

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD OF DIRECTORS MEETING

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

February 25, 2016
10:00 a.m.

BOARD MEMBERS PRESENT:

J. PAUL OXER, Chair
T. TOLBERT CHISUM, Member
TOM H. GANN, Member
J.B. GOODWIN, Member

TIMOTHY K. IRVINE, Executive Director

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b) Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Mill Run Apartments (HTC 91021 / CMTS 950)	
c) Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Ebenezer Senior Housing (HOME 532339 / CMTS 2681) and Medina Court Senior Housing (HOME 531103 / CMTS 2635)	
d) Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Quail Run (HTC 91049 / CMTS 964)	
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e) Presentation, Discussion, and Possible Action on Amendments to the 2016 State of Texas Consolidated Plan: One-Year Action Plan	
COMMUNITY AFFAIRS	
f) Presentation, Discussion, and Possible Action on Approval of the Draft Federal Fiscal Year ("FFY") 2016 Department of Energy ("DOE") Weatherization Assistance Program ("WAP") State Plan for Public Comment	
g) Presentation, Discussion, and Possible Action on the Reprogramming of Certain Program Year ("PY") 2015 Emergency	

Solutions Grant Funds from the Coalition for the Homeless Houston/ Harris County to Harris County Domestic Violence Coordinating Council

MULTIFAMILY FINANCE

- h) Presentation, Discussion, and Possible Action on Determination Notices for Housing Tax Credits with another Issuer
- I) Presentation, Discussion, and Possible Action on Waivers Relating to Mandatory Development Amenities

ASSET MANAGEMENT

- j) Presentation, Discussion and Possible Action on Material Amendments to the Housing Tax Credit Land Use Restriction Agreement (LURA)
- k) Presentation, Discussion and Possible Action regarding Material Amendments to Housing Tax Credit Application

RULES

- l) Presentation, Discussion, and Possible Action on adoption of the 2016 State of Texas Low Income Housing Plan and Annual Report, and an order adopting amendments to 10 TAC Chapter 1, Subchapter A, General Policies and Procedures §1.23 concerning State of Texas Low Income Housing Plan and Annual Report, and directing their publication in the Texas Register

CONSENT AGENDA REPORT ITEMS

ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

- a) TDHCA Outreach Activities, January 2016
- b) Report on the Department's 1st Quarter Investment Report in accordance with the Public Funds Investment Act ("PFIA")
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P R O C E E D I N G S

1
2 MR. OXER: I'd like to welcome everybody to the
3 February 25 Board meeting of the Texas Department of
4 Housing and Community Affairs Governing Board, starting as
5 we do, with roll call. Ms. Bingham is not with us today.
6 Mr. Chisum.

7 MR. CHISUM: Present.

8 MR. OXER: Mr. Gann.

9 MR. GANN: Present.

10 MR. OXER: Mr. Goodwin.

11 MR. GOODWIN: Here.

12 MR. OXER: Dr. Munoz is not here. I am here.
13 That gives us four; we have a quorum. We are in business.
14 Tim, lead us in the pledge.

15 (Whereupon, the Pledge of Allegiance was
16 recited.)

17 (Whereupon, a Pledge to the Texas Flag was
18 recited.)

19 MR. OXER: All right. Do we have any guests to
20 welcome here, Michael? We appreciate you all, the
21 regulars.

22 MR. DEYOUNG: Other than the regulars? No,
23 sir.

24 MR. OXER: I would like to think that they are
25 guests of the process. All right. With respect to the

1 consent agenda, is there any item any member would like to
2 pull. I would like to pull one on the Chair's option to
3 take the report on the QAP.

4 Marty, I would like you to give us a quick
5 update on that here in a minute, once you get past the
6 consent agenda. With the exception of 2(d) being pulled,
7 is there any item any member would like to pull?

8 (No response.)

9 MR. OXER: After that, I'd entertain a motion
10 to consider.

11 MR. GOODWIN: So moved.

12 MR. OXER: Okay. Motion by Mr. Goodwin to
13 approve the consent agenda modified with the exception of
14 Item 2D. Is there a second?

15 MR. GANN: Second.

16 MR. OXER: Second by Mr. Gann. No request for
17 public comment? I assume that is not a request for that
18 item, right?

19 MS. MCGUIRE: For one.

20 MR. OXER: For one?

21 MS. MCGUIRE: For the consent agenda.

22 MR. OXER: Okay. You wish to speak on the
23 consent agenda?

24 MS. MCGUIRE: Okay. All right. Let's speak.

25 MS. MCGUIRE: My name is Ginger McGuire, and I

1 am with Austin Stone. And I have a question. And I want
2 to be clear that I am not opposing this.

3 But I would like clarification on 1j.1, 2, and
4 3, where the HUB is being eliminated. And I would like to
5 understand -- as a HUB, I am a HUB.

6 Under what conditions it is okay to eliminate
7 the HUB on the LURA, and what precedent we are setting
8 here by doing it. I am not -- it is not clear to me. And
9 I want to make sure I understand what the rules are, going
10 forward.

11 MR. OXER: I think that is an item that could
12 be -- Raquel, you could deal with that. Not necessary
13 here, just something that she needs -- do we need to bring
14 this up, Counselor, to clarify this for one individual?

15 MR. ECCLES: I have no idea.

16 MR. OXER: Okay. What I would suggest, and --
17 right.

18 VOICE: Are you asking in general?

19 MS. MCGUIRE: I am. Because there are two
20 reasons that are given for eliminating the HUB. One is
21 that they would not have gotten the points, I mean, that
22 they would have gotten the award anyway, even if they
23 didn't have the HUB. And then the other is that the HUB
24 person has been involved all along. And so it is okay to
25 eliminate the HUB.

1 And so I want to understand, under what
2 conditions that going forward, it is okay to eliminate the
3 HUB. It is creating some confusion for me, and I would
4 think for others as well. Because it does set a
5 precedent.

6 MR. OXER: Okay. Raquel, can you clarify that
7 quickly, or do you want to -- do we need to pull this one?
8 We can pull this from consent and go through it if we
9 need to.

10 MS. MCGUIRE: I want to be clear that I am not
11 opposing it. I just want a clarification in
12 understanding.

13 MR. OXER: Okay. Let's clarify. I think we
14 need to do that to clarify here. Raquel.

15 MS. MORALES: Raquel Morales, Director of Asset
16 Management. Our rules have provisions under your
17 ownership transfer sections for a HUB to be removed. And
18 there are specific circumstances under which a HUB may be
19 removed, and not replaced during its compliance period, or
20 at any time.

21 And so you know, I guess that is the question I
22 can kind of speak to; what those specific circumstances
23 are. They have to be able to document, and the Board has
24 to find that the HUB that is being removed is acting of
25 its own volition, or is being removed as a result of a

1 default. That the participation by the HUB has been
2 substantive and meaningful. And that otherwise, if there
3 is a new purchaser coming in that is replacing the HUB
4 that is not a HUB would meet our requirements under
5 ownership transfer.

6 So in these particular three that she is asking
7 about, and I don't know if you are asking specifically,
8 they gave their reasons for why they could not keep a HUB
9 in the deal.

10 I think it had to do with they are not able to
11 retain their HUB status and receive their certificate from
12 the Texas Comptroller. I believe it is because --

13 MR. OXER: Are they graduating out,
14 essentially?

15 MS. MORALES: Right. I think it is because
16 they are either not a resident of Texas anymore, or not
17 conducting most of its business in Texas. And based on
18 the Comptroller's rules for how to be certified as a HUB,
19 they wouldn't meet that criteria.

20 MR. OXER: Right.

21 MS. MORALES: And then these three properties,
22 it is the same owner. They would still be involved. It
23 is just they wouldn't be able to present a HUB certificate
24 when we go out to monitor.

25 MR. OXER: It would still be the same people.

1 They just have a different tag under their name.

2 MS. MORALES: Right.

3 MR. OXER: So essentially, on the first one,
4 they can leave of their own volition, or they can leave
5 because we asked them. But the managing partner can't
6 push them out.

7 MS. MORALES: Yes. I mean, if there was a
8 reason for them being pushed out, that would be something
9 that we would I think, consider. They could explain what
10 the circumstances were for that.

11 MR. OXER: Right.

12 MS. MORALES: And we would --

13 MR. OXER: I think -- my impression is the idea
14 is to -- once they are in as a HUB, and they get the
15 points for being a HUB, then the partner can't push them
16 out, once they have scored the points.

17 MS. MORALES: Right.

18 MR. OXER: Is that clear to you, Ginger?

19 MS. MCGUIRE: That is clear to me. Thank you.

20 MR. OXER: Okay.

21 MR. IRVINE: I guess the way I would say it is,
22 the fact that the deal would have been awarded anyway is
23 not a reason for the HUB issue. It is simply a check box
24 issue.

25 MS. MORALES: Right.

1 MR. IRVINE: And with regard to the HUB itself,
2 we view the incentive to include a HUB as promoting
3 opportunities for HUBs. We want them to have financial
4 opportunities and development opportunities. And when a
5 HUB itself has realized those benefits and had all the fun
6 it wants to have, we don't see any upside in forcing it to
7 stay involved.

8 MS. MCGUIRE: Thank you.

9 MR. OXER: Okay. With that clarification, is
10 there any more questions from the Board?

11 (No response.)

12 MR. OXER: Okay. I have a motion by Mr.
13 Goodwin, second by Mr. Gann, to approve the consent agenda
14 as modified. Those in favor?

15 (A chorus of ayes.)

16 MR. OXER: Opposed?

17 (No response.)

18 MR. OXER: There are none. Unanimous. Okay.
19 Well, it looks like we're the first item on the report.
20 Or actually, I want -- Marni can you come up and give us a
21 quick update.

22 The purpose of this, on the development of the
23 QAP, is there going to be -- Marni and the rest of the
24 staff have been having regular workshops, roundtables,
25 discussions, open discussions, which I didn't participate.

1 I listened to it yesterday.

2 And rather than coming to the point of having a
3 fully developed QAP that was developed within the staff
4 and community, we wanted to make an opportunity to have --
5 create an opportunity for the Board to have policy input
6 into the early drafts, so that staff sees and the
7 Community Development community sees the direction that we
8 are heading, in terms of the choices and policy selections
9 that we are sorting as priorities. So with that, if you
10 would explain what we did a month ago.

11 MS. HOLLOWAY: Absolutely.

12 MR. OXER: And then next month, we will take
13 this report off of the consent and put it as a first
14 action item and have you come explain what we talked about
15 yesterday.

16 MS. HOLLOWAY: Okay. Good morning, Chairman
17 Oxer, members of the Board. I am Marni Holloway. I am
18 the Director of Multifamily Finance.

19 Report Item 2d is about our currently underway
20 2017 QAP project. You will remember that last year,
21 getting to the final QAP was a fairly dramatic process.
22 And we recognized very early that we needed to change the
23 way we were coming to our ideas and scoring items and
24 policies behind the QAP, and that that process really
25 needed to involve the development community and

1 stakeholders.

2 So what we have created is the 2017 QAP project
3 plan. It is available on our website. It is a nine-page
4 document that has some overarching goals. But also
5 includes schedules for monthly meetings and includes
6 deliverables.

7 One of the deliverables is a regular report
8 back to you, the Board, on what is going on with that
9 process. And we started in December of 2015. We
10 presented the initial plan at that meeting.

11 We introduced the concept of the project. We
12 had a general discussion of policy priorities that the
13 community would like to see us address in the coming year.

14 We also set the schedule for future meeting
15 topics based, at that point, it was based on the volume of
16 comments received from the 2016 QAP, through the public
17 comment process. In January, we had our first meeting
18 under the project plan. And we discussed concerted
19 revitalization plans.

20 We were presented with a report from the
21 University of Texas Austin student on the results of CRP
22 scoring over the past several years, and that was very
23 interesting. We discussed CRP scoring in general, and the
24 difficulties in finding locations that are suitable for
25 development to fall under an acceptable plan. So that,

1 you know, having a definition of a plan and having a
2 location that fits into that has created some difficulty
3 in the community.

4 Despite that, there is general agreement that
5 pending the results of the 2016 cycle, like seeing where
6 we wind up with what we are going into right now, that the
7 current scoring criteria is generally acceptable. It
8 allows the flexibility for local communities to create
9 plans that suit their needs without us being so
10 proscriptive that they get kicked out just because their
11 plan doesn't look the way we think it should.

12 But out of that conversation, the group
13 requested that staff look into a scoring item for
14 gentrifying neighborhoods. So a gentrifying neighborhood
15 isn't necessarily going to score well under a concerted
16 revitalization plan, and it is not necessarily ready to
17 score well under an opportunity index scoring item. So
18 that is something that we are going to be looking at
19 moving forward, is, how could we create an item that
20 considers gentrification.

21 We met yesterday afternoon. All of the
22 meetings are the afternoon before a Board meeting. And
23 discussed elderly development and aging in place as much
24 as we could.

25 It veered off a few times. We brought it back.

1 But there was some very thoughtful conversation in that
2 meeting. And I will be bringing that back to you next
3 week, or next month in a little more detail.

4 And then next month, our March meeting is going
5 to be about location issues tied to the opportunity index.

6 It seems that all of our conversations thus far have led
7 back to that opportunity index. I am anticipating that
8 next month's meeting will be very well attended. And we
9 hopefully will have some --

10 MR. OXER: You have a gift for understatement.

11 MS. HOLLOWAY: Yes. Hopefully, we will have
12 some good things to bring back to you. I would really
13 like for us as a group to be able to bring back to you the
14 Board, you know, these are the things we discussed.

15 This is the direction we are headed. Do you
16 agree with this. Should we -- or even, should we go this
17 way or that way, and have the ability to gather your input
18 on that process early on would be tremendous.

19 MR. OXER: Any questions from the Board?

20 MS. HOLLOWAY: Or even, come to the meetings,
21 just like Mr. Oxer did, as long as it's not a quorum. And
22 everybody got the ex parte warning at the beginning of the
23 meeting.

