

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

GOVERNING BOARD MEETING

VIA TELEPHONE AND WEB LINK

June 17, 2021  
9:04 a.m.

MEMBERS:

LEO VASQUEZ, III, Chair  
BRANDON BATCH, Member  
PAUL A. BRADEN, Member  
KENNY MARCHANT, Member  
AJAY THOMAS, Member  
SHARON THOMASON, Member

BOBBY WILKINSON, Executive Director

*ON THE RECORD REPORTING*  
*(512) 450-0342*

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ROLL CALL	
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#### HOUSING RESOURCE CENTER

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P R O C E E D I N G S

1  
2 MR. VASQUEZ: It is 9:04 a.m., and the meeting  
3 of the Governing Board of the Texas Department of Housing  
4 and Community Affairs is called to order, and thank  
5 everyone for joining us today. It's sure to be a  
6 fun-filled meeting that I'm sure everyone will enjoy, so be  
7 patient today, we'll get through it.

8 Before we get started here -- I'm hearing an  
9 echo of myself here.

10 Before we get started here, we should introduce  
11 a new member of our Board, Mr. Kenny Marchant, who was  
12 appointed by the governor on May 6 of this year. And a  
13 quick little background, as many of you have, I'm sure,  
14 heard of, Congressman Marchant, he's a former member of the  
15 U.S. House of Representatives, representing the 24th  
16 District of Texas from 2005 to 2021.

17 He also served in the Texas House of  
18 Representatives from 1987 to 2005, and as a city councilman  
19 and mayor of Carrollton, Texas. Great experience in real  
20 estate development and homebuilding, and graduated from the  
21 Southern Nazarene University and has received honorary  
22 doctorate of letters, also from Southern Nazarene.

23 So we're welcoming you aboard, Mr. Marchant. I  
24 have an official question to first ask you. It is my  
25 understanding that you have been provided TDHCA's

1       statutorily required training program and that you have  
2       completed it prior to today. Is that correct?

3               MR. MARCHANT: That is correct, yes.

4               MR. VASQUEZ: I read more than I ever read for a  
5       meeting. Yes. Can you hear me?

6               (Discussion regarding audio issues.)

7               MR. VASQUEZ: Are you muted?

8               MR. MARCHANT: It says click.

9               MS. THOMASON: I'm able to hear.

10              MR. BATCH: I can hear him.

11              MR. THOMAS: I can hear him.

12              MR. MARCHANT: Okay. So Leo, are you the only  
13       one who can't hear me?

14              MR. VASQUEZ: He's not muted from our side, is  
15       he?

16              MR. BRADEN: Leo, can you hear us?

17              MR. VASQUEZ: Why am I the only one that can't  
18       hear him?

19              MR. MARCHANT: I don't know.

20              MR. VASQUEZ: There we go, I can hear now.

21              MR. MARCHANT: Yes, I have read -- I haven't  
22       read all the information I've been provided, but I've read  
23       the pertinent information that you've asked about.

24              MR. VASQUEZ: Okay, great. Thank you.

25              So Mr. Marchant is officially qualified to be



1 counted for purposes of quorum and to deliberate and vote  
2 on the Board.

3 With that, I will call the roll. Mr. Batch?

4 MR. BATCH: Here.

5 MR. VASQUEZ: Mr. Braden?

6 MR. BRADEN: Here.

7 MR. VASQUEZ: And again, Mr. Marchant, just for  
8 formality.

9 MR. MARCHANT: I am here.

10 MR. VASQUEZ: Okay. Mr. Thomas?

11 MR. THOMAS: Present.

12 MR. VASQUEZ: Ms. Thomason?

13 MS. THOMASON: Present.

14 MR. VASQUEZ: And myself, so we have a full  
15 filled quorum today.

16 Let's start out asking Bobby to lead with the  
17 pledges, and Board members stay seated.

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

20 MR. VASQUEZ: Great. Thank you, Mr. Wilkinson.

21 Let us continue on with the consent agenda. Are  
22 there any changes or items that someone wants pulled from  
23 the consent agenda?

24 (No response.)

25 MR. VASQUEZ: Hearing none, the chair would

1 entertain a motion regarding the consent agenda.

2 MR. BRADEN: Mr. Chair, I'll make a motion. I  
3 move the Board approve items 1(a) through (j) and accept  
4 the reports in item 2, as described and presented in the  
5 respective Board action request in the Board items.

6 MR. VASQUEZ: Motion made by Mr. Braden. Is  
7 there a second?

8 MS. THOMASON: I'll second.

9 MR. VASQUEZ: Seconded by Ms. Thomason. All  
10 those in favor say aye.

11 (A chorus of ayes.)

12 MR. VASQUEZ: Any opposed?

13 (No response.)

14 MR. VASQUEZ: Hearing none, motion carries.

15 And again, before we really start getting into  
16 the rest of the agenda, I just want to let everyone know  
17 this is probably going to be a longer Board meeting than  
18 usual, so we will more than likely take a break in the  
19 middle, just give everyone a little chance to walk around.  
20 So again, bear with us today.

21 Item number 3 on the agenda: We have been  
22 fortunate to add Mr. Marchant, but we have lost our vice  
23 chair of the Governing Board, Leslie Bingham, and we would  
24 need to appoint or vote for a new vice chair of the Board.

25 And with that, I'd like to, again, first say everyone here

1 is qualified to be vice chair and even chair on this Board,  
2 so again, we have a great team here, but I would ask Ms.  
3 Thomason if she would like to make a motion regarding the  
4 electing of a new vice chair of the Board.

5 MS. THOMASON: Yes, Mr. Chair. I would move  
6 that the Board members elect Mr. Paul Braden to the  
7 position of assistant presiding officer or vice chair of  
8 this Governing Board.

9 MR. VASQUEZ: Great. Thank you, Ms. Thomason.  
10 I assume there are no objections from Mr.  
11 Braden?

12 (No response.)

13 MR. VASQUEZ: Hearing none, is there a second to  
14 Ms. Thomason's motion?

15 MR. BATCH: I'll second, Mr. Chairman.

16 MR. VASQUEZ: Great. Thank you. Mr. Batch,  
17 correct?

18 Okay. So all those in favor of electing Mr.  
19 Braden as the vice chair of the Government Board say aye.

20 (A chorus of ayes.)

21 MR. VASQUEZ: Any opposed?

22 (No response.)

23 MR. VASQUEZ: Hearing none, motion carries.  
24 Paul, you're in. Congratulations.

25 MR. BRADEN: Thank you.

1 MR. VASQUEZ: Moving right along to item 4 on  
2 the agenda, the executive director's report, Mr. Wilkinson,  
3 update us on all the great things going on.

4 MR. WILKINSON: Yes, sir, Mr. Chairman.

5 So on Memorial Day the legislature adjourned  
6 sine die, so this is our first after the legislative  
7 session. Things were wrapping up when last we met, and not  
8 much changed. A few bills that might have affected us that  
9 weren't of great consequence ended up dying at the last  
10 minute.

11 One that passed that might be of interest is HB  
12 1925 by Capriglioni, and that is the statewide camping ban  
13 bill related to homeless camping, and the Department is  
14 actually in the bill.

15 We have to approve camping plans of local  
16 governments, and we have like a 30-day clock, and there's a  
17 list of parameters on what resources we need to make sure  
18 are in the plan. This is a new role for us, but we're  
19 going to attack it, you know, as well as we can, quickly  
20 and fairly.

21 We'll have a rule for you on the subject by the  
22 implementation of the bill, which is September 1, so in the  
23 next couple of months. It will be a rules-based thing  
24 where we make the approvals.

25 Budget-wise, we ended up fine, nothing too

1 scary. We got our capital budget request that we wanted,  
2 it's a budget increase. Our all funds is \$801 million  
3 going into this next biennium where in the current biennium  
4 we're at \$576 million, so that's a 39 percent increase.  
5 General revenue actually went down from \$27.3 million to  
6 \$26 million. That's related to that 5 percent cut that  
7 most agencies had to do, with some exceptions.

8 That bill pattern doesn't capture a lot of the  
9 big money, federal money that we've gotten recently, like  
10 the rental assistance, there's a couple of billion there.  
11 We, of course, updated the Legislative Budget Board and  
12 Senate Finance and House Appropriations of the new monies;  
13 it just didn't necessarily get into the bill because of  
14 timing issues, whatnot.

15 But we aren't captured by that -- there's a  
16 rider that the legislature needs to help appropriate some  
17 of the American Rescue Plan Act funds; our funds are not  
18 affected by that Article 9 rider, so we're free to keep  
19 moving.

20 As a further note, especially for the newer  
21 members, our bill pattern doesn't really capture a lot of  
22 what we do, so all the bond finance, single-family  
23 activity, all the tax credits are outside of the  
24 Appropriations Act, so it looks like we're an \$800 million  
25 biennium agency, and we're like a \$9 billion or more.

1           We actually have a pie chart that we'll update.

2           We had one that we had for House Appropriations and Senate  
3 Finance at the beginning of session, but more federal money  
4 has come in since then, and so we'll provide that to y'all  
5 to give you an idea of the scope of things we're doing  
6 beyond what's appropriated to us.

7           Other bills that passed. There was one in  
8 statute for the 9 percent competitive tax program that  
9 would give a scoring incentive for a 9 percent deal within  
10 two miles of a veterans medical facility. It's bracketed  
11 to Dallas, Tarrant, Bexar and Travis counties. It's a good  
12 thing, we think, and probably won't have a huge effect on  
13 the program or skew the competition too much.

14           We have to do a Colonia self-help center in  
15 Nueces County, which is fine. You know, we've already had  
16 several on the border in various other counties, including  
17 Webb, and it's nice to add another one.

18           Liz Campos had a bill that has our Texas  
19 Interagency Council for the Homeless to do at least two  
20 public hearings in an urban and a rural location outside of  
21 Austin, which is not a bad thing. I actually don't know if  
22 that one has been signed yet.

23           Overall, you know, the session was pretty easy  
24 on us budget-wise. We're growing, we're kind of counter-  
25 cyclical that way. Th department grew quite a bit after

1 the Great Recession and the same with all the COVID  
2 packages.

3 Because of our mission for affordable housing  
4 and alleviating poverty, we've had bumps in several of our  
5 programs, including energy assistance. That one is  
6 especially important now that the PUC ended the disconnect  
7 moratorium.

