where we accept public comment on matters other than those items which are posted on the agenda for the purpose of creating future agendas.

MS. DULA: Tamea Dula with Coats Rose.

At the end of the day when you get a tax credit award, you've got to get your project placed into service, and it was recently realized by a number of people in the tax credit community that although the QAP and the rules refer to Section 42 with regard to placement in service, the carryover allocation agreement for some years has included provision that says that instead of one unit per building being placed in service to meet the criteria, in Texas 100 percent must be placed in service for you to meet that deadline.

And the request was made through TAAHP to include a definition of placement in service that would follow the federal rule. It appears that the federal rule has always been the rule here, it's just that the carryover allocation agreement at some point in time was amended to include a much more rigorous requirement. And this is a document that you don't really get to negotiate with the TDHCA, it's sign it and be done with it.

So I'm here to ask that the Board consider what reasons there might be for requiring this much more rigorous hurdle to be placed in service and avoid losing your tax credits, and if there is no particular policy with regard to that, then I am here to request that you talk with the staff about amending the carryover allocation agreement to follow the federal requirements.

MR. OXER: Very good point. Appreciate your comments on that. I'm sure we'll take that under consideration.

MS. DULA: Thank you.

MR. OXER: Obviously, recognize we can't do anything about it today but I think when we're looking at what's our policy on policies here for the future QAPs and others, we'll gin that into the mix.

MS. DULA: I don't think it's anywhere in the rules or the regulations, it's only in that one document so far as I can find out. Thank you.

MR. OXER: Fair enough. Thanks for your comments.

Okay. Are there any other comments from anybody in the audience that wishes to speak? Anybody wish to say anything? Anybody from the staff?

(No response.)

MR. OXER: Anybody from the Board or members at the dais up here?

MS. BINGHAM ESCAREÑO: Yes, sir.

MR. OXER: Ms. Bingham.

MS. BINGHAM ESCAREÑO: Just wanted to thank staff for their hard work in knowing that they can't be everything to everyone and working as hard as you could to build a QAP that works for now, as best as possible.

And just an observation that we have friends in the audience today, a lot of folks from Wheatley who have left, and also our friends from supportive housing, and would just thank staff in advance for possibly getting back with them and making sure that somebody helps explain, if any explanation is needed, about how thoughtful you guys have been in trying to put together the best options and how thoughtful we were as a Board at considering your recommendations and maybe there's some future opportunities. I know the educational excellence was obviously a big deal today, and maybe it looks kind of anticlimactic that we just kind of take a vote and then everybody goes away. But if I were them and if I didn't know as much as we know or as much as you know, I would feel like I lost and I'm not sure why after I gave a really compelling argument.

So I just would ask that we do, like I know you guys always do, which is to follow up with those and anybody else that you sense today may have been very compassionate or compelling about their positions and didn't quite see the change that they wanted.

And just wanted to thank you also because it sounds like you're going to get started on the 2017 one already, and it sounds like you have great goals for that which, you know, would help, I think, everybody a lot. I think every year we kind of build on things that we built on the year before and it looks like we all have really good intentions and at some point we may have lost the spirit of some of it, even though I think we all represent it. So thank you for that also.

MR. OXER: Anything else by any other members of the Board?

DR. MUÑOZ: Just a quick embellishment to Leslie's comments. You know, you try to develop a policy that's as fair as possible and that can be applied as consistently as possible, and there are instances of uniqueness and idiosyncrasies and I think that we provide a mechanism to try to address those in the form of a waiver. I think her point of trying to maintain that spirit is well intact and sometimes these policies don't get down to a granular level that apply to your situation, and those are things that I think the Board would be receptive to consider, not to say that it would move in a direction that you would approve but it would certainly consider.

MR. OXER: Very good point. I concur on that. Ultimately the QAP and the Tax Credit Program, in and of itself, is a very important tool that we use to address the housing issue in this state but it's not the only tool and it's not something that can be applied to everything. If you get a tool that applies to everything, it's not going to be very good at anything. So we try to make this as strong as we can, but in the end, that's the use of a tool, we give the staff a tool and it comes back, and as Juan says, if there are options to take a good hard look at something that's worthy of one of those quirks that we've tried to work out.

So many times for so long now we've been ironing out quirks and wrinkles and chasing these little gremlins out of this QAP, recognizing that it's a work I progress that's going to constantly be evolving and we're going to have a constantly evolving state of affairs that we have to deal with. So that's why we don't put one in place and you have to deal with it forever, we're going to be constantly working with it. And for that, I am enormously grateful for everybody that's here up on the dais here.

I'd like to thank Ms. Bingham and the Audit Committee group, Mr. Gann and Mr. Chisum, for taking the extra time to be a part of that.

The QAP is strong. I'm absolutely confident that my comment about Texas being number one in the country with this is based on the fact that we sit here in this and hammer out these details in the fashion that we do. There's conflict, the conflict is hard but that's what makes it strong and sharp when we get finished with it.

So with that, if there's no other comment from the Board, it's a good thing we do here. I appreciate the effort that everybody makes. We're good because we are Texas and we do this. So with no other questions, I'll take a motion to adjourn.

MS. BINGHAM ESCAREÑO: So moved.

MR. OXER: Motion by Ms. Bingham to adjourn.

MR. CHISUM: Second.

MR. OXER: And a second by Mr. Chisum. No public comment required. Those in favor?

(A chorus of ayes.)

MR. OXER: See you in December. Have a good Thanksgiving.

(Whereupon, at 1:55 p.m., the meeting was adjourned.)

C E R T I F I C A T E

MEETING OF: TDHCA Board

LOCATION: Austin, Texas

DATE: November 12, 2015

I do hereby certify that the foregoing pages, numbers 1 through 130, 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.

11/16/2015
(Transcriber) (Date)

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