24 MR. OXER: I wasn't actually radioactive, the
25 way they were treating me.

1 MS. HOLLOWAY: You were way off in the corner.
2 Any questions?

3 MR. OXER: Right. That is a report only?
4 Report item only?

5 MS. HOLLOWAY: Yes. That is a report item
6 only. Any questions at all?

7 MR. IRVINE: I have a couple of comments.

8 MS. HOLLOWAY: Okay.

9 MR. IRVINE: First of all, as you identify any
10 of the issues that are covered in any of the reports that
11 you would like to see brought forward for, you know, a
12 more robust presentation or discussion, this is the green
13 light to request they be placed on a future agenda.
14 Because I mean really, this is where you will be doing the
15 groundwork that will create policy in the 2017 QAP.

16 And I think there needs to be a really well
17 developed record of the basis for those policy decisions.

18 I also think that you know, it is not just the fact that
19 you were foolish enough to let me attend.

20 But these are really kind of open ended
21 meetings, where all good ideas are welcome. And
22 apparently, some bad ideas that I provided were even
23 kicked around. We really want to approach this with just
24 an unfettered view to what would make for the best
25 possible QAP.

1 What would be efficient? What would really
2 help address the communities' needs, help address
3 communities' concerns. How do we make this the best
4 possible program.

5 And it is not exactly a negotiated rulemaking,
6 because we have a whole bunch of different points of view
7 that come to the table. And often, they are in conflict.

8 That is inevitable. Because people have their different
9 business models that they want to pursue.

10 And ultimately, what this is going to come down
11 to is developing rules that say, all right, this is our
12 highest priority. This is where we want to go.

13 And people that don't necessarily want to go
14 there, that is sometimes going to be a hard thing to
15 assimilate. But this is the process where that happens.

16 MR. GOODWIN: What time, and where does it
17 meet? When does it start?

18 MS. HOLLOWAY: The meetings start at 1:30 on
19 the Wednesday before. I actually had scheduled a room
20 over in the Stephen F. Austin building that is not going
21 to be big enough for next month, would be my guess. So we
22 need to find a much larger space.

23 That will be announced in an email notice. We
24 can make sure that all of the Board members know where it
25 is. But as I said, every meeting is the Wednesday before

1 the Board meeting, so that folks who are traveling in have
2 an opportunity to come in just a little bit early, and
3 attend that meeting, and then come to the Board meeting.

4 We will also be holding some separate meetings
5 for some smaller groups; supportive housing, rural
6 development, preservation and historic rehabilitation are
7 some groups that have a more focused set of input on the
8 QAP. And so we will be engaging with those folks also,
9 over the coming year.

10 MR. GOODWIN: Can you make sure we could be
11 notified?

12 MS. HOLLOWAY: Absolutely.

13 MR. GOODWIN: I don't think I knew about the
14 meeting yesterday.

15 MS. HOLLOWAY: Okay. Absolutely. We will do
16 it.

17 MR. GOODWIN: If some of you want to come to
18 the meeting -- it's easy for me, being here, to kind of go
19 to some of these other meetings.

20 MS. HOLLOWAY: I would appreciate that.

21 MR. OXER: Good.

22 MS. HOLLOWAY: Okay.

23 MR. OXER: Thanks, Marni. That is all.

24 MS. HOLLOWAY: Thank you

25 MR. OXER: That is all we have. Any other

1 questions?

2 (No response.)

3 MR. OXER: No. Good. Thanks. Okay. Let's
4 take number 4. I'm sorry. That was 2d. My mistake. My
5 mistake. Hold your fire there. We are getting ahead of
6 this. I am in too much of a hurry. Elizabeth, it looks
7 like you're up. Thank you.

8 MS. YEVICH: Good morning, Chairman Oxer,
9 Board. I am Elizabeth Yevich, Director of the Housing
10 Resource Center.

11 And I am here on Action Item 3, which is a
12 report item on the Housing and Services Partnership
13 Academy. And this is something other than a dry plan or
14 report.

15 So I would like to tell you about our recently
16 held academy. And it came about due to what is known as
17 the Texas Housing and Health Services Coordination
18 Council. It is known as the Council.

19 And the Council came about back in 2009 due to
20 legislation. And coordination of the Council fell under
21 my area, which is the Housing Resource Center, HRC.

22 And specifically, Council was developed, is to
23 develop policies to coordinate increased state efforts to
24 offer what is known as service-enriched housing. And that
25 is defined as integrated, affordable and accessible

1 housing that provides residents with the opportunity to
2 receive onsite or offsite health-related and other
3 services and supports that foster independence in living
4 and decision making for individuals with disabilities and
5 persons who are elderly.

6 So perhaps some of you recall back in 2011. I
7 came before you at that point, because TDHCA developed a
8 successful application to the Centers for Medicare and
9 Medicaid, known as CMS. Out of that came the real choice
10 systems change grant. And that was awarded successfully
11 for 300,000.

12 Out of that, one of the activities was to apply
13 for Section 811. Obviously, that was very successful. We
14 now have that program. Another of the activities out of
15 that small 330,000 was to do an Academy.

16 So we did a first two-day Academy, back in
17 2013. It was held in Dallas. It was very successful. We
18 had several staff. I know Tom Gouris participated, as did
19 Cameron Dorsey at that time. And that was for 16 local
20 community teams providing them the tools and education to
21 create housing for people with disabilities.

22 So that 2013 Academy was so successful, that
23 there were several recommendations to replicate and offer
24 a second Academy. And to that end, last June, I came
25 before you for your approval for an RFP to negotiate and

1 approve a contract for the second Academy. And this, of
2 course, at this point, would be under the guidance of
3 Council.

4 And by this time, the Academy, this time the
5 Academy was going to have follow up training and technical
6 assistance. That is one of the things that came out of
7 the last Academy. It was great.

8 It was wonderful. But continue on with it. So
9 make sure that all of the wonderful plans and ideas that
10 came out of that would actually be put out and perhaps on
11 the ground.

12 So we awarded a contract to who is known as
13 Corporation for Supportive Housing, or they go by the
14 acronym now, CSH. CSH then released a request for
15 applications back in November. And for those, throughout
16 the enter State of Texas who wanted to participate.

17 So at this point, I am going to turn it over to
18 one of my staff, Terri Richard. And she is going to give
19 you more details about what actually happened two weeks
20 ago, at the Academy.

21 And I want to add, without Terri Richard's
22 effort, there would not have been an Academy, or a
23 successful one. There wouldn't have been an Academy at
24 all. So with that, I am going to turn it over to Ms.
25 Richard.

1 MS. RICHARD: Good morning. Thank you,
2 Elizabeth. Good morning.

3 MR. OXER: Good morning.

4 MS. RICHARDS: How are you? Mr. Chairman,
5 Board members. I am Terri Richard. And I am in the
6 Housing Resource Center. I am the Council Coordinator.
7 So I support our Housing and Health Services Coordination
8 Council.

9 I am really pleased to report that CSH, our
10 contractor, as Elizabeth mentioned began work immediately
11 on putting together the Academy. So in November 15, they
12 released a request for applications to solicit teams
13 throughout Texas who wanted to participate in the Academy,
14 and receive the post-Academy technical assistance. So we
15 were thrilled that nine teams were approved to
16 participate.

17 And I was just going to share with you the
18 names of those teams. We had Alamo Affordable Accessing
19 Housing Cooperative. We had Coastal Bend Housing
20 Solutions Services Committee, Dallas County Housing
21 Alliance. We had East Texas Housing Coalition. They
22 actually participated in the 2013 one as well.

23 We had greater Houston Area Housing and
24 Services Partnership Team, Heart and Home Communities.
25 They are out of Central Texas. We had Housing and

1 Services Roundtable of Tarrant County. Lubbock Housing
2 Team. And we had San Benito Housing and Services Group.

3 So as part of the technical assistance, we
4 worked with CSH. And we provided two webinars prior to
5 the Academy in December. We actually gave them a little
6 bit of homework. And we wanted them to come prepared to
7 participate in the Academy.

8 Then, we held the Academy just a few weeks ago;
9 February 9th and 10th. And it started out with a tenant
10 and consumer panel, which was very impactful for the
11 participants. Really talking about their experiences.
12 Some not such good experiences with housing and services.

13
14 We went on to talk about development processes,
15 identifying and securing existing units that could be used
16 for service-enriched housing. And then we had
17 roundtables. And these roundtables were service folks and
18 housing folks, where they could have a much more in depth
19 small roundtable discussion and get, it was mostly
20 question and answer, not lecture.

21 So we really got some positive feedback on
22 those roundtables. Then we had some peer presentations.
23 And then the last day of the Academy were the teams really
24 putting their heads together, having technical assistance
25 right there with them. And putting together a plan of

1 what they are going to do when they go back to their
2 communities, to be able to expand service-enriched
3 housing.

4 One of the things that we were thrilled about
5 the 2016 Academy was that we had more disparate
6 participation. So we had aging and disability resource
7 centers represented there. We had centers for independent
8 living.

9 We also had developers. And we were really
10 excited that we had two managed care organizations in this
11 state that sent representatives and actually participated
12 on the teams.

13 And then last, but not least, we had public
14 authority representatives. We also had seven of our
15 Council members who attended some or all of the two-day
16 Academy, including three that were Governor appointees.

17 One of the Governor appointees shared with me
18 that she thoroughly enjoyed it and really believes it is a
19 very worthwhile activity in furthering the goals and
20 objectives of the Council. The member also commented that
21 as a contractor for relocation services, she was gratified
22 to hear that several of the public housing authorities who
23 were, because of participating on these teams, were
24 planning to go back and establish preferences for people
25 who are leaving institutions, which is a direct benefit to

1 these individuals as they try to relocate back into the
2 community.

3 So overall it was a success, and CSH has
4 already begun doing follow-up onsite and offsite TA,
5 technical assistance with the nine teams.

6 I think one thing I really wanted to share,
7 that I think was a takeaway from both of these Academies,
8 and that is looking at the bigger picture. It helps
9 people look at the bigger picture. Realizing that true
10 change, more often than not, happens at the local level,
11 not necessarily at the state level.

12 That is one thing I really try. Is I go, and
13 represent TDHCA. That it is not just state agencies that
14 can make change happen in the State. It really takes a
15 group and a team working together towards the same goals.

16
17 So I would like to also give some special
18 thanks for participation in the Academy. Which, it
19 wouldn't have been successful without first and foremost,
20 Mr. Tim Irvine. Thank you. I appreciate you coming to
21 the Academy.

22 I would like to thank Abby Versyp and Frances
23 Acosta, in our Home Division. Mark Leonard and Diana
24 Velez, they provided technical assistance for the teams.
25 From our Housing Trust Fund, we had Spencer Duran, our

1 Manager for Section 811 project rental assistance. Kate
2 Trace [phonetic], Housing Resource Center.

3 And then last but not least, we had Marni,
4 Andrew, and Sharon Gamble who really supported and
5 answered a lot of questions about multifamily activities.

6 That is all I have. Thank you very much.

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

8 (No response.)

9 MR. OXER: No.

10 MR. IRVINE: I am very appreciative of
11 everything that Terri and the Housing Resource Center do
12 for the Council. We call it Council. I pronounce the
13 acronym and call it Husky.

14 MS. RICHARD: Husky.

15 MR. IRVINE: You know --

16 MR. OXER: Careful. Could be misinterpreted.

17 MR. IRVINE: You think that the programs we
18 administer are a vast alphabet soup. It is nothing in
19 comparison to the health services programs.

20 And you just embody so much the common sense
21 approach that ultimately, it is a person talking to a
22 person about how do we pool resources together to address
23 your needs. This kind of coordination is just so
24 incredibly valuable. On behalf of the people who have
25 those meetings and get good responses, thanks.

1 MS. RICHARD: Well, thank you. And I am
2 excited. It is a great project. And hopefully, I will be
3 seeing you again, and maybe reporting on another one.
4 Thank you.

5 MR. OXER: Thank you very much

6 MR. GOODWIN: Thank you.

7 (Applause.)

8 MR. OXER: Okay. Now, Homero.

9 MR. CABELLO: Good morning. My name is Homero
10 Cabello. I am the Director for the Single Family
11 Operations and Services Division.

12 Today, we are requesting authorization to
13 procure a statewide poll of housing industry professionals
14 such as construction project managers, license inspectors,
15 surveyors, architects, engineers, that could provide the
16 Department on an as-needed basis with the services and
17 information needed to carry out our mission in compliance
18 with federal regulations, state statutes, rules and
19 funding limitations.

20 However, despite our efforts to manage risk
21 through technical assistance to our single-family
22 programs, single-family administrators through thoughtful
23 policy creation, the Department has time from time needed
24 the opinion or the services of third party professionals
25 to investigate program issues, provide construction

1 oversight and address emergent obstacles.

2 During recent months, several instances have
3 arisen in which the Department has been faced with
4 unforeseen issues on specific contracted single-family
5 projects such as construction delays, contractors walking
6 off jobs, and in some cases, lack of capacity of
7 contractors and subcontractors. Which means in some
8 cases, households have been displaced; their houses have
9 been torn down. They are living somewhere else.

10 And we need an immediate resolution for these
11 types of situations. When these situations arise, staff
12 may determine that contracting directly with qualified
13 professional third parties will result in most expeditious
14 resolution to get the household back into their homes.

15 The funding source to procure a statewide pool
16 of housing industry professionals will come for the
17 single-family program utilized for that particular
18 household. And so if it is the HOME program or the
19 Housing Trust Fund program, those funding sources will be
20 utilized, but if necessary, come in whole or in part from
21 the 250,000 of excess General Revenue repayments for the
22 Housing Trust Fund that was approved by the Board last
23 month may be able to address some of these obstacles.

24 If this item is approved, then we will work
25 with staff to establish objective criteria and standards

1 that respondents to an RFQ must meet or exceed. So we are
2 requesting your approval to procure statewide
3 professionals, housing professionals.

4 MR. OXER: Okay. Are there any questions from
5 the Board?

6 (No response.)

7 MR. OXER: Okay. So these are essentially
8 going to be precontracting, and the funding would come
9 through the other --

10 MR. CABELLO: Well, the funding source --

11 MR. OXER: The area of need that this would be
12 providing --

13 MR. CABELLO: Correct.

14 MR. OXER: It looks like an internal resource
15 pool to make available technical services to the rest of
16 the Agency. Is that right?

17 MR. CABELLO: Right.

18 MR. OXER: More or less?

19 MR. CABELLO: Right. So if it is -- say it is
20 a Housing Trust Fund project. And the contractor walks
21 off the job, if there are program dollars available, we
22 will use the Housing Trust Fund dollars.