8 I appeared before the PUC's work session a  
9 couple of weeks ago to talk about the two options we have  
10 for utility assistance, one being the Texas Rent Relief for  
11 renters which also offers utility assistance, and the other  
12 being our standard energy assistance program for homeowners  
13 or renters at 150 percent AMI or below -- excuse me --  
14 federal poverty level, not AMI.

15 Programmatically, still I think the hottest  
16 issue for us is rent relief. We struggled at the beginning  
17 to get money flowing, and now it's going really well. We  
18 actually, I think Monday, had like a \$17 million day.

19 I didn't know if we'd get to eight-figure  
20 approvals, my goal was like eight or nine, and we're kind  
21 of blowing it out of the water. There's a lag between  
22 things are approved and when they make it through the  
23 payment process, you know, speed of banks, et cetera,  
24 business days, not weekends, and some other steps.

25 When it gets updated in our Neighborly system

1 and shows on the external dashboard, it's already a little  
2 bit behind. So on the external dashboard, as of a few  
3 minutes ago, it's \$258 million paid and \$190 million  
4 payment in process.

5           Whereas, looking at our QuickBooks file, I'm at  
6 \$336 million disbursed and \$86 million in process. So the  
7 dashboard will catch up with the QuickBooks data over  
8 time -- well, I guess it will never catch up. It will  
9 catch up with today's snapshot of the dashboard.

10           This is a good thing. I think our burn rate  
11 we're going to go through both billion dollar  
12 appropriations by the end of the year, which I feel like  
13 we're kind of first in the nation, among state programs  
14 anyway, in getting money out the door, which is great,  
15 because there are still people in need, even though we've  
16 had other sources of assistance with folks.

17           The new program we're going to be adding -- and  
18 there's a Board item on it later -- the Homeowners  
19 Assistance Fund. I believe that's \$842 million. This is  
20 one where there aren't necessarily as much competing local  
21 programs. It's going to be state-administered, and it will  
22 help people catch up on their mortgage.

23           Other than that, most of our funds, besides rent  
24 relief and the mortgage assistance, go through  
25 subrecipients, and we continue to try to offer technical



1 assistance to help them get the money out the door,  
2 especially that energy assistance piece. In addition to  
3 their annual allocation, they got from a couple of the  
4 COVID packages some pretty serious funding.

5 I don't think I have any more prepared remarks.

6 Any questions from the Board on kind of where we ended up  
7 in session or the current status of the Department?

8 Thank you.

9 MR. VASQUEZ: Okay, great. Thanks for that  
10 report, Bobby, and thanks for you and the staff keeping on  
11 the rent relief program, and it is now going like  
12 gangbusters and getting the money out there where it's  
13 needed.

14 MR. THOMAS: Mr. Chairman, I would say to  
15 Bobby's comments about the burn rate that is a phenomenal  
16 job in how we've up-ticked the amount of money going out.  
17 I've talked to several state agencies around the country,  
18 I've had the opportunity to, and they were all initially  
19 struggling with trying to get money out quickly, and it  
20 seems like we course corrected really quickly and got that  
21 very much accomplished.

22 So I would commend staff and Bobby's leadership  
23 there for being able to get that almost double his  
24 expectation in terms of what the burn rate looks like. So  
25 good job, Bobby.

1 MR. WILKINSON: Thank you.

2 MR. VASQUEZ: I concur, but stay on them, Bobby,  
3 keep pushing, keep pushing.

4 MR. WILKINSON: I've got to give a lot of credit  
5 to Brooke and Mariana and her team. They've done a  
6 phenomenal job. And of course the vendors as well, but  
7 everyone has been really focused on improving the program.

8 I might mention, as a matter of course, in case  
9 anyone is watching and they're like, well, it's not  
10 perfect, call center, that's an area that we're focusing on  
11 improvement and we're always adding staff and trying to  
12 improve the experience there as far as callback times, the  
13 rate of abandoned calls, hold times, et cetera.

14 And aging files, you know, we had some people  
15 that applied a while back and still haven't gotten paid for  
16 various reasons. Sometimes they're unresponsive with  
17 documentation, but we're trying to analyze those so that  
18 everyone has a good experience.

19 With that, I'll close.

20 MR. VASQUEZ: Great. Thank you, Bobby.

21 Let's move on to item 4(b) on the agenda from  
22 Ms. Boston, a presentation, discussion and possible action  
23 to authorize the issuance of the housing stabilization  
24 services notice of funding availability and publication in  
25 the Texas Register.

1 Ms. Boston.

2 MS. BOSTON: Chairman Vasquez, Board members,  
3 I'm Brooke Boston, and I'm presenting to you on item 4(b).

4 As you know, TDHCA accepted emergency rental  
5 assistance funds from the U.S. Department of Treasury, that  
6 Bobby was just briefing you on. We accepted those funds in  
7 two large allotments.

8 The first was approximately \$1.3 billion from  
9 the Consolidated Appropriation Act, and then the second was  
10 roughly a billion from the American Rescue Plan Act. Up to  
11 10 percent of the funds under both of those funds are  
12 eligible to be used for housing stabilization services, so  
13 staff is requesting authority from y'all today to release a  
14 notice of funding availability, a NOFA, to release those  
15 funds for housing stabilization services.

16 The funds will be made available to local and  
17 regional organizations for a series of activities. It will  
18 include in-person and web-based clinics that will assist  
19 households across the state with applying to the Texas Rent  
20 Relief Program and then also will support local and  
21 regional nonprofits or governmental entities in providing  
22 homelessness and other stabilization services.

23 We're really excited about the flexibility of  
24 these funds. Some of the services that we're planning are  
25 allowing as eligible expenses include everything from food

1 and clothing, hygiene stations, landlord incentive payments  
2 to improve likelihood of households finding housing, a  
3 stipend or short-term payment assistance to public or  
4 private campgrounds to house people needing housing,  
5 sending housing navigators to help people connect with  
6 housing options, supporting caseworkers, mental health and  
7 medical services and substance abuse treatment, ID recovery  
8 for people who need help with that, job placement,  
9 associated childcare if needed, and then case management.

10 These services can be provided through a variety  
11 of different avenues, could include anything from outreach  
12 teams and shelter services to just general community  
13 services providers and permanent supportive housing  
14 properties.

15 So one thing that I want to emphasize with these  
16 funds is that because of the timeline associated with ERA  
17 funds, it's likely that some portion of the funds we are  
18 planning on putting towards this may alternatively be put  
19 back into the Texas Rent Relief Program for rent and  
20 utility expenses, to make sure that the funds are spent by  
21 the deadline.

22 And with that, I'm happy to answer any  
23 questions.

24 MR. VASQUEZ: Great, Brooke.

25 Do any Board members have questions for Ms.

1 Boston?

2 (No response.)

3 MR. VASQUEZ: So, Brooke, just to reiterate,  
4 this is a method that we can actually provide more services  
5 and connecting the people who need the funds, help them get  
6 connected to get the funds on so many different levels,  
7 because right now we're kind of in a here it is, come to  
8 us, this is actually going out there and getting more boots  
9 on the ground and helping organizations that will, again,  
10 connect those in need with us and all our funding programs.

11 Correct?

12 MS. BOSTON: Exactly right.

13 MR. VASQUEZ: Okay. Well, I really like the  
14 ideas that you and the staff have put together, so this  
15 sounds very good.

16 And if there are no other questions from the  
17 Board, we'll entertain a motion on item 4(b).

18 MR. THOMAS: Mr. Chairman, I move the Board  
19 approve and grant to the executive director or his  
20 designees the authority on behalf of the Department to post  
21 on the Department's website and to publish a notification  
22 in the Texas Register one or more housing stabilization  
23 services notices of funding availability, and to make any  
24 technical corrections or perform such other acts as may be  
25 necessary to effectuate the foregoing.

1 MR. VASQUEZ: Great. Thank you.

2 Motion made by Mr. Thomas. Is there a second?

3 MR. MARCHANT: Second.

4 MR. VASQUEZ: Seconded by Mr. Marchant, jumping  
5 right in there. All right.

6 Again, we have no public comment on this item,  
7 so all those in favor say aye.

8 (A chorus of ayes.)

9 MR. VASQUEZ: Any opposed?

10 (No response.)

11 MR. VASQUEZ: Hearing none, motion carries.

12 Thank you, Brooke.

13 Moving on to item 5, and the report on the  
14 meeting of the Internal Audit and Finance Committee, and we  
15 will have our committee chairperson, Ms. Thomason, give us  
16 a report.

17 MS. THOMASON: Thank you, Mr. Chair.

18 The Audit and Finance Committee met this morning  
19 at 8:00 a.m. We had some report items and action items.  
20 The director of Internal Audit, Mr. Mark Scott, discussed  
21 with us the internal audit of the tenant selection criteria  
22 and affirmative marketing plans, as well as the internal  
23 audit of the nonperforming loans at the TDHCA. He also  
24 updated the committee on recent internal and external audit  
25 activities.

1           We did have a couple of action items from  
2 Financial Administration Division, and Mr. Joe Guevara  
3 presented to us the fiscal year 2022 operating budget and  
4 the fiscal year 2022 Housing Finance Division budget.  
5 Those two budget items will be action items 6(a) and 6(b)  
6 on the Board agenda.

7           The committee did vote to recommend approval of  
8 both of those budget items to the full Board today. I know  
9 Mr. Guevara will be presenting those and will be available  
10 to ask any questions.

11           That pretty much concluded our meeting today.

12           MR. VASQUEZ: Great. Thank you.

13           Does anyone have any questions for Ms. Thomason?

14           (No response.)

15           MR. VASQUEZ: Hearing none, we will move on to  
16 item 6, which is directly related to Ms. Thomason's report.

17           So item 6(a) is the approval of the fiscal year 2022  
18 operating budget, and Mr. Guevara should be teed up for  
19 this. Correct?

20           MR. GUEVARA: Good morning, Mr. Vasquez and  
21 members of the Board.

22           Like Ms. Thomason mentioned earlier, we  
23 discussed the budget during our Audit and Finance Committee  
24 meeting, and overall, in summary, our budget for fiscal  
25 year 2022 is \$106 million, an increase of \$77.2 million,

1 primarily related to our temporary programs. And so at  
2 this point we would like to request approval of the  
3 operating budget.

4 MR. VASQUEZ: Great. Thank you.

5 We did discuss this in the Audit and Finance  
6 Committee meeting earlier today, but does anyone have  
7 questions for Mr. Guevara?

8 (No response.)

9 MR. VASQUEZ: Again, I just want to reiterate  
10 that I believe it's been good fiscal management and  
11 operational efficiencies that we've effectively kept the  
12 budget flat, and that's pretty amazing given the additional  
13 activity and additional programs that we have that are on  
14 our plates. So again, commend Bobby and staff for being  
15 good stewards of our taxpayer money.

16 With that, the chair will entertain a motion  
17 related to item 6(a).

18 MS. THOMASON: Mr. Chair, I would move that the  
19 Board approve the state fiscal year 2022 operating budget,  
20 as expressed in this Board action request on this item, and  
21 that it be submitted to the Office of the Governor and the  
22 Legislative Budget Board.

23 MR. VASQUEZ: Great. Thank you.

24 Motion made by Ms. Thomason. Is there a second?

25 MR. BRADEN: Second.



1 MR. BATCH: I'll second, Mr. Chairman.

2 MR. VASQUEZ: Seconded by Mr. Braden.

3 Again, no public comment registered on this one,  
4 so we will take a vote. All those in favor say aye.

5 (A chorus of ayes.)

6 MR. VASQUEZ: Any opposed nay.

7 (No response.)

8 MR. VASQUEZ: Hearing none, motion carries.

9 Continuing on to item 6(b), approval of the  
10 fiscal year 2022 Housing Finance Division budget, which is  
11 a subset but needs to be addressed separately.

12 Mr. Guevara, go ahead.

13 MR. GUEVARA: Yes. Item 6(b) is related to our  
14 fiscal year 2022 Housing Finance Division budget. It's a  
15 subset of our agency-wide fiscal year 2022 operating  
16 budget, and we would need to certify it in compliance with  
17 our Texas Government Code and our General Appropriations  
18 act.

19 So I'm here to answer any questions you may have  
20 regarding this budget and request that we approve and  
21 certify this budget.

22 MR. VASQUEZ: Great. Thank you, Joe.

23 Again, for the other Board members, this was  
24 discussed in the committee meeting earlier this morning.  
25 Are there any questions on this?

1 (No response.)

2 MR. VASQUEZ: Hearing none, I would like to  
3 entertain a motion on item 6(b).

4 MS. THOMASON: I would move that the Board  
5 approve the state fiscal year 2022 Housing Finance Division  
6 budget, as expressed in this Board action request, and that  
7 it be submitted to the Office of the Governor and the  
8 Legislative Budget Board.

9 MR. VASQUEZ: Thank you.

10 Motion made by Ms. Thomason.

11 MR. MARCHANT: Second.

12 MR. VASQUEZ: Second by Mr. Marchant?

13 MR. MARCHANT: Yes.

14 MR. VASQUEZ: Okay. No public comments  
15 registered, so all those in favor say aye.

16 (A chorus of ayes.)

17 MR. VASQUEZ: Any opposed?

18 (No response.)

19 MR. VASQUEZ: Hearing none, motion carries.  
20 Great. Thank you, Joe.

21 MR. GUEVARA: Thank you.

22 MR. VASQUEZ: Moving on to item 7 on Bond  
23 Finance, presentation, discussion and possible action  
24 approving a plan to be submitted to the U.S. Department of  
25 Treasury with respect to administration of the Homeowner

1 Assistance Fund, established pursuant to the American  
2 Rescue Plan Act for the State of Texas, and to accept  
3 public comment on the plan.

4 Ms. Galuski.

5 MS. GALUSKI: Good morning, Mr. Chairman,  
6 members of the Board. This is item 7(a).

7 Homeowners around the country have suffered  
8 economically due to the COVID-19 pandemic. In March of  
9 2020 the CARES Act offered relief allowing impacted  
10 homeowners to enter forbearance, halting their monthly  
11 mortgage loan payments.

12 Some have successfully exited their forbearance  
13 plans and have resumed monthly mortgage payments, but many  
14 have not. Forbearance extensions have been granted, but 18  
15 months is the maximum forbearance period .and many  
16 homeowners are approaching the end of their forbearance  
17 plans. These homeowners have accrued thousands, often tens  
18 of thousands in delinquent mortgage loan payments and will  
19 soon need assistance if they are to remain in their homes.

20 The American Rescue Plan, which became law on  
21 March 11, 2021, included the Homeowners Assistance Fund, or  
22 HAF, created to assist COVID-impacted homeowners by  
23 reducing or eliminating mortgage loan delinquencies and  
24 avoiding foreclosure and subsequent displacement. Texas is  
25 receiving just over \$842 million from the HAF, with the

1 Department administering these funds on behalf of the  
2 state.

3 Similar to Hardest Hit funds, which was the  
4 foreclosure prevention program released in February of 2010  
5 for the 18 states that were hit hardest by the 2008  
6 financial crisis, Treasury is requiring submission of an  
7 official plan for use of the funds and must approve that  
8 plans.

9 Unlike Hardest Hit funds, which had 18 states,  
10 Treasury has 50 states plus territories participating in  
11 HAF. As such, Treasury requested coordination and  
12 standardization, to the extent possible, among, in  
13 particular, housing finance authorities, HFAs, and  
14 servicers.

15 Since mid to late April, TDHCA staff has been  
16 doing just that. We've participated in conference calls  
17 and meetings almost nonstop, from large group discussions  
18 like those with NCSHA that included HAF administrators for  
19 each state, to individual calls with HFAs, to discussions  
20 of lessons learned from the Hardest Hit Fund Program.

21 We've had discussions with mortgage loan  
22 servicers, with the Texas Mortgage Bankers Association, and  
23 with the Housing Policy Council. We've been proactively  
24 examining program options and evaluating the best way to  
25 assist Texas homeowners as effectively as possible.

1           And there is much work yet to be done, including  
2 staffing up at TDHCA and bringing on vendor support, but in  
3 order to move forward on those funds we had to have a  
4 better understanding of what the program would look like  
5 and the role that various parties would play.

6           Texas homeowners have been hit hard, with  
7 forbearance and delinquency rates higher than the national  
8 average. Approximately 120,000 government loans in Texas  
9 are delinquent at least 60 days, including loans in  
10 forbearance, and that's just government loans which, while  
11 not the complete picture, are the largest component of  
12 delinquent and forbearance loans in the state.

13           Not all loans will qualify for assistance, but a  
14 good many will. Depending on the assumptions used for the  
15 percent of delinquent homeowners that qualify for HAF and  
16 the average dollar amount needed to bring those loans  
17 current, we hope to reinstate 50- to 75,000 with these  
18 funds.

19           With this item staff has presented a draft HAF  
20 plan that was posted on Monday, June 14, for public  
21 comment, which period will end Monday, June 21 at 5:00  
22 p.m., and for which this Board meeting serves as a public  
23 hearing.

24           The draft plan outlines a homeowner  
25 reinstatement program which will reduce or eliminate

1 delinquent PITA, principal, interest, taxes and insurance,  
2 and allow for up to three months of additional mortgage  
3 payments to assist with the transition from delinquency  
4 back to regular monthly payments. Assistance will be in  
5 the form of a non-recourse grant, and payments will be made  
6 directly to mortgage loan servicers. There is a per-  
7 household maximum assistance amount of \$30,000.

8 To be eligible a homeowner must have experienced  
9 a COVID-related financial hardship after January 21 of  
10 2020, must attest to that occurrence and provide the nature  
11 of the hardship.

12 All funds under the reinstatement program will  
13 be made available to homeowners with incomes equal to or  
14 less than the greater of 100 percent of AMFI or 100 percent  
15 of the U.S. median income, which is currently \$79,900.

16 The program can be used for traditional,  
17 government, or government-backed mortgage loans as well as  
18 non-traditional loans and properties, including contracts  
19 for deed, reverse mortgages, and mobile homes.

20 The HAF plan or a date by which the HAF plan  
21 will be submitted is due to Treasury by June 30 of 2021.  
22 There are aspects of the plan that require additional  
23 information, as well as templates to be provided by  
24 Treasury for submission.

25 Staff is requesting that the executive director

1 be authorized to modify the HAF plan to complete and  
2 finalize before submission to Treasury by the June 30  
3 deadline, including, at his discretion, the inclusion of  
4 relevant public comment.

5 If the HAF plan is not complete by June 30, the  
6 executive director, through this item, would be authorized  
7 to submit, in lieu of the HAF plan, a date by which the HAF  
8 plan will be submitted.

9 That completes my presentation, staff recommends  
10 approval, and I'm available for any questions, although I  
11 can't promise I can answer them all.

12 MR. VASQUEZ: Great. Thank you, Ms. Galuski.

13 Again, there is a short timeline window on this,  
14 so we're moving it right along. This is definitely a good  
15 plan for Texas homeowners in need of assistance, and I like  
16 how by setting it at the 100 percent AMI and below that  
17 we're trying to allow the broadest cross-section of Texas  
18 homeowners that would be in need to be included.

19 Does anyone have questions for Ms. Galuski?

20 (No response.)

21 MR. VASQUEZ: Okay. Hearing none, we do have a  
22 speaker registered who wants to comment on this item, but  
23 as is our usual procedure, let's first get a motion on this  
24 item, and then we'll hear the speaker before we vote. So  
25 we'd entertain a motion on item 7(a).

1 MR. BATCH: Mr. Chairman, I make a motion that  
2 the Board move to approve and grant to the executive  
3 director and his designees the authority and discretion on  
4 behalf of the Department to complete and modify the draft  
5 Homeowners Assistance Fund Plan, and submit the completed  
6 plan to the U.S. Department of Treasury by its appropriate  
7 due date, as outlined in the Board action request on this  
8 item.

9 MR. VASQUEZ: Great. Thank you.

10 Motion made by Mr. Batch. Is there a second?

11 MR. BRADEN: Second.

12 MR. VASQUEZ: Seconded by Mr. Braden.

13 Again, we do have a speaker, and again, hearing  
14 no objections to hearing public comment on this item, is  
15 Mr. Fleming teed up to speak?

16 MS. NORRED: We are looking to unmute.

17 Mr. Fleming, you are unmuted.

18 MR. FLEMING: Thank you. Good morning, members,  
19 and a special good morning to Former Congressman Kenny  
20 Marchant, who TMBA has had a long and good relationship  
21 with.

22 I'm John Fleming. I serve as the general  
23 counsel to the Texas Mortgage Bankers Association. Our  
24 mortgage servicing committee has taken a look at the draft  
25 plan for homeowner assistance, and we believe that the



1 draft plan is sound from a policy perspective.