23 And the same thing for HOME or the NSP program,
24 the other programs that we administer. If we can't
25 utilize those dollars because funds have been expended, or

1 for whatever reason, we can always tap into the \$250,000
2 of Housing Trust Fund to finish up the house, for the
3 house.

4 MR. OXER: But the program funds would be the
5 first going, the first tap to open.

6 MR. CABELLO: Correct.

7 MR. OXER: Okay. This is the last -- it is a
8 last resort, to go to the 250,000 we have got.

9 MR. CABELLO: Right. Yes.

10 MR. OXER: So it is essentially, each of these
11 contracts would be under MSA, Master Services Agreement,
12 or what the military call IDIQs. Indefinite delivery,
13 indefinite quantity. They are there to be called on as
14 needed with preexisting, preestablished rates.

15 MR. CABELLO: Correct. And then depending on
16 the situation, what we were thinking is, have a master
17 contract. And depending on the situation, doing an
18 amendment to that contract detailing the specific, you
19 know, the issues for that house as to what needs to be
20 done.

21 MR. OXER: I would offer up, and Council can do
22 this in whatever way its contractor, whether it is called
23 Master Services Agreement, with a task assignment under
24 it.

25 MR. CABELLO: Correct.

1 MR. OXER: But it is not an amendment to the
2 contract, just so much as the contract says, the tasks
3 will be given as needed.

4 MR. CABELLO: Correct.

5 MR. OXER: Okay. Does that look good to you
6 gentlemen? Counsel, there was a question on your face, I
7 could tell.

8 MR. ECCLES: I just want to be clear, this
9 wouldn't completely get rid of procurement requirements or
10 any --

11 MR. OXER: No.

12 MS. ECCLES: Or any ethic. And it would just
13 kind of shorten the time frame and truncate starting from
14 zero and going out on a procurement. We just kind of know
15 that there are folks who are waiting in the wings that, if
16 we send out a funds availability or a Request for
17 Proposal, that these are folks that we could go to. Is
18 that essentially --

19 MR. OXER: It doesn't short-circuit the
20 procurement. Come on up, Brooke. It doesn't short-
21 circuit the procurement process. It gets it out of the
22 way early.

23 MS. BOSTON: Well, and if I could clarify;
24 Brooke Boston. So the premise of this is not to be a pool
25 through which to do a Notice of Funding Availability for

1 instance.

2 So for hypothetically, we will establish this
3 pool. So let's say we will work with our procurement
4 staff in the Department. Release a Request for
5 Qualifications, a Request for Information, what have you.
6 And establish these just preexisting lists.

7 So then, let's say six months down the road, we
8 have an unfortunate circumstance where an administrator
9 has to walk off an Annie Young project. And you say, oh
10 my gosh, we need to hurry and finish this. Instead of
11 going through a long procurement to try and identify a
12 replacement administrator who can go to this list and
13 actually work with a contractor directly, just to finish
14 so the household isn't displaced.

15 So it is meant to be very stopgap, very on an
16 as needed basis. And it is not necessarily to find
17 replacement administrators. It is to be able to do direct
18 work with an actual professional.

19 MR. OXER: You are not actually making a Notice
20 of Funding Available. Because the funds were already
21 available doing the work in the first place.

22 MS. BOSTON: Correct.

23 MR. OXER: It is a matter of managing the
24 funds.

25 MS. BOSTON: Correct.

1 MR. OXER: Okay.

2 MS. BOSTON: Correct. Yes.

3 MR. CABELLO: It is put in the resolution for
4 the household.

5 MR. OXER: Right. Everybody clear on that?
6 Okay. All right. So I assume you want us to let you do
7 this.

8 MR. CABELLO: Today.

9 MR. OXER: Yes.

10 MR. GOODWIN: Do you really want to do that.

11 MR. OXER: All right. No other questions of
12 Homero, we will have a motion to consider.

13 MR. CHISUM: So moved.

14 MR. GOODWIN: Second.

15 MR. OXER: Okay. Motion by Mr. Chisum first,
16 and Mr. Goodwin is second. Any other questions?

17 (No response.)

18 MR. OXER: No request for public comment?

19 (No response.)

20 MR. OXER: Motion by Mr. Chisum to approve
21 staff recommendation on Item 4. Second by Mr. Goodwin.
22 Those in favor?

23 (A chorus of ayes.)

24 MR. OXER: Those opposed?

25 (No response.)

1 MR. OXER: There are none.

2 MR. CABELLO: Thank you.

3 MR. OXER: Good job, Homero.

4 Okay, Tom. Get in the bucket.

5 MR. GOURIS: Get in the bucket.

6 MR. OXER: I am going to get a big spot and put
7 it over there, just on the other side of that, so you are
8 on the spot.

9 MR. GOURIS: Tom Gouris, Deputy Executive
10 Director. I just want to give you a brief update on an
11 issue that we brought to you back in September at the
12 September 3rd meeting, in fact. We reported on an
13 expanded terminology for elderly developments, or relating
14 to elderly developments.

15 While all types of developments that claim an
16 elderly, that are lawfully eligible to restrict to elderly
17 households continue to be considered elderly, we have
18 expanded that into two subgroups. Those that have a
19 federal funding source which allows them to have an
20 elderly preference, but makes it ineligible for that, for
21 older people's exemption to the Fair Housing Act.

22 And then the other -- that group is called the
23 elderly preference group. And then the second group,
24 elderly limitation groups, are those that continue to be
25 able to use the HOPA, the Housing for Older Peoples Act,

1 exemption.

2 The reason we are bringing this to you again is
3 because we have had a couple of examples of activity that
4 I wanted to share with you. And I want to make sure that
5 the public had this opportunity to hear this distinction
6 once again.

7 Just by matter of reference, we also modified
8 our rules in 2016 to specifically identify these two
9 groups. Again, they are both considered elderly, but they
10 are these two subgroups.

11 And just as a reminder, the Department's
12 current understanding from HUD is that elderly preference
13 developments cannot operate under a HOPA exception, unless
14 the federal program rules or the HUD Secretary
15 specifically allows that HOPA exception. There are still
16 a lot of questions about this. And we get a lot of
17 questions.

18 We mentioned in September that we are going to
19 be doing a survey of all the existing properties. And
20 that survey is underway now through the annual owner
21 financial certification process that we get. We have
22 added some questions that we can get a better handle on
23 what the existing portfolio looks like, with regard to
24 preference versus limitation transactions.

25 As far as what our current preapps pool looks

1 like, we did a little evaluation of that. And of the 300
2 or so applications, 44 percent of those preapps that came
3 in are an elderly designated transaction, which is roughly
4 consistent with the maximum elderly caps that were put
5 into statute this last year. The maximum cap for -- the
6 highest cap for a particular region is 42 percent.

7 So we are getting applications that are roughly
8 consistent with what those caps look like. And those caps
9 are based on what the existing elderly populations of
10 developments are. So when I say populations of
11 developments, I mean the developments that we have done,
12 and the need for elderly developments. Those percentages
13 are roughly consistent.

14 As far as the distinction between limitation
15 preference of those 44 percent, 139, or 38 percent of the
16 total are indicating that they are elderly limitation
17 transactions. About 23 or 6 percent of the total are
18 identified, self-identified as preference transactions.
19 And what that means is that there is some good awareness
20 of this preference issue, this distinction.

21 My guess is that the actual number of
22 preference transactions are going to be a little bit
23 higher than what has been reported so far. But at least
24 the word is getting out, and that is a good thing.

25 Why this is important, and why I wanted to

1 bring this to you all's attention today again, is because
2 we have had some experience with how to reconcile these
3 two specific types of elderly designation. We have had at
4 least one, actually two instances where an applicant has
5 come in and constructed the project or been in the
6 construction project.

7 And in one case, prior to issuing the LURA, or
8 assigned the LURA with us, they were anticipating bringing
9 in some vouchers that were elderly specific vouchers. And
10 after we looked at those, and investigated a little bit,
11 we had concern that that would change this transaction
12 from an elderly limitation deal to an elderly preference
13 deal.

14 And in this case, it was going to be a more
15 significant impact in that project was nearly complete.
16 It was clearly designed from a structural standpoint as an
17 elderly development with mostly one-bedroom units, a few
18 two-bedroom units, some efficiencies and elevator-served
19 and what have you.

20 It was, you know, what we would consider an
21 elderly development for all practical intents and
22 purposes, I guess. But the problem is the limited number
23 of vouchers was going to convert that project or provide
24 for the elderly limitation with a HOPA exception to go
25 away.

1 And so the property now would be -- have less
2 than 20 percent of the units would be elderly, and the
3 rest of the units would have to be serving families.
4 Which isn't a bad thing. It is just, it wasn't what it
5 was designed to do. And so before they signed that
6 agreement, we worked together and first tried to find the
7 theory, an exception to that particular source of funding.

8 When they couldn't find a specific exception,
9 they realized that what they needed to do was not sign
10 that agreement, and maintain the property as an elderly
11 limitation transaction. So and we have another
12 transaction that is a little bit further along in the
13 process. And we are having to look to ways to either
14 unwind the agreement that they signed or modify our LURA
15 to represent what the property is now.

16 Another option would be for them to go to the
17 Secretary of HUD and ask for an exception. So those are
18 the kinds of things that we are working with. It is going
19 to be a long process.

20 And we hope to update you again in the coming
21 months as we determine what self-reporting results of our
22 existing portfolio reveal. But it is going to be -- it is
23 going to likely require a concerted effort of amending
24 some LURAs and possibly seeking some more -- allowing the
25 development community to seek some more direct guidance

1 from HUD on the subject. So it is just a precursor to
2 some things that we need to -- we are going to need to be
3 working on this summer.

4 MR. OXER: It sounds like you are slicing
5 things a little thin there in places.

6 MR. GOURIS: This is a challenging issue for
7 us, I think. It is going to take some constructive
8 solutions, I think, to get through these things.

9 I think it is really important to realize that
10 the intent of the development community was, you know, in
11 many cases was do an elderly deal. But this clarification
12 that we received from HUD gives us the need to, you know,
13 clarify what these transactions really are.

14 Slicing it differently. I am not sure if that
15 is -- but it is going to be a singular challenge.

16

17 MR. OXER: Yes. Okay. So this is a report
18 item?

19 MR. GOURIS: That is all it is.

20 MR. OXER: Okay.

21 MR. GOURIS: Next time, it will have
22 cheerier -- I will have a cheerier report. But it is
23 something that we are very -- you know, we are taking
24 seriously. And we want to make sure that we address it
25 appropriately.

1 MR. OXER: Well, I think issues like this, we
2 have to take all of them seriously.

3 MR. GOURIS: Of course.

4 MR. OXER: All right. Any questions from the
5 Board? Gentlemen?

6 MR. GOODWIN: Just a couple of questions.

7 MR. OXER: Sure.

8 MR. GOODWIN: You mentioned the preliminary
9 applications. I was just curious what the number of
10 preliminary applications we have in this year, and how
11 that compares to last year.

12 MR. GOURIS: 366. It is probably up slightly,
13 maybe. But not by a lot. You know, 300, 350, that area
14 is where we have done. Yes.

15 MR. GOODWIN: The same rate.

16 MR. GOURIS: We had, I mean, it is up from a
17 couple --

18 MR. OXER: More or less the same as last year.

19 MR. GOURIS: Yes. More or less. It is up from
20 a couple of years ago.

21 But I was personally surprised that the mix
22 between elderly and non-elderly is as -- is not as
23 overwhelming as I thought it would be. I thought we had a
24 lot more elderly transactions, because that is what we
25 heard we would have, fortunately.

1 MR. GOODWIN: What you have seen so far, any
2 thought of process, about special situations that you see
3 coming up? Anticipated?

4 MR. GOURIS: There will be some. But that is
5 not from looking at any of them to see. At this stage, we
6 are -- it is very preliminary. We get self-scores.

7 And we don't do a lot of evaluation at this
8 point. We just are laying out those logs, so that folks
9 can see where they rank according to the self-scoring.
10 And a lot of them can make a decision if they want to
11 participate and fill out an application.

12 MR. IRVINE: And I think that the real purpose
13 of this meeting is to speak to all of you people out
14 there, who are watching this on television or all of you
15 people who are hearing about it from your friends or
16 organizations or whatever. Please, please read all of
17 your assistance documents carefully, whether they are loan
18 documents, a voucher, arrangements, whatever.

19 And have a good in depth understanding of how
20 those particular documents may obligate you to provide
21 housing that you thought was going to be elderly housing
22 to make it available under certain situations to non-
23 elderly households. And, you know, I understand
24 completely that in many situations, those are theoretical
25 possibilities, and are unlikely.

1 But still the fact that they are legally
2 possible is important. And we need to deal with them and
3 understand them, and keep yourselves out of trouble when
4 they are not only the LURA but also in the Fair Housing
5 Act.

6 MR. GOURIS: Great. And we are looking to try
7 to make sure that that occurs proactively, instead of
8 waiting for, you know, an event of disconnect between our
9 LURA and their existing regulations. So we want to make
10 sure we rectify that and move forward.

11 MR. OXER: Staying ahead of the damage.

12 MR. GOURIS: Yes.

13 MR. OXER: Okay. Good. Thanks, Tom.

14 MR. GOURIS: Thank you.

15 MS. HOLLOWAY: Marni Holloway, Director of
16 Multifamily Finance. Item 5B is presentation, discussion
17 and possible action regarding frequently asked questions
18 for multifamily programs.

19 You will remember that last month, we discussed
20 a set of frequently asked questions. And there were a
21 couple of comments that we talked through to get to our
22 FAQ document.

23 Since then, we have received some more
24 questions. And we are adding those to the list, and
25 bringing them to you for your review.

1 I would like to, though, share with you first
2 some language that our General Counsel has added to the
3 bar, so that everyone is really clear on what an FAQ is.
4 These frequently asked questions do not constitute a
5 complete statement of Texas law or administrative rules.

6 And they are not themselves new rules.
7 Accordingly, they are for guidance and informational
8 purposes only. If there is any conflict between these
9 FAQs and Texas laws or administrative rules, the laws and
10 administrative rules shall prevail. I just want to make
11 that perfectly clear.

12 The other thing I wanted to point out to you
13 with this updated FAQ; there are a number of questions
14 about qualified census tracts and small development --
15 small difficult to develop areas, which apply across
16 programs. So rather than calling this our 9 percent FAQs,
17 we are now calling them the multifamily FAQs, so that they
18 are more inclusive.

19 MR. OXER: Good. So this is a report item?

20 MS. HOLLOWAY: This is an action item.

21 MR. OXER: Present them.

22 MS. HOLLOWAY: Staff is recommending approval
23 of the frequently asked questions.

24 MR. OXER: Of that list that you --

25 MS. HOLLOWAY: Yes.

1 MR. OXER: Good.

2 MS. HOLLOWAY: They are attached to your Board
3 materials.

4 MR. OXER: All right. Any questions of the
5 Board?

6 (No response.)

7 MR. OXER: All right. We need a motion to
8 consider on Item 5b.

9 MR. GANN: I will make a motion to consider.

10 MR. OXER: Motion by Mr. Gann to approve staff
11 recommendation on Item 5b.

12 MR. GOODWIN: Second.

13 MR. OXER: Second by Mr. Goodwin.

14 MS. HOLLOWAY: I believe we have --

15 MR. OXER: Do we have some comment? Public
16 comment? Robbye, you're up.

17 MS. MORALES: Robbye Meyer, Board, Chairman. I
18 appreciate the opportunity to speak to you. I hate
19 standing up here in front of you, but -- and I apologize
20 for not being here last month. I had a city meeting that
21 I had to be at.

22 I represent my company, Arx Advantage, and I
23 really don't have a dog in the fight. But I might have a
24 dog in the fight, so I need to speak now.

25 I am actually going to speak to this item and

1 the item that follows this. I don't really have a dog in
2 that fight, either, but as I said, I need to speak, in
3 case my clients going forward have a dog in the fight.

4 The language presented in this item -- and I am
5 very glad that Marni made the clarification that she did,
6 that the FAQs are not gold; they are not a new rule; that
7 they are guidance for applicants.

8 But the FAQs and the writeup in the following
9 agenda item has a concern that I have. And in the
10 following agenda item, one of the statements in there, it
11 says, "a failure to disclose by an applicant." And
12 specifically, it says, "applicants have not disclosed one
13 or more of the schools in attendance zone of the
14 development have failed to have met standard tests."

15 And in the FAQs, there was a question that
16 says, all of the schools, elementary, middle and high
17 school have to have met the standard. And the question
18 and answer was, all three schools have to have met -- have
19 a met standard rating from TEA.

20 However, in the rules, in 10.101(a)(4), under
21 Undesirable Neighborhood Characteristics, it states, an
22 applicant must disclose if a development site is located
23 within attendance zones of the elementary school, middle
24 school, and a high school that does not have a met
25 standard rating by the Texas Education Agency. The rule

1 doesn't state an elementary, middle or high school.

2 It doesn't say elementary, middle and/or high
3 school. It doesn't say one or more of the schools. The
4 rule says, elementary, middle and high school, therefore
5 implying that all of the schools need to have not met the
6 standard in order to have to disclose.

7 Developers sign, in all the documents that we
8 sign, that they have read the rules. And I am going to
9 assume that in the case following this agenda item, that
10 talk about applicants have not disclosed, that they had
11 read the rules, and that is the reason why they didn't
12 disclose.

13 If my clients had asked me, do we have to
14 disclose and they had one or two schools, I would say no,
15 because you don't have all the schools haven't met that
16 standard. So again, you don't have to disclose.

17 I understand that that might not be what staff
18 wanted, or that is what they didn't intend. But we can't
19 change the rules after they are already out. And that
20 might be the guidance that you want. But that is not what
21 is in the rule.

22 And I think we need to go back and change it
23 for next year, if that is what we want. But we don't
24 change it in the middle of the process.

25 One last question. Since my departure from the

1 Department, I have sat in this audience for the past four
2 and a half years, and I have listened to this Board time
3 and time again that says, we are going to follow our
4 rules.

5 And I ask you now to follow your rules. Okay.

6 That is what the rule says. I appreciate you -- thank
7 you for your time.

8 MR. OXER: Thanks, Robbye. Appreciate your
9 input.

10 Do you have any thoughts on that Tim, or Marni?

11 Are we -- Joy, do you want to speak to that item? Okay.

12 You are for the next one. Okay. All right. Any
13 questions from the Board?

14 (No response.)

15 MR. OXER: Marni, do you have a response or
16 anything to add -- summarize.

17 MS. HOLLOWAY: Well, and we did discuss this
18 item in some depth last month. You will remember that
19 Sarah Anderson brought some very similar concerns. We
20 went back to the language that was originally proposed
21 under mandatory community assets. That was an and.

22 In the course of everything that happened with
23 the 2016 rules, which I alluded to earlier, that moved
24 from mandatory community assets to undesirable
25 neighborhood characteristics. And the language didn't

1 translate clearly. It didn't translate well.

2 As Robbye read the rule, as it says, that is in
3 fact what it says. The conversation last month, when we
4 brought this FAQ for a discussion was that we were going
5 to in fact call it elementary school, middle school and
6 high school must have met standard, or the applicant has
7 to disclose.

8 So the other important thing to keep in mind is
9 that disclosure that a school has not met standard does
10 not mean that the applicant, the site, the development is
11 ineligible. It means that this is an application that we
12 will be taking a closer look at. We are going to be going
13 a little bit deeper and looking at mitigation efforts and
14 what is going on in that school district to improve the
15 conditions in that school.

16 MR. OXER: Okay. Any thoughts from the legal
17 side?

18 MR. IRVINE: I think that legal advice would
19 probably best be covered in an executive session with
20 counsel.

21 MR. OXER: The question is, is there any> And
22 should we have a session on it before? Okay. All right.

23 Okay.

24 The Chair is going to take the prerogative. We
25 are going to table this motion until, or table this item

1 with the motion as it stands until we have met in
2 Executive Session and come back out. I am going to hold
3 this item in abeyance until we have completed the rest of
4 the agenda.

5 We are going to take a break here in a little
6 while. Take a break here, go into Executive Session here
7 in just a little while. So okay. That is Item 5b.

8 MS. HOLLOWAY: That was 5b.

9 MR. OXER: With respect to the others, can you
10 get a couple of those out of the way right quick here?
11 And then we will take a break about a quarter after?

12 MS. HOLLOWAY: I believe so. How much time is
13 that?

14 MR. OXER: About 15 minutes.

15 MS. HOLLOWAY: It depends on how long Joy is
16 going to talk.

17 MR. OXER: Joy is so succinct and direct.

18 MS. HOLLOWAY: She is.

19 MR. OXER: I just know it will be quick. Start
20 with number C.

21 MS. HOLLOWAY: 5c is a report item. This is a
22 report. We are not requesting action at this time.
23 Regarding disclosure of undesirable site and neighborhood
24 features for 4 percent tax credit and direct loan
25 applications.

1 So several of the applications that have
2 recently been submitted for 4 percent Housing Tax Credits
3 and direct loan financing have not included disclosure of
4 undesirable neighborhood features as required by the rule.

5 So the applicants have not disclosed.

6 In this instance, they were identified as
7 applicants have not disclosed that one or more of the
8 schools in the attendance zone of the development has
9 failed to meet the standard test. So that the rule item
10 that we were just discussing, that you will take up in
11 Exec, this is -- they have not met that test.

12 So it has triggered us going back and taking a
13 little bit deeper look at some of these applications.
14 Should staff determine that the development site has any
15 of the characteristics described in the undesirable site
16 and neighborhood features rule items, and that such
17 characteristics were not disclosed to the applicant may be
18 subject to termination.

19 Because the 4 percent Housing Tax Credit
20 program is not competitive, so the 4 percent applicants
21 aren't policing each other like they do on the 9 percent
22 side; applicants may not feel the same pressure.

23 MR. OXER: Is that what you call it? Policing?

24 MS. HOLLOWAY: That is what I call it.

25 MR. OXER: Yes. We have a different term for

1 it. But go ahead.

2 MS. HOLLOWAY: That is okay. Applicants may
3 not feel the same pressure, or they are -- because of the
4 nature of the 4 percent, they may be concentrating on bond
5 applications with other issuers, those kinds of things,
6 and not paying as close of attention. Or it may just be
7 simple oversight, and they may not be disclosing all of
8 those undesirable characteristics.

9 Direct loan applicants who are not layering
10 with 9 percent credits may be in the same place. So in
11 order to ensure that submitted applications are providing
12 proper disclosures, staff is going to be performing an in
13 depth review of a random sample of the applications that
14 we receive.

15 So yes, we will accept those disclosures. And
16 I probably will request the assistance of our Internal
17 Audit staff to determine what that valid sample will be.
18 And we will go deeper into those applications and make
19 sure that those disclosures are appropriate.

20 As the results of that review, we will be
21 bringing any actions, of course, back to you. And so 4
22 percent applicants were terminated as a result of staff
23 review. We don't anticipate that they would be appealing.

24 We anticipate that they will just submit a new
25 application with the disclosure. Direct loan applicants

1 probably --

2 MR. OXER: They are not under a time schedule.

3 MS. HOLLOWAY: Right. And it is not
4 competitive. And they can do that. Direct loan
5 applicants that don't disclose, and we terminate, may or
6 may not go through an appeal process with you.

7 I would assume that 9 percent applicants will,
8 if we happen on any of those. That is just a report item,
9 letting you know what is happening out there, what we are
10 seeing, and what our intended action is.

11 MR. OXER: Okay. Any questions of the Board?

12 (No response.)

13 MR. OXER: Good. Let's go to the next one.

14 MS. HOLLOWAY: Okay. Item 5d. Did you want to
15 comment on the other one?

16 MR. OXER: Barry did you want to comment on
17 that item?

18 MR. PALMER: Yes.

19 MR. OXER: Okay. I'm sorry. This is with
20 respect to Item 5c.

21 MR. PALMER: Yes. Barry Palmer, with Coats,
22 Rose. And I just would like to point out, you know, one
23 of our greatest underutilized resources for affordable
24 housing is the 4 percent tax credit program.

25 Each year, we turn back hundreds of millions of

1 dollars to the Treasury that have been allocated for
2 affordable housing because we don't do enough 4 percent
3 deals. And so I would like to see an initiative to try to
4 get more 4 percent deals done. And this seems to be
5 heading in the other direction.

6 That we are going to look to try to terminate 4
7 percent deals because they didn't put in their application
8 that there was an underperforming school in the area. You
9 know, I guess, I question why we are applying the
10 undesirable neighborhood features to 4 percent deals.

11 But even beyond that, you heard earlier, you
12 know, there is some unclarity in the rule as to whether it
13 has to be just one school or all three of them. So I
14 think we ought to look at whether this is the right way to
15 be heading on dealing with a 4 percent tax credit bond
16 program.

17 MR. OXER: Good. Thanks for your comment.
18 That is a question too, Marni, that I have. So for 4
19 percent deal, rather than terminate the application and
20 they come back, can you just request an amendment, or do
21 we --

22 MS. HOLLOWAY: We can.

23 MR. OXER: It sounds like we are using the same
24 rule set to apply to the 4 percent that we do the 9
25 percent.

1 MS. HOLLOWAY: Okay. So undesirable site
2 characteristics and undesirable neighborhood
3 characteristics are in Chapter 10 -- they are not in
4 Chapter 11 -- so they apply to all of our multifamily
5 transactions across the board.

6 I tried to emphasize -- and maybe I should have
7 said it in bigger capital letters -- it's a "may"
8 terminate. It is not a "will" terminate. It's a "may"
9 terminate.

10 The decision to terminate rather than to treat
11 it as a deficiency or to treat it as, Okay, you know, we
12 spotted this, and we looked at it ourselves, and we
13 cleared it. And it's all right.

14 It is -- I think, it's going to be a matter of
15 degree. And then of course, you know, whatever the
16 Board's ultimate decision is on the schools item.

17 MR. OXER: Yes. Because I concur with Barry.
18 We could leave a lot on the table for 4 percent program.
19 If we had any way to continue to optimize or encourage
20 that, I think as a policy we ought to be able to look at
21 that. We ought to consider that.

22 MS. HOLLOWAY: Absolutely.

23 MR. OXER: That is a resource that we have that
24 we're not taking advantage of.

25 MS. HOLLOWAY: Absolutely. But again, it is --

1 MR. OXER: Okay. All right. Well, that will
2 be related to the "and/or" the schools.

3 MS. HOLLOWAY: Yes. So that is one of the
4 undesirable neighborhood characteristics.

5 MR. OXER: Okay. So that's 5c. All right. So
6 this is a report item?

7 MS. HOLLOWAY: That is a report item.

8 MR. OXER: Okay.

9 MS. HOLLOWAY: 5c is a report.

10 MR. OXER: Okay. Let's take 5d.

11 MS. HOLLOWAY: 5d is presentation, discussion
12 and possible action on a determination notice for Housing
13 Tax Credit with another issuer, and an award of direct
14 loan funds.

15 This is application 16405, New Hope at
16 Harrisburg, in Houston, Texas. The applicant has
17 submitted an application for 4 percent Housing Tax Credit
18 and direct loan funds. They also have a certification of
19 reservation from the Texas Bond Review Board which was
20 issued on November 13, 2015, and will expire on April 11,
21 2016.

22 The issuer of the bonds is the Houston Housing
23 Finance Corporation. And there are multifamily direct
24 loan funding available -- or there is -- to award the
25 subject application under the deferred forgivable loan

1 set-aside.

2 The application has been reviewed. Just a side
3 note that I wanted to make you aware of: Because there
4 are tax credits involved in this transaction, it will not
5 actually be a deferred forgivable loan. That structure
6 negatively impacts the tax credits that the applicant is
7 able to access. So we are working through a payable loan
8 structure that will work for the needs of this particular
9 transaction.

10 With their application, the applicant disclosed
11 that the development site is located in a census tract
12 that has a 46.5 percent poverty rate and that it is
13 located in an urban area where the Part 1 violent crime
14 rate is 26.7 per 1,000 persons annually. So those are
15 both neighborhood characteristics that they did disclose.

16
17 They also provided us with additional
18 information which shows that there has been a steady
19 increase in incomes in this particular area over the last
20 several years, and also provided us with data from the
21 City of Houston Police Department indicating that within
22 this police beat, over the past 21 months, the average
23 violent crime was at 4.5, which is far below our threshold
24 of 18 percent. So they disclosed and they provided that
25 mitigating information.