2 Let me say that Texas is home to probably one of  
3 the largest loan-servicing communities in the country. In  
4 the Dallas-Fort Worth area, the Houston area, San Antonio  
5 area, there are probably about 10- to 20,000 Texans who are  
6 employed doing mortgage loan servicing for loans across the  
7 country.

8 Our mortgage servicing committee consists of  
9 members from some of the largest loan servicers in the  
10 country, including the master servicer for Ginnie Mae funds  
11 and others.

12 As we looked at it, we would like to say the  
13 draft plan is sound in its general parameters. We believe  
14 that the proposal correctly identifies the main goal of  
15 this program to reinstatement and cure of mortgage  
16 delinquencies. We believe that this is the best use of  
17 those funds to achieve the objective of keeping homeowners  
18 in their homes.

19 Our data confirms that the largest number of  
20 delinquencies across the country are in government loan  
21 portfolios, and given that the amount of funds available  
22 will be inadequate to cover all otherwise eligible borrower  
23 requests, focusing on the borrowers of governmental loans  
24 or governmentally assured loans is an appropriate policy.

25 TMBA also concurs in making this an applicant or

1 consumer-driven program rather than a servicer-initiated  
2 program. We believe that providing access directly to  
3 consumers and borrowers will support the goal of seeing  
4 that these funds are distributed in a fair and equitable  
5 manner across all lenders and lender portfolios.

6 We believe that the draft plan correctly  
7 requires all approved grants to go directly to the  
8 servicers. One of the reasons that this is very important  
9 is with the rise in cyber crime and the ability of  
10 sophisticated criminal gangs to intercept wire transfers  
11 and other funds in the real estate process, a robust  
12 cybersecurity protection program that has funds going  
13 directly to the servicer will ensure that the funds get  
14 where they need to be and will eliminate the ability for  
15 hackers to intervene in this system.

16 We also believe that TDHCA should continue its  
17 dialogue with the Housing Policy Council and the National  
18 Council of State Housing Agencies to make the processes and  
19 forms as uniform as possible across state lines. We  
20 believe uniformity will provide operational efficiencies  
21 and will reduce the administrative costs of implementation  
22 by both TDHCA and the mortgage servicing community.

23 We also support keeping the consumer application  
24 process as simple and uniform as possible. As we have  
25 discussed the plan draft with our consumer advocate

1 friends, we have heard concerns that lack of broadband  
2 access across the state and among lower-income communities  
3 may make it difficult for some borrowers to submit online  
4 applications. We suggest that the final draft plan should  
5 provide alternative means for these consumers to access  
6 these funds.

7 In conclusion, we believe that the plan draft is  
8 a good first step for Texas. We appreciate the time that  
9 TDHCA's staff has taken to engage with us. We congratulate  
10 them on a strong start.

11 We will continue to review the details of the  
12 plan and perhaps submit additional comments on operational  
13 issues before the plan deadline. But again, we believe  
14 that this is a very good first step, and we are proud to  
15 support the plan draft.

16 And I'll be happy to take questions.

17 MR. VASQUEZ: Great. Thank you, Mr. Fleming.  
18 Appreciate your input and the organization's thoughts on  
19 this, and we hope that you continue to work with staff as  
20 we refine the program on the aspects of it.

21 Does any other Board members have questions of  
22 Mr. Fleming?

23 MR. MARCHANT: Mr. Chairman, I have a question.

24 MR. VASQUEZ: Yes.

25 MR. MARCHANT: I look forward to working with

1 Mr. Fleming again, and that organization and I have always  
2 had a good relationship.

3 My question has to do with the application of  
4 the funds once they're requested by and received by the  
5 servicer. Is there any kind of a fixed criteria whether  
6 fees get paid first, principal, interest? I mean, is there  
7 any internal policy about that in this HAF plan, or is that  
8 left to the discretion of the servicer?

9 MS. GALUSKI: If I could answer that question.  
10 There is a priority of application, and that begins with  
11 principal, interest, taxes and insurance, and is followed  
12 by just any other homeowner assessments that are part of  
13 the escrowed amount that they pay, so homeowner fees, if  
14 they're part of their escrow. So there is no provision at  
15 this time for paying anything else; this is just a  
16 reinstatement program.

17 MR. MARCHANT: Okay. And what I'm referring to  
18 are late fees, et cetera, and if those are not -- Mr.  
19 Fleming.

20 MS. GALUSKI: Mr. Fleming, I think in Hardest  
21 Hit funds I think services generally waived late fees. Am  
22 I correct on that?

23 MR. FLEMING: I believe that is correct, and  
24 particularly for loans that are under forbearance, which  
25 will be the vast majority of these government loan

1 portfolios. It would perhaps be worth consideration in the  
2 final plan to more specifically address that issue.

3 MS. GALUSKI: Thank you.

4 MR. MARCHANT: It would be counterproductive for  
5 all of this assistance to be given and the loan be brought  
6 current and et cetera except there would still be an  
7 outstanding balance that the servicer deserves and earned  
8 and is in the agreement but the loans still stay in  
9 basically delinquency because those fees are not paid. And  
10 I'm not against paying those fees, but the question was  
11 about the priority.

12 MR. FLEMING: Congressman Marchant, that is an  
13 excellent point that needs to be considered. We agree with  
14 you that if at the end of the day the borrower is not  
15 reinstated, that the program has come up a little short.

16 Let me also add that another reason I think that  
17 perhaps this should be addressed in the final plan  
18 specifically, is that while if we're talking about the  
19 governmental loan portfolio, this is addressed by Ginnie  
20 Mae and FHA VA and USDA, but there is also a component of  
21 this program that is meant to reach out to alternative  
22 lenders that are not governmental loan portfolios.

23 These would be loans under contract for deed and  
24 other financing devices. It has been our experience that  
25 those loans are going to be very difficult to work with

1 because, quite frankly, many of the lenders in that field  
2 approach what we would call predatory status, and it has  
3 been difficult to get some of those borrowers reinstated.

4 And I do suspect that while the government loan  
5 portfolios have addressed to some extent late fees, that is  
6 not the case for these alternative loan products, and that  
7 is why the final plan, in my opinion, should perhaps  
8 specifically address that.

9 MR. MARCHANT: I agree. Thank you.

10 MR. VASQUEZ: Great. Thank you, Mr. Marchant.

11 Any other Board members have any questions or  
12 comments?

13 (No response.)

14 MR. VASQUEZ: Okay. And there are no other  
15 commenters queued for this item.

16 Again, we have a motion on the floor approving  
17 item 7(a), motion made by Mr. Batch, seconded by Mr.  
18 Braden. So let's take the vote. All those in favor say  
19 aye.

20 (A chorus of ayes.)

21 MR. VASQUEZ: Any opposed say nay.

22 (No response.)

23 MR. VASQUEZ: Hearing none, motion carries.

24 Before going on to item 7(b), I let Mr. Fleming  
25 slide on his timing because I neglected to emphasize please

1 for all speakers coming up here abide by the three-minute  
2 rule, and there's a timer on the screen that will be  
3 counting down.

4 There are going to be potentially a lot of  
5 speakers today, and for everyone to get through, I'm going  
6 to have to start cutting off people when that comes up.  
7 And just because there's a three-minute timer doesn't mean  
8 you have to use the whole three minutes, so just adding  
9 that in as well.

10 Okay. With that said, moving on to item 7(b),  
11 and we have presentation, discussion and possible action on  
12 Resolution No. 21-031, authorizing the filing of one or  
13 more applications for reservation to the Texas Bond Review  
14 Board with respect to qualified mortgage bonds, and  
15 containing other provisions relating to the subject.

16 Ms. Galuski again. Go ahead.

17 MS. GALUSKI: Monica Galuski, director of Bond  
18 Finance. This is item 7(b).

19 Chapter 1372 of the Texas Government Code, also  
20 known as the Allocation Act, is the statutory allocation of  
21 private activity bond authority, or volume cap, for the  
22 State of Texas.

23 In 2021 approximately \$1 billion of volume cap  
24 was reserved for single-family activity, with set-asides  
25 for TDHCA, TSAHC, and housing finance corporations. On

1 August 7 these set-asides collapsed into a single-family  
2 volume cap pool with the remaining aggregate balance  
3 available for reservation for single-family activity  
4 through August 14.

5           With this item staff is requesting authorization  
6 to submit applications for reservation of volume cap,  
7 including the Department's 2021 set-aside amount of  
8 \$347,260,414, and up to \$319,531,619 of 2021 single-family  
9 volume cap not reserved prior to that August 15 collapse  
10 date, where all of the volume cap that's available  
11 collapses into a very large pool for any private activity  
12 use.

13           We are also asking for authorization for  
14 applications for reservation for up to \$300 million for  
15 single-family mortgage revenue bonds expected to be issued  
16 before year-end 2021, for which we expect to use volume cap  
17 that is carried forward from 2020 for that purpose.  
18 All amounts requested are for single-family volume cap,  
19 with no volume cap being requested from the general  
20 collapse on August 15.

21           Currently much of the single-family volume cap  
22 set aside for housing finance corporations remains  
23 unreserved. The lack of activity by housing finance  
24 corporations in no way reflects the lack of demand for  
25 affordable single-family housing, nor the need for the



1 benefit of single-family mortgage revenue bonds or mortgage  
2 credit certificates, but rather is a reflection of the  
3 challenging economic housing finance corporations face in  
4 issuing mortgage revenue bonds or MCCs.

5 By requesting unreserved single-family volume  
6 cap, TDHCA is able to leverage economies of scale and to  
7 use that volume cap for its intended purpose.

8 That concludes my presentation, and I would be  
9 happy to answer any questions.

10 MR. VASQUEZ: Great. Thank you, Monica. It's  
11 actually amazing to see just the volume and activity that  
12 is going on in this area.

13 Do any Board members have questions for Ms.  
14 Galuski?

15 (No response.)

16 MR. VASQUEZ: Hearing none -- and we have one  
17 speaker who is available for questions if we have any, but  
18 it looks like we're moving ahead. So the chair will  
19 entertain a motion relating to item 7(b).

20 MR. BRADEN: Mr. Chairman, I'll move that the  
21 Board approve Resolution No. 21-031 authorizing the filing  
22 of applications of reservation with the Texas Bond Review  
23 Board regarding qualified mortgage bonds, as set out and  
24 described in the Board action request on this item.

25 MR. VASQUEZ: Thank you.

1 Motion made by Mr. Braden. Is there a second?

2 MR. THOMAS: Second, Mr. Chairman.

3 MR. VASQUEZ: Seconded by Mr. Thomas. All those  
4 in favor say aye.

5 (A chorus of ayes.)

6 MR. VASQUEZ: Any opposed?

7 (No response.)

8 MR. VASQUEZ: Hearing none, motion carries.

9 Thank you, Monica.

10 We are now at 7(c), report on the closing of the  
11 Department's residential mortgage revenue bonds, Series  
12 2021A and residential mortgage revenue refunding bonds,  
13 Series 2021B (Taxable). And we have Michelle Straley on to  
14 give us the report.

15 MS. STRALEY: Good morning. I'm Michelle  
16 Straley, senior financial analyst with the Single-family  
17 Bond Finance Division. I will be reporting on the closing  
18 of the Department's residential mortgage revenue bonds,  
19 Series 2021A, and residential mortgage revenue refunding  
20 bonds, Series 2021B, which is the taxable portion.

21 On April 28, 2021, the Department closed on the  
22 issuance of its residential mortgage revenue bonds, Series  
23 2021A, and residential mortgage revenue refunding bonds,  
24 Series 2021B. The bonds priced on March 30 for the retail  
25 order and then on March 31 for the institutional order

1 period.

2 The book running senior manager was Jefferies,  
3 co-senior managers were Barclays, J.P. Morgan and RBC  
4 Capital Markets. And Morgan Stanley, Piper Sandler & Co.,  
5 and Ramirez & Co. were co-managers for this issue.

6 A hundred million of tax-exempt Series 2021A  
7 bonds were sold at a premium in excess of \$5.6 million,  
8 generating proceeds of \$105.6 million, making \$100 million  
9 available for new loan origination and fully funding the  
10 down payment and closing cost assistance for the loans.

11 Eligible loans are FHA, VA and USDA. Mortgage  
12 rates were 3.25 percent and 3.50 percent for 4 and 5 point  
13 of DPA, respectively. The issue is already fully  
14 committed, which means that we are currently working on  
15 another bond issue to present to the Board, hopefully at  
16 the July 8 meeting.

17 The 2021A bonds were the Department's inaugural  
18 issuance of social bonds for single-family. Social bonds  
19 are bonds when the proceeds are used for eligible social  
20 projects, of which low to moderate income housing  
21 qualifies. And we had three investors that placed orders  
22 because the bonds were designated as social bonds, and two  
23 of those investors were brand-new accounts for the TDHCA  
24 bonds.

25 \$61,369,927 of taxable Series 2021B bonds were

1 issued to refund the Department's Series 2009C-1, Series  
2 2009C-2, Series 2011A, and Series 2011B, generating a  
3 present value savings of approximately \$4 million.

4 A detailed summary of the pricing prepared by  
5 Jefferies was provided in the Board materials, and this  
6 does conclude the report on the issuance, and I am happy to  
7 answer any questions.

8 MR. VASQUEZ: Great. Thank you, Michelle.

9 I'm glad this report is being made here. The  
10 highlighting of the social bonds is very interesting, and  
11 given that our work is aimed towards the low and moderate  
12 income and affordable housing, it truly is a social impact  
13 investment, and as you stated, with the additional interest  
14 in that, it will help us get oversubscribed and get better  
15 rates that we end up with. So that's a great aspect to the  
16 program if we can keep on incorporating that.

17 As well, the refinancing and saving millions of  
18 dollars on the refi is actually another great program that  
19 I'm glad you and the Department are continuing on paying  
20 attention to those types of things and getting savings  
21 where we can.

22 Do any other Board members have questions for  
23 Michelle?

24 (No response.)

25 MR. VASQUEZ: Okay. This is actually a report

1 item only, I believe, and does not require a motion. So  
2 again, thank you, Ms. Straley.

3 MS. STRALEY: Thank you.

4 MR. VASQUEZ: And we'll continue on to item  
5 7(d), presentation, discussion and possible action on  
6 Resolution No. 21-032 regarding amendments to funding loan  
7 agreements relating to certain governmental lender notes  
8 issued by the Department, and Ms. Morales is going to  
9 present this one.

10 MS. MORALES: Good morning. Teresa Morales,  
11 director of Multifamily Bonds.

12 This agenda item involves modifications to  
13 funding loan agreements on a handful of transactions where  
14 the Department serves as bond issuer and where Citibank is  
15 the permanent lender. The provisions relate to who an  
16 approved transferee is relative to the underlying security,  
17 as well as changes to the Department's form of investor  
18 letter for the registered holder of the note.

19 Citibank is asking the Department to expand the  
20 definition to include other governmental entities across  
21 the country with whom they do business. Citibank would be  
22 transferring the notes to a governmental entity who will  
23 create the trust allowing for the issuance of a municipal  
24 CUSIP, which expands the universe of potential investors by  
25 including the municipal market and buyers.

1           The governmental entity will then be the holder  
2 of the governmental lender while Citibank will remain as  
3 the servicer of the loan and our point of contact on the  
4 transaction.

5           Citibank represents that with their annual  
6 origination of \$3- to \$5 billion in new loans and the  
7 growth of their balance sheet, they are looking for ways to  
8 continue to securitize. The modifications requested will  
9 allow the loans to come off of their balance sheet and  
10 thereby reducing their exposure and allowing them to  
11 originate new loans in Texas.

12           This request is not specific to TDHCA-issued  
13 transactions. Citibank has requested similar modifications  
14 from local issuers across the state in which they serve as  
15 funding lender.

16           With the changes to the definition, there would  
17 also need to be similar changes to the form of investor  
18 letter, particularly to the applicable rating category and  
19 indemnification provision.

20           While there are limitations that require an A  
21 rating or higher in certain contexts, the Department's  
22 statute and rules do not address the rating associated with  
23 a secondary market transaction, and shifting to a minimum  
24 rating of BBB category or higher, staff believes the  
25 restrictions requiring \$100,000 minimum denomination and

1 that holders of beneficial interests in the note be  
2 qualified institutional buyers, along with the fact that  
3 these are not done as stand-alone transactions but have  
4 been part of a pool of only sophisticated buyers limits the  
5 risk that there will be a retail sale of the underlying  
6 securities.

7 Moreover, Citibank has represented that they are  
8 only marketing to institutional buyers and that they share  
9 the Department's position that these securities should only  
10 be in the hands of sophisticated entities.

11 At the end of the day, the bonds themselves will  
12 still be held by a single entity. If they securitize  
13 themselves through trust receipts, those receipts will only  
14 be sold to those qualified institutional buyers by very  
15 sophisticated investors that will purchase them.

16 Although the request in your materials is  
17 specific to the Gateway at Hutchins transaction, these  
18 changes would be applicable to a handful of other  
19 transactions as noted in the exhibit to the resolution that  
20 have not yet converted to the permanent phase. It is also  
21 anticipated that any future transactions with Citibank  
22 would reflect these changes.

23 Staff recommends adoption of Resolution No.  
24 21-032.

25 MR. VASQUEZ: Great. Thank you, Teresa.

1 Do any Board members have questions for Ms.  
2 Morales?

3 MR. THOMAS: I had one question, Mr. Chairman.

4 Teresa, Citibank in this case is sort of the  
5 primary lender. Is this going to be applicable -- the  
6 change in rule applicable if the Department uses any such  
7 lender, like a J.P. Morgan or another bank? Would the same  
8 rule apply or is this specific to Citibank?

9 MS. MORALES: This is specific to Citibank.  
10 It's something that they have requested; it's not  
11 reflective of an across-the-board change.

12 MR. THOMAS: Thank you.

13 MR. VASQUEZ: Ms. Morales, just to follow up on  
14 that, if others request a similar change, there's no reason  
15 the Department would deny that under similar circumstances?

16 MS. MORALES: I think that we would definitely  
17 look at that on a case-by-case basis, and if the need be,  
18 we would bring that before the Board for a decision as to  
19 which direction staff should proceed if it's an across-the-  
20 board policy change.

21 MR. VASQUEZ: Okay, great. Thank you.

22 Any other questions from the Board?

23 (No response.)

24 MR. VASQUEZ: Hearing none, the chair will  
25 entertain a motion relating to item 7(d) on the agenda.



1           MR. BRADEN: I move that the Board approve the  
2 amendments to the funding loan agreement relating to  
3 governmental lending note, Series 2016, relating to Gateway  
4 at Hutchins Apartments, and the other transactions  
5 specified and as indicated in the Board action request on  
6 this item.

7           MR. VASQUEZ: Thank you.

8           Motion made by Mr. Braden. Is there a second?

9           MS. THOMASON: I'll second.

10          MR. BATCH: I'll second, Mr. Chairman.

11          MR. VASQUEZ: Ms. Thomason got in there first.

12          There's no one wanting to make an actual public  
13 comment, just availability for questions, so hearing none,  
14 we'll go ahead and take the vote. All those in favor say  
15 aye.

16          (A chorus of ayes.)

17          MR. VASQUEZ: Any opposed?

18          (No response.)

19          MR. VASQUEZ: Hearing none, motion carries.

20          Continuing with Ms. Morales on item 7(e),  
21 presentation, discussion and possible action on Resolution  
22 No. 21-033, amendment previously adopted resolution  
23 regarding to the issuance of a governmental note for  
24 Caroline Lofts Series 20221 and the reissuance of a  
25 determination notice of 4 percent housing tax credits.

1 Ms. Morales.

2 MS. MORALES: The governmental note for Caroline  
3 Lofts was originally approved by the Board on May 13. For  
4 unrated transactions such as this one, the Board just set  
5 specific financing terms and cannot delegate that authority  
6 to another party.

7 As it relates to the construction period terms,  
8 the Board previously approved a construction period  
9 interest rate formula based on the 30-day LIBOR floating  
10 rate plus a spread of 2 percent.

11 Given the planned elimination of LIBOR, along  
12 with the potential for a lower overall rate, the borrower  
13 and Amegy Bank, as the construction lender, have requested  
14 the resolution be amended to provide for an alternative  
15 index. Specifically the new interest rate formula will be  
16 the 30-day Ameribor floating rate with a floor of 50 basis  
17 points plus a spread of 2.175 percent.

18 The financing for Caroline Lofts also includes  
19 CDBG funds from the City of Houston, which is scheduled to  
20 be presented to the Houston City Council on June 23. The  
21 timing of this city council meeting has allowed staff to  
22 request approval of the amendment from the Board without  
23 jeopardizing the closing deadline in July.

24 The delay from the originally anticipated  
25 closing date has also prompted a change to the final

1 maturity date, specifically that it be advanced by one  
2 month, from May to June 1, 2054, and this is also reflected  
3 in the amended resolution.