1 So we went and did site inspections, drove
2 around last week, and realized that the applicant did not
3 disclose one of the undesirable neighborhood
4 characteristics.

5 And that is multiple vacant structures within
6 1,000 feet of the proposed development that could commonly
7 be regarded as blighted or abandoned. Specifically, there
8 are two boarded houses and another house that is clearly
9 abandoned and uninhabitable on the northern boundary of
10 the site.

11 One of these properties is currently listed for
12 sale as a teardown for the lot value only. And Harris
13 County records indicate that the property taxes are
14 current for these properties, which would seem to indicate
15 that they are being held for investment purposes.

16 This is a neighborhood that is in a
17 redevelopment process. There are some single-family homes
18 that are physically deteriorating, but there is a lot of
19 new development.

20 There is a new rail stop right in front of the
21 site. And I think that Joy is going to tell you about
22 some of the other really exciting things that are going on
23 in this area, which indicates that these properties on
24 the north side of the development site will be
25 redeveloped, and will not be continue to be a negative

1 impact on the site.

2 MR. OXER: A timing issue with the
3 neighborhood.

4 MS. HOLLOWAY: Exactly. This is a neighborhood
5 that is in transition. There has been significant both
6 private and public investment in the area. So we have
7 conducted that further review of the proposed development
8 site and the surrounding neighborhood.

9 And we recommend that the proposed site be
10 found eligible under the 10 TAC 10.01(a)(4) of the Uniform
11 Multifamily Rules. That is the undesirable neighborhood
12 characteristics rule. Further, staff is recommending the
13 issuance of a determination notice of \$759,164 in 4
14 percent Housing Tax Credits and an award of \$607,698 in
15 direct loan funds, subject to underwriting conditions that
16 may be applicable in the Real Estate Analysis report for
17 the New Hope Housing at Harrisburg development
18 application.

19 MR. OXER: Good. All right. Any questions of
20 Marni, of the Board?

21 (No response.)

22 MR. OXER: Okay. After that, a motion to
23 consider?

24 MR. CHISUM: I move.

25 MR. OXER: Okay. Motion by Mr. Chisum.

1 MR. GANN: Second.

2 MR. OXER: Second by Mr. Gann to approve staff
3 recommendation on Item 5d.

4 Joy, you are up. But recognize that you're
5 getting what you want to get.

6 MS. BROWN: Oh, and I do recognize that. And
7 under ordinary circumstances --

8 MR. OXER: Brevity is going to be really --

9 MS. BROWN: Absolutely, under ordinary
10 circumstances, I would simply sit and smile. The reason I
11 am speaking to you today -- Joy Horak Brown, CEO of New
12 Hope Housing -- is that I want to be certain you
13 understand that there is little that is more important to
14 New Hope's business model or to me personally than the
15 reputation we worked very hard to establish with you and
16 staff. And that is for quality work, for transparency and
17 for integrity.

18 And I can assure you that if I had seen the
19 site with the eyes Marni did, I would have disclosed. I
20 have spoken to Marni about it, and I agree with her. I
21 see her point. And I certainly apologize for any
22 oversight on my part.

23 And I want also to assure you how exciting this
24 site is. We own a city block with a view of downtown
25 Houston right across the street from a transit stop. We

1 can't even believe this is ours, in less than a mile from
2 the BBVA Compass Soccer Stadium. Between half a mile and
3 three-quarters of a mile are three luxury apartment
4 complexes, 1,300 to \$2,100 a month.

5 MR. OXER: You woke up one morning and a
6 sunbeam hit you right between the eyes, didn't it?

7 MS. BROWN: Average -- I'm telling you, average
8 home price is almost \$400,000. Makerspaces, restaurants,
9 coffee shops; this is a really exciting neighborhood. And
10 I want to very respectfully ask you to approve staff's
11 recommendation.

12 MR. OXER: Thank you for your comments.

13 MS. BROWN: Yes, sir.

14 MR. OXER: Any other public comment?

15 (No response.)

16 MR. OXER: There appears to be none. Okay.
17 With respect to Item 5d, motion by Mr. Chisum.

18 MS. HOLLOWAY: If I may, excuse me. I was just
19 informed that as a result of additional evaluation after
20 the Board book was published, the determination notice
21 amount is actually \$847,339. I just wanted to make sure
22 that you are aware that that amount has gone up.

23 MR. OXER: So another \$98,000.

24 MS. HOLLOWAY: Yes.

25 MR. CHISUM: I'll amend my motion.

1 MR. OXER: Okay.

2 MR. GANN: Same.

3 MR. OXER: Okay. Motion by Mr. Chisum, second
4 by Mr. Gann as amended on Item 5d. Those in favor?

5 (A chorus of ayes.)

6 MR. OXER: Those opposed?

7 (No response.)

8 MR. OXER: There are none. Good job. That
9 sounds like a really good site, by the way.

10 MS. HOLLOWAY: Oh, it is. It is a great
11 neighborhood.

12 MR. OXER: Well, you know, our policy
13 provisions and pronouncements on these things are intended
14 to look at these for a site that we are working on these
15 programs, the Tax Credit program particularly, they are
16 there for 30 years.

17 If this site has got something, a shed that
18 somebody is going to tear down inside of 18 months, I
19 don't think that's going to be something that we should --
20 that's a proper utilization of the latitude the Board has,
21 in that respect, in my estimation.

22 All right. We have got a couple of items to
23 take on with respect to an Executive Session. It is right
24 now, a quarter of --

25 MS. ECCLES: Mr. Chairman, if I could just ask

1 one quick question.

2 MS. HOLLOWAY: Yes.

3 MR. OXER: Certainly.

4 MS. ECCLES: Back on the issue of 5B, the
5 interpretation of all three levels of schools meeting the
6 rating, and disclosure.

7 MS. HOLLOWAY: Uh-huh.

8 MS. ECCLES: Are there any -- what is the
9 result of the 4 percent application not disclosing? And
10 their interpretation is --

11 MR. OXER: Is the application terminated, or
12 what is the story. Is that what you are asking?

13 MS. ECCLES: Yes.

14 MS. HOLLOWAY: Yes. So the -- it is going to
15 depend on the fund source. And probably Teresa or Tom
16 could speak better on the 4 percent side than I can.

17 Keep in mind that this is not an ineligibility.
18 This is a disclosure, so that we are taking it a little
19 deeper, looking a little further into the transaction, and
20 looking at plans for improvements in the schools, those
21 kinds of things.

22 MS. ECCLES: But these FAQs are addressing 9
23 percent preapps.

24 MS. HOLLOWAY: Yes. But keep in mind that
25 the -- it is a 9 percent FAQ. It is a Chapter 10

1 requirement.

2 MS. ECCLES: Yes.

3 MS. HOLLOWAY: I would propose that we are
4 going to apply the same standard under Chapter 10.

5 Teresa, would you --

6 MR. OXER: Teresa, have you got a contribution
7 to this?

8 MS. MORALES: Teresa Morales. I would just
9 clarify that while the FAQ has historically been a
10 document that is geared towards the 9 percent applications
11 and primarily how we view certain scoring items and stuff,
12 that FAQ doesn't include a lot of questions as it relates
13 to Chapter 10 that is applicable to both 4 percent and 9
14 percent applications.

15 And then there are also some things in the QAP
16 that Marni alluded to earlier, with respect to QCTs and
17 SADDAs, that would also be applicable to 4 percent deals.

18 With respect to your other question on the
19 termination aspect of it, the language in the rule does
20 say that an application may be terminated. That action on
21 a 4 percent deal is a little bit different in that we
22 could go ahead and terminate the application.

23 But assuming that there is a lot of volume cap
24 that remains, which has historically been the case, we
25 could terminate the application and then the applicant

1 could just turn right around and reapply.

2 So from staff's perspective, I think that we
3 were just pointing out that while the rule says we could
4 terminate, a different approach that we could take would
5 be just to have them amend their application or submit a
6 revised development owner certification that discloses
7 whatever characteristic is applicable and then provide the
8 supporting documentation.

9 MR. OXER: This sounds like a fairly subtle
10 differentiation between the 4 percent and the 9 percent
11 deals that sounds like there may be amenable to having an
12 FAQ for the 9 percent deals and a 4 percent just to make
13 sure that clarification is evident in that. That is a
14 passing comment from my observation.

15 MR. IRVINE: On the deal that Joy just had
16 before us, I mean basically, wouldn't you identify that
17 and fix that?

18 MS. HOLLOWAY: Yes.

19 MR. IRVINE: Boom, boom? So I think it's going
20 to take some cooperation and some discretion and some good
21 judgment. If we identify something that was a technical
22 requirement that was missed, and we can wrap our head
23 around it, and come quickly to an appropriate conclusion.
24 That is the thing to do.

25 MR. OXER: Okay. Any other questions?

1 (No response.)

2 MR. OXER: Counsel?

3 MS. ECCLES: No.

4 MR. OXER: All right. Here is what we are
5 going to do. Since we have a couple of items, and I also
6 want to have some input, so that everybody knows there is
7 going to be input, I am going to ask for some legal input
8 on Item 6 here, which is coming in next.

9 We are going to a short Executive Session. So
10 everybody sit down and be still for a second. Be quiet.

11 The Governing Board of the Texas Department of
12 Housing and Community Affairs will go into closed or
13 Executive Session at this time. The Board may go into
14 Executive Session pursuant to Texas Government Code
15 551.074 for the purpose of discussing personnel matters.

16 Pursuant to Texas Government Code 551.071 to
17 seek and receive legal advice from its attorney. Pursuant
18 to Texas Government Code 551.072 to deliberate the
19 possible purchase, sale, exchange or lease of real estate
20 and/or pursuant to Texas Government Code 2306.039(c) to
21 discuss issues related to fraud, waste or abuse with the
22 Department's Internal Audit or Fraud Prevention
23 Coordinator or Ethics Advisor.

24 Closed session will be held in the anteroom of
25 this room, which is the John H. Reagan Building, 140. The

1 date is February 25, 2016. The time is on the official
2 watch, 11:17.

3 I am going to ask Marni to join us for the
4 first part of this Executive Session. We will be back to
5 vote in about 20 minutes.

6 (Whereupon, the Board recessed into Executive
7 Session at 11:17 a.m.)

8 MR. OXER: Okay. The Board is now reconvened
9 in Open Session at 12:03. During the Executive Session,
10 the Board did not adopt any policy, produce a resolution
11 or a regulation, or take any formal action or vote on any
12 item. We received counsel from our General Counsel.
13 Okay. With respect to --

14 MR. IRVINE: Marni was not present --

15 MR. OXER: That is correct. Marni was not
16 present, not being an attorney. I was incorrect in
17 assuming that we could have input from her. We did not
18 take that. She was not present. So let that be reflected
19 on the record.

20 Okay. We have an open motion on the table on
21 Item 5B. It's a motion by Mr. Gann, and a second by Mr.
22 Goodwin to approve staff recommendation on 5B.

23 I would like to add that in the discussion, it
24 is the general policy bias of the Board for us to want to
25 have disclosure. And the disclosure of the issue on the

1 schools is not for the purposes of disqualifying any
2 particular application, so much as it is to raise a flag
3 to see if there is other opportunities to mitigate that
4 insufficiency for any of those schools.

5 A general reading of -- what was the section
6 again, code section 2, part B. Is that correct? Let's
7 make sure we are clear on the citation there. The
8 substance of the -- with respect to the FAQs that have
9 been made and that were presented by Marni, the substance
10 of them are essentially correct in that the intent is to
11 expect disclosure if any of the three would be
12 insufficient as opposed to only disclosing if all three
13 were insufficient.

14 Let's see. Whereof the Board is interpreting
15 policy. In reading that particular component that applies
16 to the three schools within those two sections.

17 MS. ECCLES: That would be within Subchapter B,
18 Section 10.101(b). I'm sorry, 10.101(a)(4)(B), and you
19 said those two sections. I presume that you mean, within
20 Section 11 of the QAP relating to educational access.

21 MR. OXER: Right. Okay. So reading those
22 rules are interpreted in concert. That's one of the
23 reasons we have all these cross-references on them.

24 So in an effort to read these in concert and
25 make sense of it all, the -- essentially, the FAQ is

1 correct in that it requires disclosure of any of the three
2 or subpart. So to reiterate, it is the general policy
3 bias of the Board to request this disclosure simply to
4 create, especially in the 4 percent rule opportunity to
5 provide mitigation for any insufficiency in schools.

6 So with that clarification, the motion still
7 stands by Mr. Gann, second by Mr. Goodwin to approve staff
8 recommendation as presented. Is that clear? Is that a
9 clear presentation of the discussion?

10 MS. ECCLES: Yes.

11 MR. OXER: Okay. That being the case, on Item
12 5B, motion by Mr. Gann, second by Mr. Goodwin. We have
13 had public input. Those all in favor?

14 (A chorus of ayes.)

15 MR. OXER: Opposed?

16 (No response.)

17 MR. OXER: There are none. It is unanimous.
18 Okay. I think with respect to -- did we take care of 5d?
19 Because we were waiting on this one also. Did we finish
20 5d? Okay. Joy is a joy.

21 So okay. Let's go ahead and work through the
22 rest of those three items on Section 5, on item 5.

23 Teresa, you are going to handle those? Okay.

24 Let's go ahead and go through those. And then
25 we'll -- we'll take them in this direct order. Go for 5e

1 right now, Teresa.

2 MS. MORALES: Teresa Morales. Item 5e involves
3 the issuance of multifamily revenue bonds by the
4 Department for the acquisition and rehabilitation of two
5 properties in San Antonio; Chisolm Trace Apartments with
6 126 units, and Cheyenne Village Apartments with 60 units.

7
8 Prior Board action with respect to these
9 developments include the inducement resolution in December
10 of 2014, and an updated inducement resolution in September
11 of 2015, which was also when the Board considered
12 undesirable neighborhood characteristics associated with
13 both sites, and deemed them both to be eligible. The
14 financing structure is one that we have done before.

15 It involves an FHA 221(d)(4) loan whereby the
16 Department will issue a single series of short term tax-
17 exempt fixed rate bonds that will be collateralized with
18 the proceeds of the taxable FHA mortgage loan for each
19 property. The bond proceeds will be utilized for project
20 costs. And as bond proceeds are drawn down, the proceeds
21 from the FHA loan are simultaneously drawn and placed in
22 an escrow account for the benefit of the bondholders.