4           Aside from the changes to the interest rate and  
5 the maturity date, there has also been an increase of  
6 approximately \$1.8 million to the CDBG loan amount, along  
7 with increased construction costs, such that the applicant  
8 has requested the Department update its underwriting to  
9 account for how these changes affect the prior credit  
10 recommendation.

11           Historically, the Department's practice, which  
12 is expressed in the QAP, is to reconcile any changes that  
13 occur post Board approval at cost certification. If the  
14 costs can substantiate more credits, then staff will  
15 underwrite accordingly.

16           In this limited instance, the transaction is  
17 back before you because of changes relative to the  
18 resolution which did not affect the Department's  
19 underwriting. Because of the changes surrounding the  
20 increase in the CDBG loan, along with the increased costs,  
21 staff believes it is important to have an accurate  
22 reflection of the transaction as it gets closer to closing,  
23 given that the Department is the bond issuer.

24           Staff recommends adoption of Resolution No.  
25 21-033, and that the determination notice be reissued in

1 the amount of \$889,192.

2 MR. VASQUEZ: Great. Thank you, Ms. Morales.  
3 Are there any questions from the Board on this  
4 item?

5 (No response.)

6 MR. VASQUEZ: Hearing none, we have only people  
7 available for answering questions if necessary. So hearing  
8 none, is there a motion on item 7(e)?

9 MR. BATCH: Mr. Chairman, I move that the Board  
10 approve Resolution No. 21-033, amending previously adopted  
11 note Resolution relating to Caroline Lofts and issue a new  
12 determination notice for 4 percent housing tax credits, as  
13 reflected in and subject to the conditions stated in the  
14 Board action request on this item.

15 MR. VASQUEZ: Great. Thank you.

16 Motion made by Mr. Batch. Is there a second?

17 I'm sorry; I didn't catch that, Mr. Thomas.

18 MR. THOMAS: Second, Mr. Chairman.

19 MR. VASQUEZ: Okay. Second by Mr. Thomas.

20 Let's go ahead and take the vote. All those in  
21 favor say aye.

22 (A chorus of ayes.)

23 MR. VASQUEZ: Any opposed?

24 (No response.)

25 MR. VASQUEZ: Hearing none, motion carries.

1 Thank you, Ms. Morales.

2 This brings us to item 8 on the agenda -- bear  
3 with me while I'm finding my spot -- and Teresa is still  
4 here. Presentation, discussion and possible action  
5 regarding a waiver of 10 TAC Section 11.101(b)(5) of the  
6 2021 Qualified Allocation Plan relating to common amenities  
7 at the El Rosario Homes in Mission and La Merced Homes in  
8 Mercedes.

9 Ms. Morales, go ahead and give us the  
10 background.

11 MS. MORALES: There are two separate  
12 applications reflected in this agenda item; however, the  
13 Board action requested applies to both of them. Each of  
14 these applications include 100 single-family homes that are  
15 scattered throughout a neighborhood. One development is  
16 located in Mission, and the other is located in Mercedes.

17 The waiver before you relates to the threshold  
18 requirements regarding common amenities that all  
19 applications must meet. Based on the total number of  
20 units, the applicant must provide ten points worth of  
21 amenities. This is included in the land use restriction  
22 agreement and monitored by staff throughout the  
23 affordability period.

24 Some of the homes are contiguous while others  
25 are not. There is a separate existing leasing office with

1 a floor plan that is similar to a four-bedroom unit. The  
2 uniqueness of these sites allow for little to no common  
3 area to provide enough shared space to achieve the required  
4 minimum point threshold.

5 For El Rosario, the applicant has indicated that  
6 only three points out of the ten points required could be  
7 obtained. In addition to those that are common, there is a  
8 minimum threshold of points for the unit size that is not  
9 based on development size.

10 The applicant has proposed that a total point  
11 value in excess of what they are required to provide under  
12 the QAP will be obtained. For La Merced the action is  
13 similar; however, they can only meet five of the ten points  
14 that are required, and they will also be providing an  
15 overage on the unit size.

16 Staff is recommending that the excess points for  
17 those unit amenities be allowed to apply to the number of  
18 points both properties are deficient with respect to those  
19 that are common.

20 Staff believes that given the complexity  
21 associated with the development site and the single-family  
22 nature of each unit that the additional unit amenities  
23 provided would serve the residents in a manner that is  
24 consistent with the policy objective behind the common  
25 amenity requirement.

1 MR. VASQUEZ: Okay. Thank you, Ms. Morales.  
2 Are there any questions from the Board for Ms.  
3 Morales?

4 (No response.)

5 MR. VASQUEZ: And again, I understand that the  
6 staff is in favor of this and recommending that we do  
7 approve it, and you're satisfied with the replacement  
8 amenities per specific unit rather than the general  
9 amenities.

10 MS. MORALES: Correct. The way the QAP is  
11 written it does not address this specific type of  
12 development site. When you're dealing with not just  
13 single-family homes but if they're scattered throughout a  
14 neighborhood and there are separate legal descriptions for  
15 each home and where there's a lack of dedicated space,  
16 again the QAP doesn't specifically address it, but just  
17 given the type of amenities that can be provided at each  
18 home, staff believes that that still meets the intent of  
19 those amenities that would normally be common.

20 MR. VASQUEZ: Great. Okay. Thank you.

21 Again we have individuals available if we need  
22 any questions answered, but it appears there's no other  
23 comments, so we will entertain a motion on item 8(a).

24 MS. THOMASON: Mr. Chair, I move that the Board  
25 grant the requested waiver of the rule regarding common

1 amenities for these two 4 percent tax credit applicants, as  
2 reflected in the Board action request on this item.

3 MR. VASQUEZ: Great. Thank you.

4 Motion made by Ms. Thomason. Is there a second?

5 MR. BRADEN: Second.

6 MR. VASQUEZ: Second by Mr. Braden. We'll take  
7 the vote. All those in favor say aye.

8 (A chorus of ayes.)

9 MR. VASQUEZ: Any opposed?

10 (No response.)

11 MR. VASQUEZ: Hearing none, motion carries.

12 Moving on to item 8(b), presentation, discussion  
13 and possible action regarding a waiver of 10 TAC  
14 11.101(b)(1)(A)(ii) of the Qualified Allocation Plan and  
15 the issuance of a determination notice for 4 percent  
16 housing tax credits for Yager Flats.

17 Ms. Morales.

18 MS. MORALES: Yager Flats proposes the new  
19 construction of 300 units to be located in the ETJ of  
20 Austin. The waiver associated with the application that  
21 the Board has seen several times before, it is necessary  
22 because of the technical language used in the QAP that does  
23 not address the specific design of the site and the  
24 buildings but that we are fixing in 2022.

25 The QAP states that a development with any



1 buildings with four or more stories that does not include  
2 an elevator is considered ineligible. Yager Flats will  
3 include three residential buildings containing three  
4 stories with basement splits due to the topography of the  
5 development site.

6 Similar to the non-split foundation building  
7 types, residents will ascend no more than two flights of  
8 stairs to access any unit, with the exception being that a  
9 resident living on the basement level will descend one  
10 flight of stairs to access their unit.

11 Staff recommends approval.

12 MR. VASQUEZ: All right. Thank you, Ms.  
13 Morales. Like you said, we've sort of seen this before.

14 Do any Board members have any questions on this  
15 item?

16 (No response.)

17 MR. VASQUEZ: Hearing none and there are no  
18 commenters in the queue, the Board will entertain a motion  
19 on item 8(b).

20 MR. THOMAS: Mr. Chairman, I move the Board  
21 grant the requested waiver of the rule regarding the  
22 requirement of an elevator in buildings with four or more  
23 stories for this 4 percent tax credit applicant and issue a  
24 determination notice, as reflected in the Board action  
25 requested on this item.

1 MR. VASQUEZ: Thank you.

2 Motion made by Mr. Thomas. Is there a second?

3 MS. THOMASON: Second.

4 MR. VASQUEZ: Seconded by Ms. Thomason. All  
5 those in favor say aye.

6 (A chorus of ayes.)

7 MR. VASQUEZ: Any opposed?

8 (No response.)

9 MR. VASQUEZ: Hearing none, motion carries.

10 Ms. Morales, you're with us for a while, aren't  
11 you. Moving along to item 8(c), presentation, discussion  
12 and possible action on a waiver relating to 10 TAC  
13 11.101(b)(1)(B)(I) relating to ineligibility of elderly  
14 developments for Historic Oaks of Allen Parkway Village in  
15 Houston.

16 Ms. Morales.

17 MS. MORALES: The Department received a waiver  
18 request associated with the proposed rehab of Historic Oaks  
19 of Allen Parkway Village, which is an existing elderly  
20 development originally built in the 1940s that received an  
21 award of housing tax credits in 1997.

22 The QAP states that elderly developments of two  
23 stories or more that do not include elevator service for  
24 any units or common areas above the ground floor are  
25 considered ineligible.

1           Concurrent with the rehab of Historic Oaks, the  
2 applicant intends to rehab an adjacent property consisting  
3 of townhome units that also were originally built in the  
4 1940s and that have historically served elderly individuals  
5 and small families.

6           While a 4 percent tax credit application has not  
7 yet been submitted, the applicant intends to submit one  
8 application that will combine these two developments and  
9 operate them as one property with the intent to serve an  
10 elderly population.

11           Some of the buildings containing the townhomes  
12 are comprised of one-story flats on both the first and  
13 second floors and split-level units with both first and  
14 second floors, whereby access to the second floor is by  
15 stairway.

16           The QAP would require elevator access to each  
17 second-story flat and to the upstairs of each of the split-  
18 level units.

19           The applicant has represented that the townhomes  
20 are of a historic nature and as a result are pursuing state  
21 and federal historic tax credits. Representation from the  
22 architect indicates that the design of the townhomes is not  
23 adaptable to provide ADA access to each floor within a  
24 single unit or to the second-story flats, and adding the  
25 elevator to the interior of the unit there was too much

1 living space that was lost.

2 In exploring the possibility of adding elevators  
3 to the exterior of the townhomes, information was provided  
4 indicating that the Texas Historical Commission objected  
5 based on specific federal standards that would need to be  
6 met.

7 Staff recommends approval of the specific waiver  
8 as noted in your Board writeup.

9 MR. VASQUEZ: Great. Thank you, Ms. Morales.  
10 And again, reemphasize that this is an existing development  
11 where there are already elderly people living there and  
12 dealing with the stairs and no elevators. Correct?