23 Given the cash collateralization, the
24 transaction minimizes risk to the Department. The bonds
25 will remain outstanding through the rehab period, which is

1 estimated between ten and twelve months, and will then be
2 paid off, leaving only the FHA mortgage loan. While there
3 will be one master trust indenture, there will be separate
4 loan agreements on regulatory and the unused restriction
5 agreements and deeds of trust specific to each property.

6 Staff did hold a TEFRA public hearing for both
7 properties, and there was no one in attendance at those
8 hearings, and we have not received any public comment for
9 either property.

10 Staff recommends approval of Bond Resolution
11 16-011 in an amount not to exceed \$13,500,000. And
12 determination notices of 4 percent Housing Tax Credits in
13 the amount of \$605,251 for Chisholm Trace and \$297,346 for
14 Cheyenne Village Apartments.

15 MR. OXER: Questions from the Board?

16 MR. GOODWIN: Move approval.

17 MR. OXER: Motion by Mr. Goodwin to approve
18 staff recommendation on 5e. Is there a second?

19 MR. CHISUM: Second.

20 MR. OXER: Okay. Second by Mr. Chisum. No
21 request for public comment. Okay. Regarding 5e, motion
22 by Mr. Goodwin, second by Mr. Chisum to approve staff
23 recommendation. Those in favor?

24 (A chorus of ayes.)

25 MR. OXER: Opposed?

1 (No response.)

2 MR. OXER: There are none. Okay. 5f.

3 MS. HOLLOWAY: 5f, Marni Holloway, Director of
4 Multifamily Finance. We are requesting 5f be pulled from
5 the agenda.

6 The applicant has requested that they have an
7 opportunity to appeal to Mr. Irvine before they take the
8 step of coming to you, so we may be bringing this item
9 back to you next month.

10 MR. OXER: But you are going to pull it, and
11 thus we don't require action.

12 MS. HOLLOWAY: Fine. It does not require
13 action at this time.

14 MR. OXER: Okay. All right, 5g.

15 MS. HOLLOWAY: 5g is report and possible action
16 to address a State Representative vacancy and its impact
17 on obtaining a scoring letter under Chapter 11.9(d)(5).
18 So scoring criteria for community support from a State
19 Representative is provided in the QAP.

20 An application may receive up to eight points
21 or have deducted up to eight points for letters submitted
22 as part of the full application. This year, those letters
23 are due on the full application deadline of March 1, 2016.

24 It is going to be a busy week next week. State
25 Representative Ruth Jones McClendon has resigned her

1 office for House District 120, effective January 31, 2016.

2 Governor Abbott has called a special election for May 7
3 of 2016 in order to fill a vacancy. So that seat is
4 currently vacant.

5 Staff has received a question from applicants
6 who have submitted a preapp for a potential development in
7 House District 120 regarding their inability to get a
8 letter of support prior to the full application deadline.

9 If the full application is submitted without a letter of
10 support, it is unlikely that it will be competitive in
11 that region.

12 If the full application submitted for a
13 proposed development in House District 120, any
14 application, that appears it would be competitive but for
15 the lack of a representative support letter, the applicant
16 may request relief from the Board, such as a waiver
17 extending the deadline for submission of the
18 representative's letter. We are just providing you
19 information that this may be coming up in the future.

20 MR. OXER: So this is District 120. Where is
21 that?

22 MS. HOLLOWAY: San Antonio.

23 MR. OXER: Yes. That's right. And you said
24 applicants. There are plural?

25 MS. HOLLOWAY: We have received -- we received

1 the question from one applicant. I would anticipate that
2 if action is taken in the future regarding the
3 representative letter for this district, it would apply to
4 all applicants within that district.

5 MR. OXER: So how many -- this is a point of
6 inquiry. Are there applications in that district,
7 District 120, that by virtue of being -- assuming we said
8 since there is no one to ask for it, we can say they get
9 the points, because if they don't get the points, we take
10 the points off, they are essentially non-competitive.

11 MS. HOLLOWAY: Uh-huh.

12 MR. OXER: But if we give them the points, how
13 many other applications have been filed in that region
14 outside of that district? Follow what I mean?

15 MS. HOLLOWAY: Yeah. I understand the
16 question. I don't have that information available to me
17 right now. And because this is really a scoring item at
18 full application, we are not going to know for a couple of
19 weeks what the potential impact would be of allowing that
20 extension.

21 MR. OXER: Mr. Chisum, you have a question.

22 MR. CHISUM: Yes. Do we have a precedent here?
23 This is obviously not the first time this has ever
24 happened.

25 MS. HOLLOWAY: Actually we are not able to find

1 a precedent, and there isn't anything that we are able to
2 identify in our rule. This is clearly something that we
3 need to address for next year, but we have not been able
4 to find precedent.

5 MR. CHISUM: Then it would appear to me, Mr.
6 Chairman, we have to stay with our rules.

7 MR. OXER: Well, we have to stick with our
8 rule, and the sad thing is that's true. There is nobody
9 there to ask.

10 MR. CHISUM: Right.

11 MR. OXER: So they either get plus eight or
12 minus eight, or zero.

13 MS. HOLLOWAY: So it would be plus eight for a
14 positive letter, zero for a neutral letter, minus eight
15 for a negative letter.

16 MR. GOODWIN: Am I hearing you say that no one
17 has asked us to waive the deadline?

18 MS. HOLLOWAY: We have not received a formal
19 request at this time. We have a question that has been
20 presented to us. And we --

21 MR. OXER: And the staff request for action on
22 this is what?

23 MS. HOLLOWAY: We do not have a request for
24 action.

25 MR. OXER: It is just to say, here is one of

1 those things coming. Get ready for it.

2 MR. CHISUM: But this will affect the Wheatley
3 project that is in this district --

4 MS. HOLLOWAY: Potentially, yes.

5 MR. CHISUM: -- we talked about a couple of
6 months ago?

7 MS. HOLLOWAY: Yes. Potentially.

8 MR. OXER: We have been talking about that one
9 for a couple of years.

10 MS. HOLLOWAY: Yes.

11 MR. IRVINE: Since no one made a specific
12 request, staff didn't have a recommendation on that
13 request. But we did present the item in a way where, you
14 know, if the Board feels that there is some appropriate
15 action, we could certainly consider it.

16 MR. GOODWIN: Will it harm Wheatley if we don't
17 take the action to waive the deadline? Or can they come
18 back in -- at the next meeting, and we can say, okay, we
19 are going to waive the deadline, and it won't harm anyone?
20 From a timing perspective, is my question.

21 MR. CHISUM: I think we are setting a precedent
22 if we go down that road.

23 MS. HOLLOWAY: Well, and I would point out, I
24 don't think that there's anyone in the room from that
25 particular applicant. My concern would be --

1 MR. IRVINE: Tim is here.

2 MS. HOLLOWAY: Okay. You know, I am sure if
3 you would like to discuss with Tim the potential
4 implications there -- no, we have not received a formal
5 request for action. And again, if the Board would like to
6 take action at this point, if that's your choice, you have
7 that option.

8 MR. IRVINE: Yes. I think that the objects are
9 different to anticipate a situation and address it before
10 it occurs, or to consider a situation after it has
11 occurred and ask -- you know, consider a waiver for
12 something that's already passed.

13 MR. OXER: So, Tim, what do you want?

14 MR. ALCOTT: Tim Alcott, San Antonio Housing
15 Authority. I need some time --

16 MR. OXER: For the record, we are going to
17 suspend protocol here. Before we have public comment, we
18 have a motion to consider. Since this is a report item --
19 it's all right. Sit still.

20 MR. ALCOTT: All right.

21 MR. OXER: You're not getting spanked.

22 MR. ALCOTT: All right.

23 MR. OXER: I'm just saying hold on a second.
24 This has got to go on the record so we've got our process
25 done. Okay?

1 So this is a report item, if I am correct,
2 Marni, that this is an existing condition. And so you
3 presented that, and we are now looking for comment --

4 MS. HOLLOWAY: Yes.

5 MR. OXER: -- with respect to how results might
6 unfold in the future.

7 MR. ALCOTT: Yes. And so --

8 MR. OXER: And so tell us who you are.

9 MR. ALCOTT: You know, I can start again. Tim
10 Alcott, San Antonio Housing Authority. And I was
11 listening to the comments, but I need more time. I didn't
12 know this would be coming up today.

13 So I had a little time with your staff to
14 understand the implications. I don't have a
15 recommendation for what we should be doing at this very
16 point. But if I spent time with staff, I could get back
17 with you shortly, but I need more time.

18 MR. OXER: Yes. I think it is important that
19 the record includes evidence that this is an issue. We
20 are anticipating it.

21 I think that you rightfully recognized, Mr.
22 Chisum, or were right to state that, you know, we need to
23 stick with our rules, unless there has been a request not
24 to stick with our rules. And so rather than taking a
25 preemptive strike on this, you know, you need to figure

1 out what the implications are for you.

2 MR. ALCOTT: Absolutely.

3 MR. OXER: Okay. And we can fix things that
4 break. We don't go around breaking things and looking for
5 ways to fix them.

6 MR. ALCOTT: Right.

7 MR. GOODWIN: I respectfully kind of disagree.
8 I think we have been told the application, Wheatley Arms,
9 which I'm assuming we have a preliminary application
10 for --

11 MR. ALCOTT: Right. We do.

12 MR. GOODWIN: -- is not going to be
13 competitive.

14 MR. OXER: Unless it has this --

15 MR. GOODWIN: -- unless it has this letter.
16 And we are not going to have this letter, because we have
17 no representative.

18 MR. ALCOTT: Right.

19 MR. GOODWIN: To me, this isn't anticipating
20 that she might resign before the deadline. She has
21 resigned; she's gone.

22 MR. OXER: Yes. This is not guesswork.

23 MR. GOODWIN: This isn't guesswork, and we're
24 are not going to have a new representative until May 7.

25 MR. ALCOTT: 17th.

1 MR. GOODWIN: And it would appear to me that --

2 MS. ECCLES: Well, and if I may interject just,
3 we may not have one then either. If this is a special
4 election, there's always the opportunity for a whole bunch
5 of candidates, and a runoff that follows.

6 MR. GOODWIN: And so the runoff would be when?
7 What deadline, what date would that be?

8 MS. ECCLES: That date has not been set.

9 MR. OXER: It hasn't been set. They are often
10 reasonably soon thereafter, like probably by no later than
11 the end of June in that case. That is pure guesswork,
12 pure speculation.

13 MS. ECCLES: Right.

14 MR. OXER: But, yes, we recognize that this is
15 going to be an issue, Tim --

16 MR. ALCOTT: Yes. I definitely see it as a
17 problem. And I've got to figure out --

18 MR. OXER: Like we said, we are coming. There
19 is a bump in the road here. We just don't have a way to
20 get over it yet, and we don't have any precedent to go
21 from. I think it particularly -- at this point, this is
22 enough of a significant issue, because you -- I don't have
23 to tell you how significant Wheatley has been.

24 MR. ALCOTT: Right. Absolutely.

25 MR. OXER: We have done a lot of work.

1 MR. ALCOTT: Thank you.

2 MR. OXER: We've made sure we -- you know. By
3 the way, please give our regards to the Chief of Police
4 there, since he was kind enough to come up and chat with
5 us.

6 But before we get to the point of making policy
7 pronouncements on an issue that is fairly rare, I think we
8 would be better off saying, given no other input right
9 now, that we see that there will be a problem; we are
10 going to stick to the rule.

11 MR. ALCOTT: Right.

12 MR. OXER: We are recommending -- I am
13 recommending as Chair, and the other members can make
14 their own contribution. But I recommend as Chair that you
15 spend as much time as you can with staff so you can wind
16 some way through this --

17 MR. ALCOTT: Absolutely.

18 MR. OXER: -- and then come back to us with any
19 request for change that you have.

20 MR. ALCOTT: Yes.

21 MR. OXER: Your point is well made, J.B., that
22 this ain't a guess that this is going to happen.

23 MR. GOODWIN: Right.

24 MR. OXER: This is going in the ditch. We are
25 trying to figure out how to get it out.

1 MR. ALCOTT: Absolutely. Will it be too late
2 by next Board meeting to bring it back? Do we have time
3 by next Board meeting? I have got to make a
4 recommendation?

5 MR. OXER: Marni, do we?

6 MS. HOLLOWAY: It would have to come in with
7 the application.

8 Marni Holloway again. The waiver request would
9 need to come in with the full application, which is due
10 next week. And we -- and, yes, it would come to the Board
11 next month.

12 There are a number of cascading impacts of
13 allowing an extension of that deadline. And that would be
14 the information that we would be bringing back to you, is
15 if you do or if you don't, these are the consequences down
16 the road.

17 MR. OXER: Good. But there is a process; it's
18 outlined, and you are not to the point of getting to the
19 Board yet, apart from you saying this is an issue you need
20 to get ready for and theirs is no precedent.

21 MS. HOLLOWAY: Yes. Yes.

22 MR. OXER: Correct? A fair statement? Okay.
23 Good point. Your position is recognized, J.B., as is
24 yours, Mr. Chisum.

25 MR. CHISUM: Okay. Just one quick question and

1 probably for our counsel.

2 Since the State Representative McClendon has
3 resigned and that is an open seat, is there anyone else
4 that could sign in that behalf, or does it have to be the
5 elected state representative? In other words, could the
6 Speaker sign?

7 MR. IRVINE: The statute specifically
8 designates the representative for the district in which
9 the development is located.

10 MR. GOODWIN: That is the way I read it, but I
11 wanted to see if there were other alternatives.

12 MS. ECCLES: Indeed. If the representative
13 right now, who is now a former representative, wrote the
14 letter, she couldn't.

15 MR. GOODWIN: Right. Thank you.

16 MR. OXER: So it's got to be at the time of
17 writing the letter.

18 MS. ECCLES: The current state representative.

19 MR. OXER: And there is simply not going to be
20 one.

21 MS. ECCLES: Because the Governor has declared
22 a special election for it, under our Texas Constitution,
23 that can only be done in the case of a vacancy, which
24 means, there is nobody who is representing that district.

25 MR. GOODWIN: Are there any other projects,

1 Tim, that you know -- Marni said she didn't know -- in
2 that representative's district?

3 MR. ALCOTT: It is the only one that we have.
4 I do not know if anyone else has any. I don't have that
5 information. But it is definitely a problem. But we will
6 see what we can do.