13 MS. MORALES: Correct.

14 MR. VASQUEZ: Okay. Do any Board members have  
15 questions for Ms. Morales?

16 (No response.)

17 MR. VASQUEZ: Hearing none, and I think our  
18 speakers are only available for questions only, so I would  
19 entertain a motion on item 8(c).

20 MS. THOMASON: Mr. Chair, I move the Board grant  
21 the requested waiver of the rule regarding the requirement  
22 of an elevator in elderly developments of two or more  
23 stories for this anticipated 4 percent tax credit  
24 applicant, as reflected in and subject to the conditions in  
25 the Board action request on this item.

1 MR. MARCHANT: Second.

2 MR. VASQUEZ: Thank you.

3 Motion made by Ms. Thomason, seconded by Mr.

4 Marchant. All those in favor say aye.

5 (A chorus of ayes.)

6 MR. VASQUEZ: Any opposed?

7 (No response.)

8 MR. VASQUEZ: Hearing none, motion carries.

9 Continuing to item 8(d), presentation,  
10 discussion and possible action on a waiver relating to 10  
11 TAC Section 11.101(b)(2) of the Qualified Allocation Plan  
12 related to development size limitations for Narrows  
13 Apartments in Hutto.

14 And I'll preface this by saying it's not saying  
15 that the apartments are narrow; the name of the development  
16 is Narrows Apartments, so let's go on with this size  
17 limitation, Ms. Morales.

18 MS. MORALES: Item 8(d) involves a waiver  
19 associated with the maximum development size in a rural  
20 area. The QAP restricts 4 percent applications to a total  
21 of 120 units.

22 The 4 percent application has not been filed but  
23 the Department received a waiver request for a proposed  
24 new-construction 312-unit development in Hutto. Hutto is  
25 located to the east of IH-35 north of Austin and just

1 outside of Pflugerville and is considered a rural area  
2 according to the Department site demographics report.

3 Pursuant to the QAP, an area is considered rural  
4 if it is within a metropolitan statistical area that has a  
5 population of less than 25,000 and does not share a  
6 boundary with an urban area.

7 According to the U.S. Census Bureau data, Hutto  
8 had a population of 27,947 people in 2019. The city limit  
9 boundaries of Hutto and Pflugerville are separated by less  
10 than 50 feet, and if Hutto and Pflugerville shared a  
11 boundary, Hutto would have been considered urban based on  
12 the population size.

13 Given the growing population, the proximity to  
14 other urban areas, the presence of multiple large employers  
15 nearby, and several large-scale events that take place  
16 within the city of Hutto, the applicant believes that Hutto  
17 has many of the characteristics consistent with other areas  
18 and municipalities that are considered urban.

19 Staff agrees, and based on all of the  
20 information that is outlined in your materials, staff  
21 recommends that a waiver of the development size be  
22 granted.

23 MR. VASQUEZ: You're saying that Hutto is not  
24 rural.

25 MS. MORALES: Correct.

1 MR. VASQUEZ: Do any Board members have  
2 questions for Ms. Morales on item 8(d)?

3 MR. MARCHANT: I have a question, Mr. Chairman.

4 MR. VASQUEZ: Sure.

5 MR. MARCHANT: Forgive this question; I'm sure  
6 that you guys all know the answer, but are there allotments  
7 for rural units versus urban units, and if you reclassify  
8 something rural to urban does that free up additional units  
9 to be built in rural areas?

10 I don't know if you understand what I'm asking.

11 Are we diminishing the number of rural units that can be  
12 built by doing this, or vice versa?

13 MS. MORALES: So on the 4 percent side we have  
14 historically limited the number of units to be built in a  
15 rural area out of a concern for overburdening and making  
16 sure that the market can support the number of units  
17 proposed.

18 And so part of what we look at when we get  
19 requests such as this is the demand, and if an applicant is  
20 proposing 300 units in such a small area, we're looking at  
21 where are those folks going to be coming from, is there  
22 going to be a demand for the units that are being proposed.

23 This is a case-by-case basis, so I don't know  
24 that if another applicant came along and wanted to propose  
25 something similar in Hutto that it would be a yes, but it

1 would come back to the Board for consideration, and again,  
2 we would take a look at the market study, the primary  
3 market area, take a look at whether that market that they  
4 have identified can support those additional units.

5 MR. MARCHANT: Okay. I think my question is do  
6 we have a specific number, a targeted number of rural units  
7 that we're trying to build every year, or does it matter?

8 MS. MORALES: On the 4 percent side we do not.  
9 On the 9 percent side there is a rural set-aside, and so  
10 there is a specific amount of credits from the ceiling that  
11 are attributed to projects in rural areas.

12 On the 4 percent side we don't see many small-  
13 scale rural projects just because of the nature of the bond  
14 transaction and the costs associated with issuing bonds, so  
15 the costs are better absorbed on a much larger scale.

16 MR. MARCHANT: Okay. Thank you.

17 MR. VASQUEZ: And just to follow up on that, Mr.  
18 Marchant, your question is very valid in whether we are  
19 taking rural allocations or rural monies and putting them  
20 into an urban project.

21 That would normally be a good question, but I  
22 think in this case we are simply allowing for more units to  
23 be built at this location, and we're not taking from one to  
24 the other. This is waiving to allow them to build more.

25 MR. MARCHANT: Thank you.



1 MR. VASQUEZ: Okay. Any other questions on item  
2 8(d)?

3 (No response.)

4 MR. VASQUEZ: Hearing none, and we have no one  
5 in the queue for comment, the chair will entertain a motion  
6 relating to item 8(d) on the agenda.

7 MR. BRADEN: Mr. Chair, I'll make a motion. I  
8 move the Board grant the requested waiver regarding the  
9 development size limitation for this anticipated 4 percent  
10 tax credit applicant, as reflected in and subject to the  
11 conditions stated in the Board action request for this  
12 item.

13 MR. VASQUEZ: Thank you.

14 Motion made by Mr. Braden. Is there a second?

15 MS. THOMASON: Second.

16 MR. VASQUEZ: Seconded by Ms. Thomason. All  
17 those in favor say aye.

18 (A chorus of ayes.)

19 MR. VASQUEZ: Any opposed?

20 (No response.)

21 MR. VASQUEZ: Hearing none, motion carries.

22 Thank you, Teresa. I believe, or someone  
23 correct me if I'm wrong, that item 8(e) is being pulled  
24 from this meeting. Is that correct?

25 MS. MORALES: That's correct. The applicant has

1 requested that this agenda item be postponed to the July  
2 meeting.

3 MR. VASQUEZ: Okay. Very well. So noted.

4 Let's continue on, I guess one more, to item  
5 8(f), the presentation, discussion and possible action  
6 regarding the issuance of a determination notice for 4  
7 percent housing tax credits for Westmoreland Station in  
8 Dallas.

9 Ms. Morales again.

10 MS. MORALES: Westmoreland Station involves the  
11 new construction of 248 units proposed to be located in  
12 Dallas that will serve the general population. The  
13 development will include units at 50 percent and 60 percent  
14 of the area median income and will also include some  
15 market-rate units.

16 The applicant disclosed the presence of an  
17 undesirable site feature relating to the proximity of an  
18 overhead transmission line. Based on the totality of the  
19 information provided by the applicant, staff believes that  
20 this undesirable feature was mitigated and the site was  
21 determined to be eligible.

22 The development is fulfilling the requirements  
23 of the Forward Dallas concerted revitalization plan that  
24 includes multifamily housing in certain areas.

25 There are zoning constraints on the site

1 relating to the building's location, and the fact that the  
2 City of Dallas is providing local funding to the  
3 development reflects its support of the location despite  
4 its proximity to the power line. Moreover, the City of  
5 Dallas Housing Finance Corporation is serving as the bond  
6 issuer.

7 The Department has received public comment in  
8 opposition, which is included in your materials. Given the  
9 streamlined approach to some 4 percent applications that  
10 the Board approved in April, this is an application that  
11 would fall under that policy; however, upon confirmation  
12 from those who submitted the public comment that they  
13 desire to address the Board, it is on the agenda for your  
14 consideration.

15 Staff recommends approval of a determination  
16 notice in the amount of \$2,320,054.

17 MR. VASQUEZ: Okay. Do any Board members have  
18 any questions for Ms. Morales?

19 (No response.)

20 MR. VASQUEZ: And again, we do have some folks  
21 lined up for wanting to speak on the matter. So let's  
22 again get a motion on the table first, and then we will  
23 hear some public comment before taking a final vote, so  
24 we'll entertain a motion on item 8(f).

25 MS. THOMASON: Mr. Chair, I'd move the Board

1 grant the issuance of a determination notice for  
2 Westmoreland Station, as reflected in and subject to the  
3 conditions stated in the Board action request on this item.

4 MR. VASQUEZ: Okay, great. Motion made by Ms.  
5 Thomason. Is there a second?

6 MR. BRADEN: Second.

7 MR. VASQUEZ: Seconded by Mr. Braden.

8 Let's go ahead and hear comment on this. Renee,  
9 who do we have teed up first?

10 MS. NORRED: We are looking to unmute Reagan  
11 Maechling.

12 MS. MAECHLING: Good morning. I apologize. I  
13 had intended to register for the upcoming item, not this  
14 one, so I have no comments on this one. Apologies.

15 MR. VASQUEZ: Great. Thanks.

16 MS. NORRED: We are now looking for Darryl Baker  
17 to unmute him.

18 Darryl, you are self-muted. Will you please  
19 unmute yourself?

20 MR. BAKER: Okay, I'm unmuted. Thank you very  
21 much. My name is Darryl Baker. I represent a group called  
22 Fair Share for All Dallas.

23 With the written comments that we've submitted,  
24 in addition to those we want to really underscore the fact  
25 that we have more than enough LIHTC projects in our

1 particular council district.

2 We've got 16 in all currently; approval of this  
3 one would make it 17. We feel that we've also been denied  
4 due process by the City of Dallas and especially with the  
5 housing finance corporation in that they don't have a forum  
6 for receiving public comments on these issues.

7 One of the things that we are especially  
8 concerned about that we've submitted information to you all  
9 about was the crime stats in this area. And again, what we  
10 need, because of the oversaturation of LIHTC, we need  
11 really high end development in our council district.

12 We have a regional affordable housing plan that  
13 the City of Dallas is not requiring the regional partners  
14 to adhere to, and this LIHTC has been used more as a weapon  
15 than as a tool, and again, we have more than enough  
16 affordability in this particular region and an emphasis  
17 should be placed on other parts of Dallas and of the  
18 Metroplex to put affordable housing where it is really  
19 needed, but it is not needed here.