7 MR. OXER: Yes. It is an issue. And we can't
8 go around making policy pronouncements. We have got to
9 have a reason to work on this. So get in there and work
10 with Marni and get it straight for next month.

11 MR. ALCOTT: Absolutely.

12 MR. OXER: Okay.

13 MR. ALCOTT: Thank you.

14 MR. OXER: All right. Is that it, Marni?

15 MS. HOLLOWAY: Yes.

16 MR. OXER: Okay. Thanks. Okay. Well, thanks
17 again.

18 Well, thanks again, Marni; you got number 6 to
19 play with.

20 MS. HOLLOWAY: Marni Holloway. This time I am
21 wearing my Chair of the Enforcement Committee hat. Item 6
22 is presentation, discussion and possible action on an
23 appeal of a recommendation to debar Charles Miller for a
24 period of ten years.

25 Mr. Charles Miller is the president and

1 director of CBM Interests, Inc., which is the general
2 partner of Southmore Park Apartments, located in Pasadena,
3 Texas.

4 This property has a history of serious
5 noncompliance, and that is the reason that we are coming
6 to you, or the reason that we got to this point with it.

7 So a little bit of backstory and so you have
8 some basic information, TDHCA has adopted HUD's Uniform
9 Physical Condition Standards to determine compliance with
10 property condition standards. So all of our properties
11 are inspected according to this set of standards.

12 UPCS uses a scoring system that is calculated
13 according to the type of damage for the item inspected and
14 the level of severity, with the perfect score being 100
15 and a failing score being 50 or below.

16 In addition, Texas Government Code at
17 2306.0504(c) indicates that the Department shall debar a
18 person from participation in a department program if the
19 person materially or repeatedly violates any condition
20 imposed by the Department in connection with the
21 administration of a Department program.

22 Further, under our enforcement rule, the
23 material and repeated violation of a LURA that is
24 described in statute includes a person is considered to
25 have materially violated a LURA if they control a

1 development that has on more than one occasion scored 50
2 or less on a UPCS inspection.

3 So at least twice their property has failed on
4 a UPCS inspection. Southmore Park Apartments scored a 46
5 during a UPCS inspection conducted on April 14 of 2009,
6 and 42.23 during the UPCS inspection concluded on March 26
7 of 2015.

8 TDHCA and Southmore Park Apartments had a
9 previous administrative penalty case that was agreed on
10 February 19 of 2015. The administrative penalty was paid.

11 But the UPCS violations that created that issue were not
12 cleared, which constitutes a violation of the agreed final
13 order from last year.

14 A subsequent administrative penalty referral
15 was submitted to the Enforcement Committee after Southmore
16 Park Apartments failed to fully correct violations
17 identified during a physical inspection conducted on March
18 16 of 2015.

19 A notice to the Board was ultimately submitted
20 on December 15 of 2015, recommending a maximum potential
21 administrative penalty in the amount of \$13,250. The
22 recommendation from the Enforcement Committee additionally
23 is that Mr. Miller be debarred for ten years, in
24 consideration of the severity of these violations.

25 MR. OXER: Any questions from the Board?

1 (No response.)

2 MR. CHISUM: Mr. Chairman.

3 MR. OXER: Mr. Chisum.

4 MR. CHISUM: I move that we accept the staff
5 recommendation with one change in the debarment from ten
6 years to 20 years.

7 MR. OXER: Okay. Motion by Mr. Chisum to
8 extend the debarment from ten to 20 years. Staff
9 recommendation to debar with an extension to 20 years.
10 And the impact of that would be -- I think ten years is
11 going to essentially be, you are out of business in this
12 Department.

13 MS. HOLLOWAY: Right. So debarment for ten
14 years basically means that Mr. Miller would not be able to
15 conduct any new business with the Department for a period
16 of ten years, or for a period of 20 years, if that is
17 ultimately the Board's decision.

18 MR. CHISUM: Mr. Chairman, with egregious
19 noncompliance and his record, I don't think we ever want
20 to consider doing business with this gentleman again.

21 MR. OXER: Well, I actually think you are
22 right. So do I hear a second?

23 MS. HOLLOWAY: The Board does have the ability
24 to determine the debarment period.

25 MR. GANN: I'll second.

1 MR. OXER: Okay. Second by Mr. Gann. Do we
2 have a citation of the -- counsel or Marni, do you have --

3 MS. HOLLOWAY: I'm sorry?

4 MR. OXER: Do you have the citation for the
5 capacity for the Board to make that determination?

6 MS. HOLLOWAY: I'm sure Megan does. Or Jeff
7 does.

8 VOICE: 10 TAC 2.401.

9 MS. HOLLOWAY: Is it 2.4?

10 MR. CHISUM: It is stated in this motion.

11 MR. OXER: It is?

12 MS. HOLLOWAY: Yes. 10 TAC 2.401. And then
13 Texas Government Code 2306.0504.

14 MS. ECCLES: Is there an upper limit on that
15 term of debarment?

16 MS. HOLLOWAY: No, there is not.

17 MS. ECCLES: Let me ask this question, just
18 about the process that he has been given.

19 MS. HOLLOWAY: Uh-huh.

20 MS. ECCLES: There's discussion of an informal
21 conference?

22 MS. HOLLOWAY: Yes.

23 MS. ECCLES: What sort of opportunity was Mr.
24 Miller given to present evidence on his behalf, prior to
25 today?

1 MS. HOLLOWAY: Mr. Miller was informed of the
2 date of the informal conference, had the opportunity to be
3 represented by counsel at that meeting, had the
4 opportunity to present any information that he felt would
5 provide a different perspective on the property.

6 The Enforcement Committee is an informal group.
7 We meet with entities that are referred to us in order to
8 determine the penalties and possible debarment actions,
9 enforcement actions against those groups.

10 Mr. Miller received notice, had that
11 opportunity; was represented by counsel and by his
12 property manager. Mr. Miller did not appear himself at
13 that meeting.

14 MR. ECCLES: And evidence was presented to the
15 Committee?

16 MS. HOLLOWAY: This is not an evidentiary
17 group; it's not an evidentiary hearing. Parties are able
18 to bring to us their perspective, talk to us about their
19 plans for the future, what they have done to correct
20 issues of noncompliance, those kinds of things.

21 MR. OXER: Information in the Board book
22 suggests that there are several insufficiencies and code
23 violations --

24 MS. HOLLOWAY: Yes.

25 MR. OXER: -- dating back as far as 2011, 2012,

1 that remain unresolved. Is that correct?

2 MS. HOLLOWAY: Yes. That is true.

3 MR. OXER: Okay. Giddy up.

4 MS. HOLLOWAY: Actually, the history of
5 noncompliance on this property goes back to -- earliest
6 date I think, is --

7 MR. OXER: >06.

8 MS. HOLLOWAY: 2006. Yes.

9 MR. OXER: Okay.

10 MS. ECCLES: And he had a full opportunity to
11 provide any sort of --

12 MS. HOLLOWAY: Yes.

13 MS. ECCLES: -- explanation or evidence that
14 would suggest that that was inaccurate.

15 MS. HOLLOWAY: Absolutely. He would have had
16 an opportunity to discuss with the Compliance Division,
17 with our Chief of Compliance, with the Compliance
18 Committee before coming to Enforcement.

19 MS. ECCLES: And he has had notice of today's
20 proceeding?

21 MS. HOLLOWAY: Yes.

22 MS. ECCLES: Okay. Thank you.

23 MR. CHISUM: And, Mr. Chairman, that is the
24 genesis of my motion.

25 MR. OXER: I gather. Okay. There has been a

1 motion by --

2 MS. HOLLOWAY: And I believe there's --

3 MR. OXER: There's a motion by Mr. Chisum and a
4 second by Mr. Gann to approve staff recommendation on Item
5 6.

6 Public comment? Would you like to speak, sir?

7 MR. BONE: Thank you for the time. My name is
8 Robert Bone. I'm counsel for Mr. Miller. And the first
9 thing to clarify is that Mr. Miller is here through his
10 counsel today to at least have the opportunity to address
11 the Board.

12 It is not Mr. Miller's intention to show any
13 kind of disrespect or any kind of disregard for this
14 serious order. To the extent his actual physical absence
15 here today is construed as such, please take my word for
16 it that it is not.

17 We asked simply for the opportunity to address
18 the Board in order to get across the fact that Mr. Miller
19 takes this seriously; that he is working and continues to
20 work to make Southmore Park Apartments a better place and
21 to address these violations.

22 He is aware and he is acting upon the
23 conditions that led to the two low scores. He continues
24 to try to get staff in place that can address the other
25 violations and cure those violations and of course

1 continue to address the financial obligations in terms of
2 paying penalties, of which he has stayed on top of, and
3 will continue to.

4 On behalf of Mr. Miller, again, I want to
5 stress, no disrespect has been meant to the Board in the
6 past. He agrees that there is the recognition that
7 problems exist at Southmore Park Apartments, and Mr.
8 Miller continues to work hard to address them.

9 We will accept the determination of the Board.
10
11 We would respectfully and eagerly plead that if debarment
12 is determined to be appropriate -- and it appears that
13 way -- under the current laws, that with the language
14 reading "shall," that it appears that it has to happen, we
15 would respectfully ask -- we were here today to ask for
16 the Board's latitude and maybe having a shorter period of
17 time than ten years. But certainly we would ask that it
18 not be increased over ten years.

19 Ten years is sufficient to allow Mr. Miller to
20 show that he continues to try to turn a new leaf and get
21 this property in order very soon. And that was our point.

22 And I am here to answer any questions. If it
23 is the determination of this Board that Mr. Miller be here
24 before you to answer any questions, we would respectfully
25 ask before increasing the penalty that this matter be

1 tabled for perhaps next month.

2 Mr. Miller will be here to respond to questions
3 if such is the determination of the Board. But if it is
4 the determination of the Board that ten years remains an
5 appropriate time, Mr. Miller stands ready to --
6 irrespective, Mr. Miller is going to work on this
7 property, continue to work on this property, continue to
8 try to get it back into compliance per instructions of
9 TDHCA.

10 MR. OXER: Mr. Bone, you say that your client
11 has made an effort over some time, has been turning over a
12 new leaf. He has been turning over leaves here for over
13 three years. It appears that he has been unable to do
14 that.

15 The effective debarment -- and I solicit
16 counsel on this -- solicit advice from counsel on this --
17 but in the event the debarment is imposed, it does not
18 change the obligation to continue to manage that property
19 appropriately. It only says you don't get to come back
20 and do anything new here for the period of the debarment.

21 MR. BONE: Very much agreed, sir.

22 MR. OXER: Okay. So with that, there seems to
23 be a long history in the information we have been
24 presented. And I assume you have seen that.

25 MR. BONE: Yes, sir.

1 MR. OXER: It has been published in the agenda
2 and available to everybody who is able who wishes to see
3 it, has a long history of insufficiencies on this
4 property.

5 MR. BONE: Yes, sir.

6 MR. OXER: Okay. Any other questions?

7 MS. ECCLES: Just one.

8 MR. BONE: Yes, sir.

9 MS. ECCLES: Have you reviewed the materials as
10 Item number 6 on this agenda?

11 MR. BONE: Yes, sir. I have. I printed the --
12 I did print -- I have been in receipt of prior materials
13 of course as forwarded to us.

14 (Mechanical noise.)

15 MR. OXER: I didn't touch anything. I swear I
16 didn't touch anything.

17 (General laughter.)

18 MR. OXER: It's not a guillotine, Peggy. Much
19 as you all often want, it is not a guillotine.

20 MS. ECCLES: That sounded like a drum roll.

21 MR. BONE: In advance, I will also -- I believe
22 we are about to be shown some images, I suppose?

23 MS. ECCLES: No. Actually --

24 MR. OXER: That was a mistake.

25 MR. BONE: Okay.

1 MS. ECCLES: No, I am not going to cross-
2 examine you. You are not under oath.

3 MR. BONE: I was just going to point out that I
4 don't have my glasses on, and so it is --

5 MR. OXER: Peggy, did you hit anything over
6 there.

7 MS. ECCLES: No. I am not going to spring
8 anything on you. The only question that I was going to
9 ask is actually to you.

10 MR. BONE: Yes, sir.

11 MS. ECCLES: Having reviewed those materials,
12 on behalf of your client --

13 MR. BONE: Yes, sir.

14 MS. ECCLES: -- are there -- does it contain
15 any inaccuracies or anything that you would think needs to
16 be corrected?

17 MR. BONE: I would think -- coming here
18 prepared today to talk about the fact that he had two low
19 scores, the two low scores below 50 that led to this
20 determination that a debarment shall be mandated and
21 having read the Administrative Code in that respect, I
22 reviewed those materials in that light.

23 And, sir, I am not in a position to where I can
24 tell you at this point that those two low scores should
25 not have happened, only that the factors leading to those

1 two low scores are being -- either have been addressed or
2 are continuing to be addressed, including Mr. Miller's
3 efforts to get staff in place that could address them more
4 capably or cure them. I hope that answers your question.

5 That is what I have.

6 MS. ECCLES: Well, and you speak of efforts to
7 address.

8 MR. BONE: Certainly.

9 MS. ECCLES: Has your client produced anything
10 that would demonstrate that they actually have been
11 addressed?

12 MR. BONE: He has not produced anything to me
13 to bring here. Before, again, on the topic of, is this
14 a -- I guess I was not prepared to present any new
15 evidence, but I can certainly speak to my client and try
16 to --

17 MR. OXER: Your purpose in being here is
18 basically a request for clemency, for lenience.

19 MR. BONE: One would put it that way. Yes,
20 sir, Your Honor. But also to point out that, with the
21 Board's decision, Mr. Miller intends to continue his
22 efforts to get the property in shape.

23 MR. OXER: Well, we appreciate his intent, but
24 we would also offer up that he has a contractual
25 obligation to do so --

1 MR. BONE: Yes, sir.

2 MR. OXER: -- that has nothing to do with what
3 we are going to do here.

4 MR. BONE: Yes, sir.

5 MR. CHISUM: Call for a vote, Mr. Chairman.

6 MR. OXER: Okay. I was just going to -- I
7 assume our Compliance Chief is here. Ms. Murphy. Good
8 morning. Good afternoon, now. All right.

9 With respect to item 6, motion by Mr. Chisum,
10 second by Mr. Gann, to approve staff recommendation of
11 debarment for Mr. Miller for a period of ten years,
12 modified to 20 years. We have heard public comment.
13 Those in favor?

14 (A chorus of ayes.)

15 MR. OXER: And opposed?

16 (No response.)

17 MR. OXER: There are none.

18 Michael, you're up.

19 MS. BOSTON: Surprise. Not Michael. Michael
20 is actually at a conference this week. So Chairman Oxer
21 and Board, I am Brooke Boston, one of our deputies. I am
22 here to speak to you about Item 7a.

23 Item 7a relates to our Community Services Block
24 Grant funds which we receive from the U.S. Department of
25 Health and Human Services. Five percent of the amount we

1 receive annually from HHS is used for discretionary
2 purposes. These funds can be used in a variety of ways.

3 There are some ongoing uses of the funds that
4 we consistently are committed to over the years; for
5 instance, migrant seasonal farmworker outreach, Native
6 American population educational efforts, and supporting
7 our Section 8 Project Access program.

8 However, for the remainder of the funds, every
9 two years, you the Board have identified a priority
10 subject area for focusing the use of the funds for the
11 biennium. The priority identified by the Board for 2013
12 and 2014 was homelessness.

13 Last year, in February 2015, the Board
14 determined that the priority for 2015 and 2016 funds would
15 be to invest those discretionary funds back into the
16 Community Action Agency Network to support eligible
17 entities in preparing to meet the requirements of the CSBG
18 organizational standards developed by HHS.

19 The organizational standards of excellence for
20 Community Action Agencies correlate to other system
21 improvements that are needed relating to the new OMB
22 Omniscircular, Texas Uniform Grant Management Standards,
23 how review of single audits occurs in following what we
24 call ROMA requirements, results-oriented management.

25 All of those together were kind of the purpose

1 for which we decided to program the funds that way. At
2 the same meeting in February 2015 is when that priority
3 decision was made, you actually decided on the actual
4 programming specifically of the 2015 CSBG discretionary
5 funds.

6 So we actually have two items today that relate
7 to CSBG discretionary. One, relating to the 2015, which
8 is the one we are discussing right now. And then 7c in a
9 moment, we'll also discuss discretionary. So this item 7a
10 relates to the reprogramming of balances that are left
11 still from the 2015 CSBG discretionary as well as some
12 remaining 2015 CSBG administrative funds.

13 Since the programming of the 2015 CSBG
14 discretionary in February of 2015, not all of those funds
15 have been fully utilized. Some of the funds have been
16 used or will remain targeted or in contracts. For
17 instance, last month you approved items in January for
18 operational improvements that are now proceeding into
19 contracts. We also recently took action on some migrant
20 seasonal farmworker contracts.

21 However, of the 2015 CSBG discretionary,
22 \$608,982 of those funds were not fully utilized and now
23 need reprogramming. Additionally, the administrative
24 funds I mentioned total \$575,000. In total, those two
25 sources aggregate to just under \$1.2 million that will

1 expire on September 30 of 2016 this year and therefore
2 needed us to promptly reprogram those funds.

3 Staff recommends in the Board action item
4 reprogramming that amount as \$1,183,982 to provide funds
5 to CSBG-eligible entities that had expended 90 percent or
6 more of their contracted 2015 CSBG funds by the end of
7 their original contract date and had satisfied previous
8 participation review.

9 And those funds would go to them for the
10 provision of services to low-income individuals and
11 communities with the requirement that the funds be spent
12 in full by July 31st of 2016.

13 In the event that any funds remain after July
14 of 2016 out of this amount, the funds would again be
15 redistributed among this pool. There are 11 organizations
16 listed in your Board book item under 7a. Staff recommends
17 approval of the reprogramming of funds into these awards
18 as recommended in your book.

19 I am happy to answer any questions.

20 MR. OXER: Okay.

21 MR. GOODWIN: So moved.

22 MR. OXER: Okay. Motion by Mr. Goodwin to
23 approve staff recommendation on Item 7a. Do we have a
24 second?

25 MR. GANN: I will second.

1 MR. OXER: Okay. Mr. Gann says he will second.
2 Any public comment?

3 (No response.)

4 MR. OXER: There is none? Okay. Motion by Mr.
5 Goodwin to approve staff recommendation, second by Mr.
6 Gann. Those in favor?

7 (A chorus of ayes.)

8 MR. OXER: Those opposed?

9 (No response.)

10 MR. OXER: There are none.

11 MS. BOSTON: Excellent. Thank you. Item 7b
12 also relates to the reprogramming of unused funds. In
13 this case, we have approximately 4.1 million in 2015 low
14 income household energy assistance program funds. We call
15 that LIHEAP.

16 Those funds come from a combination of
17 allotment funds, which mean other states had to give
18 them up federally and then they get redistributed,
19 combined with balances that were unutilized under existing
20 contracts, as well as some remaining administrative funds.

21 Those funds are allocated in accordance with our rules to
22 a formula distribution.

23 Staff is recommending that the funds -- that
24 that 4.1 be programmed for distribution for CEAP, which is
25 utility payment assistance. There are 41 network

1 providers for CEAP, who are being recommended to receive
2 their proportional formula amount out of the 4.1. These
3 additional amounts are provided through amending existing
4 contracts.

5 The awards were approved by EARAC on February
6 12 and 17. I would note that one of the awards for
7 Community Services, Inc., called CSI, is conditioned on
8 the Department's receipt of disallowed costs totaling
9 \$199,006 no later than March 5 of 2016.

10 If that amount is not repaid by the date, the
11 amount of funds reflected in your Board item as awarded to
12 CSI would be reallocated among those on the list and
13 adjusted proportionally. So everyone's amount would shift
14 around just a little bit.

15 Staff recommends approval of the reprogramming
16 of the funds into these awards as recommended. I would be
17 happy to answer any questions.

18 MR. OXER: So it is a hundred and -- let's see.
19 Hold on a second. 172-, 173- out of 4.1 million. So
20 everybody gets a bite.

21 MS. BOSTON: Correct.

22 MR. OXER: Just a little touch.

23 MS. BOSTON: Correct. Well, it's not an equal
24 share. So as in your book, everybody's amount is
25 different because it is formula-ized.

1 MR. OXER: Okay.

2 MS. BOSTON: Yes.

3 MR. GOODWIN: So moved.

4 MR. OXER: Okay. Motion by Mr. Goodwin to
5 approve staff recommendation on Item 7b.

6 MR. CHISUM: Second.

7 MR. OXER: Second by Mr. Chisum. There appears
8 to be no public comment.

9 Motion by Mr. Goodwin, second by Mr. Chisum.
10 Item 7b. Those in favor?

11 (A chorus of ayes.)

12 MR. OXER: Opposed?

13 (No response.)

14 MR. OXER: There are none.

15 MS. BOSTON: All right. Item 7c. Back to the
16 subject of CSBG discretionary, I realized in retrospect I
17 should have put them right next to each other on the
18 agenda.

19 As I mentioned a moment ago, in February of
20 last year, you approved the biennial priority for using
21 CSBG discretionary for reinvestment into the Community
22 Action Agency Network. At that time, you also authorized
23 the actual spending breakout of 2015, which we then just
24 discussed.

25 So in essence you pretty much said for the next

1 two years, here is your big picture. And then for the
2 first of those years, 2015, go forth in these specific
3 ways. And so now this item it said for 2016, go forth in
4 these additional specific ways for the second year of the
5 biennium.

6 We are proposing that the funds continue the
7 commitment that we have had to certain historic uses of
8 the funds such as the migrant and seasonal farmworker
9 population and Native American populations. In the past,
10 that had been \$200,000.

11 We actually increased it to \$300,000, based on
12 the usage and ultimate awards that we made this year in
13 2015. The amount we are talking about in total of all of
14 the discretionary is \$1.6 million. Those are not
15 finalized figures at this point, but they are estimates,
16 because we don't have a final award amount from HHS.

17 For the migrant and seasonal farmworker
18 activities, we will issue a NOFA consistent with funding
19 last year as well; \$150,000 will be used to support
20 disaster recovery and \$150,000 will be retain to support
21 the issuance of Department-administered housing vouchers
22 for persons with disabilities. For the network investment
23 portion of the funds, we are going to propose four
24 different activities, and they are outlined in your book.

25 If you like, I can talk you through them.

1 In short, one is doing network operational
2 investment, which is similar to the awards we just did
3 last month. We are just doing that again. Then second,
4 we'll be continuing to use funds for intensive
5 assessments.

6 Again, that is something that we just did this
7 past year, and we believe it is going to be an effective
8 use of the funds.

9 Third will be to support transitional costs
10 when an agency absorbs or merges with another area. So
11 that helps them deal with some of those kind of
12 transitional operating costs.

13 And then last will be to support comprehensive
14 regional training and technical assistance activities,
15 which may include funds being used to support what I
16 mentioned earlier, ROMA, which is results-oriented
17 management and accountability training initiatives across
18 the state.

19 The Board action approves the use of the funds
20 as laid out in your book and also grants staff the
21 authority to proceed with making those funds available in
22 those designated uses through either NOFAs, RFPs, request
23 for applications, whatever the case may need to be.

24 Staff recommends approval as recommended. And
25 I am happy to answer any questions.

1 MR. GOODWIN: So moved.

2 MR. OXER: Okay.

3 MR. CHISUM: Second.

4 MR. OXER: Motion by Mr. Goodwin, second by Mr.
5 Chisum to approve staff recommendation on 7c. There is no
6 public comment requested. Those in favor?

7 (A chorus of ayes.)

8 MR. OXER: Opposed?

9 (No response.)

10 MR. OXER: There are none. Okay. Just so that
11 everybody knows, we are running up against a little
12 logistics issue here.

13 So we have reached the end of the formal
14 agenda. We are in the public comment period, where we
15 accept public comment on matters other than those items
16 that were held on the posted agenda items. This is for
17 the purpose of constructing the agendas for the next and
18 other future meetings.

19 So if you would like to speak, I do recommend
20 you make it quick, because we have got some guys that have
21 cabs waiting.

22 MS. BREWERTON: Okay. I will actually talk
23 really quickly then. Hi. My name is Jen Joyce Brewerton.
24 And I am with Dominion. We are considered an extra-large
25 developer under TDHCA rules here in Texas.

1 But I am actually here representing TAAHP.
2 Following a large session that we had yesterday we are
3 asking for the Board to provide direction to staff to open
4 public comment -- the public comment period for the
5 compliance rules again. They are currently out -- they
6 were out in draft format.

7 The public comment period has closed. And we
8 would like it to be reopened again, so that there could be
9 more discussion with the development community. To date,
10 there hasn't been strong discussions with the development
11 community after they came out in draft format.

12 And there are a few reasons for this. The
13 first is, to a fault, the development community has a
14 history of not focusing on compliance rules and other
15 TAC rules. And so again, that is to a fault. Certain
16 provisions that are outlined in those compliance rules do
17 have a strong financial impact on a lot of our
18 developments, and it should have been noted, and it wasn't
19 until it was too late.

20 When the draft rule came out, it was provided
21 all in black line, and I am sure you are familiar with the
22 QAP in that if there is a rule change, it is typically
23 underlined or stricken so the eye is led to what changes
24 have occurred.

25 In this case, the black line is just one large

1 black line, because all of the language was moved to a
2 different section. So you really had to be looking
3 closely for what potential changes are there.

4 There also wasn't what you have seen
5 traditionally in the QAP, a public roundtable that is
6 specifically geared towards discussing potential changes
7 in the compliance rule.

8 And because it wasn't clear in the black line
9 and those changes weren't pointed out by staff, once the
10 draft was posted, it was frankly just missed until kind of
11 the last minute.

12 There was a compliance roundtable that was
13 held. It is a quarterly compliance meeting where the rule
14 was discussed. However, there was just myself and Frank
15 Jackson there from the development community. It was just
16 basically management. And it was only one day prior to
17 the public comment period ending.

18 So yesterday we had this very large executive
19 roundtable, where we went through the potential changes.
20 I think everybody is on the same page. There is a lot
21 less fear than what perhaps you have heard about as of
22 last month.

23 Everybody feels comfortable with some of the
24 larger provisions. However, there were certain sections
25 that are still -- it would be very -- we feel like it

1 would be a very good idea to have the opportunity to sit
2 with staff rather than doing it in the Board meeting next
3 month.

4 So in having discussions with staff on this
5 prior with Patricia Murphy and Stephanie Naquin, it sounds
6 like there is a timing issue that they are very concerned
7 about. So if it is determined that you don't want to open
8 these up for public comment, what we would respectfully
9 ask for is an opportunity for the development community
10 and TAAHP membership to sit down with staff to go over
11 your reasoned response or draft reasoned response prior to
12 it being published so that there is an education there,
13 and it doesn't have to happen at the Board meeting next
14 month.

15 MR. OXER: Thanks, Jen. Appreciate your
16 comments. Okay.

17 Anything else from any member of the Board?

18 (No response.)

19 MR. OXER: Okay. Any other public comment?

20 (No response.)

21 MR. OXER: Any other comment from staff?

22 (No response.)

23 MR. OXER: Any other comment from anybody on
24 the dais.

25 (No response.)

1 MR. OXER: Okay. I get the last word. It's a
2 good thing we are doing here. It's a hard thing that we
3 are doing. But the quality and the effort that we put
4 into it makes it all better for the State of Texas.
5 Entertain a motion to adjourn.

6 MR. CHISUM: So moved.

7 MR. GOODWIN: Second.

8 MR. OXER: Motion by Mr. Chisum and a second by
9 Mr. Goodwin to adjourn. I assume we'll vote by accolade.
10 All those in favor?

11 (A chorus of ayes.)

12 MR. OXER: See you in a month.

13 (Whereupon, at 12:55 p.m., the meeting was
14 adjourned.)

C E R T I F I C A T E

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3 MEETING OF: TDHCA Board
4 LOCATION: Austin, Texas
5 DATE: February 25, 2016

6 I do hereby certify that the foregoing pages,
7 numbers 1 through 111, inclusive, are the true, accurate,
8 and complete transcript prepared from the verbal recording
9 made by electronic recording by Penny Bynum before the
10 Texas Department of Housing and Community Affairs.
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17 03/01/2016
(Transcriber) (Date)

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19 On the Record Reporting
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