20 So thank you for your time and your  
21 consideration, and based on the information that we  
22 submitted ahead of time, we are in hopes that you had a  
23 chance to read it, to understand it and consider it, and to  
24 provide for LIHTC opportunities in other parts of Dallas  
25 but not here. Thank you very much.

1 MR. VASQUEZ: Thank you, Mr. Baker.

2 Before continuing on to other commenters who I  
3 think we have lined up, Teresa is still with us, yes?

4 MS. MORALES: Yes, I'm still here.

5 MR. VASQUEZ: Okay. Just to reiterate, the item  
6 for approval is simply a determination notice that they  
7 have checked all the boxes for the housing tax credits on  
8 this particular project. It's not a final issuance of tax  
9 credits, and it's subject to a whole slew of other activity  
10 that needs to be done and approval, including city and  
11 local, et cetera, and bank financing and all that stuff.

12 MS. MORALES: That's correct. The application  
13 was submitted, it was reviewed for compliance with our  
14 program requirements and the QAP, it was underwritten and  
15 determined to be financially feasible to meet the criteria  
16 that we have with respect to our underwriting rules, and  
17 also was reviewed for previous participation on the  
18 compliance side.

19 So your action is specific to a determination  
20 notice that provides the equity investor with some comfort  
21 that we've looked at the transaction.

22 MR. VASQUEZ: Okay. So just for all the  
23 commenters' understanding, this is a procedural process for  
24 us at this point.

25 But with that, who's next up, is it Audrey

1 Martin?

2 MS. NORRED: Audrey Martin. We are looking to  
3 unmute her now.

4 Audrey, you are self-muted. Would you please  
5 unmute yourself? Audrey Martin, would you please unmute  
6 yourself?

7 (No response.)

8 MR. MARCHANT: Mr. Chairman, can I ask a  
9 question while we're waiting?

10 MR. VASQUEZ: Sure, certainly.

11 MR. MARCHANT: Does the Board have the authority  
12 to not issue a determination if all of the criteria has  
13 been met? Is it at the discretion of the Board to issue  
14 the determination?

15 MR. VASQUEZ: I understand your question. And,  
16 Bobby, you can clarify this for me as well, but if they  
17 check off all the boxes for a determination notice, we are  
18 approving them; unless there's some just extraordinary  
19 extenuating circumstance we might leave that out -- or  
20 might reconsider that.

21 We have the discretion to reconsider, but most  
22 of these types of notices right now are just coming through  
23 on the consent agenda.

24 MR. MARCHANT: But we have the discretion to not  
25 issue a determination, but once -- I mean, the policy is

1 that once they meet the criteria, the Board does issue the  
2 determination. Is that correct?

3 MR. VASQUEZ: Yes, sir.

4 MR. MARCHANT: Okay.

5 MR. VASQUEZ: Bobby, do you want to add  
6 anything?

7 MR. WILKINSON: The Board approves the rules,  
8 and if they follow all the rules then they get a  
9 determination notice. You could vote against it. Maybe  
10 you could get sued I think would be the short answer that  
11 Beau would give us.

12 MR. MARCHANT: Okay. So we have the discretion,  
13 but if we exercise that discretion we might subject the  
14 Board to a lawsuit.

15 MR. WILKINSON: Yes, sir.

16 MR. MARCHANT: Thanks.

17 MR. VASQUEZ: With that let's move on to the  
18 next commenter, Chris Applequist. Is that correct?

19 MS. NORRED: Yes, that is correct.

20 Chris, you are unmuted. Can you hear us?

21 MR. APPLEQUIST: Thank you. Can you hear me  
22 okay?

23 MR. VASQUEZ: Yes.

24 MR. APPLEQUIST: Perfect. Chairman and members  
25 of the Board, thank you for your time today. My name is



1 Chris Applequist, Generation Housing Partners. I'd like to  
2 thank staff for their recognition of approval.

3 This is a development we've worked on for over a  
4 year. We started in July of 2020. We've gone through all  
5 the appropriate channels, TDHCA as well as the City of  
6 Dallas, and we've garnered a substantial amount of support  
7 for this development.

8 We received a resolution from the City of Dallas  
9 which was unanimous. We've also got \$8 million in soft  
10 funding from the City of Dallas, and I'll let Kyle Hines,  
11 who is with the City of Dallas, elaborate on that as well  
12 today.

13 We're partnered with Dallas HFC, we've received  
14 letters of support from DART, Dallas Area Rapid Transit, as  
15 well as North Texas Fair Housing Center. And then recently  
16 the site was rezoned to WR-5 with unanimous support.

17 And then above and beyond that, over the past  
18 year we've been working with Heritage Oak Cliff, which is a  
19 consortium of 36 neighborhood groups which provided a  
20 letter of support in February.

21 And really all this was done through a lot of  
22 public outreach that was asked of us to do by the city  
23 council. That included five public meetings as well as  
24 three virtual meetings, as well as reaching out  
25 individually to a number of folks, primarily with Fair

1 Share of Dallas that have had an issue with basically any  
2 development that includes LIHTCs south of I-30.

3 And we've really tried to address a lot of the  
4 false information that's out there, but we haven't had the  
5 opportunity to speak individually with Darryl Baker or a  
6 few of the other folks.

7 However, they have attended a number of the  
8 meetings, going all the way back to last year, and they've  
9 been nice folks, good to work with, and we've tried to  
10 figure out a solution, but again, we do understand there's  
11 always going to be a little bit of opposition.

12 This is a development that it's really important  
13 to note it meets a lot of objectives, goals, and objectives  
14 of the City of Dallas. One is the 1,000-unit challenge, to  
15 put affordable housing in close proximity to light rail.

16 We are 300 feet, boundary to boundary, from the  
17 Westmoreland Station, which is amazing. I mean, typically  
18 we in affordable housing don't get the ability to have land  
19 that close to light rail.

20 So this is a development we're really excited  
21 about, we've got a lot of support. We appreciate staff's  
22 recommendation, and thank you for time, and I'm here for  
23 any questions that you may have.

24 MR. VASQUEZ: Great. Thank you, Mr. Applequist.

25 I actually believe that my information is that

1 the next two registered speakers, Kyle Hines and Adrian  
2 Iglesias, are both speaking for the motion, for the staff's  
3 recommendation. Is Mr. Stan Aten speaking -- let's skip to  
4 him and see if he's speaking against the recommendation.

5 MS. NORRED: We're looking to unmute.

6 MR. ATEN: I think I'm unmuted. Right?

7 MS. NORRED: Yes, we can hear you.

8 MR. ATEN: Well, as a longtime resident of Oak  
9 Cliff, when I look at a project like this, I get concerned.  
10 This site is actually on a former plastics plant. I  
11 understand there is some remediation issues with this site.

12 It's a high-crime area because of the high  
13 density of apartments that are within a mile of this  
14 project. The police have designated it as a tag area  
15 because it's so dangerous. There's shootings on a regular  
16 basis, murders on a regular basis within half of a mile of  
17 this project.

18 Now, it is located next to a DART station, but  
19 that DART station is so dangerous the DART police put their  
20 little police unit there from time to time to deal with all  
21 the cars that are broken into, so it's not a safe place to  
22 go to at night, it's not a safe place to park your car, and  
23 that's adjacent to this proposed project.

24 We have plenty of affordable housing in Oak  
25 Cliff. We have tens of thousands of units, many of them

1 are subsidized by the government. What we need is  
2 affordable housing north of I-30 where the jobs are.

3 Currently because the way the city is  
4 structured, the low-income housing is in the south and the  
5 jobs are in the north. It puts an unfair burden on  
6 homeowners. There's a nice housing development about half  
7 a mile from this project, but there's also a number of used  
8 car lots and junky rundown businesses stretching along  
9 Westmoreland.

10 This is a bad investment, I would think, on your  
11 part. You're just creating another potential crime scene  
12 for the evening news. So I would say you shouldn't  
13 recommend this project. Thank you.

14 MR. VASQUEZ: Thank you, Mr. Aten.

15 Again, at this point we have no other speakers  
16 other than Mr. Hines and Mr. Iglesias, who are already  
17 going to speak for the motion.

18 So seeing no one else, I'm actually going to ask  
19 the next two speakers to stand down, and I want to go  
20 straight to the vote that we have a motion made by Ms.  
21 Thomason, seconded by Mr. Braden in favor of the staff's  
22 recommendation. So all those in favor say aye.

23 (A chorus of ayes.)

24 MR. VASQUEZ: Any opposed?

25 (No response.)

1 MR. VASQUEZ: Hearing none, motion carries. So  
2 thank you all.

3 Next is item 8(g). Given that by my clock it is  
4 10:48 and I think we're about to get into the more colorful  
5 part of the Board's meeting, why don't we take a break and  
6 recess until eleven o'clock, so give everyone a chance to  
7 move about, refill your coffee, and we will come back at  
8 eleven o'clock. So it's 10:49 and we stand in recess.  
9 Thanks.

10 (Whereupon, a brief recess was taken.)

11 MR. VASQUEZ: Welcome back. It is 11:01 a.m.  
12 and the meeting of the Texas Department of Housing and  
13 Community Affairs Board of Directors is reconvened after a  
14 short recess, and we are now at the agenda item of 8(g),  
15 and this is just a report on requests to reissue  
16 determination notices for 2021 noncompetitive 4 percent  
17 housing tax credit applications due to the impact of  
18 increased construction costs.

19 There are a lot of moving variables on this, so  
20 let's see if Ms. Morales can give us some background.

21 MS. MORALES: On a prior Board agenda staff  
22 presented a report item as it relates to construction cost  
23 increases affecting 9 percent applications and possible  
24 outcomes to address them.

25 This report item is specific to those increases

1 that are affecting 4 percent applications and requests by  
2 applicants to have their determination notices reissued to  
3 take into account the current estimated project costs.

4 In contrast to a 9 percent award, the credit  
5 amount on a 4 percent application is not limited based on  
6 statutory provisions on how much an applicant may receive  
7 per round, nor is it limited by the ceiling amount the  
8 state is allocated.

9 The recommended credit amount produced by the  
10 Department through its underwriting and reflected in the  
11 determination notice is not reflective of the final credit  
12 amount that a particular development may be eligible for.

13 At the time a cost certification package is  
14 submitted, it is possible that the amount of credit  
15 officially allocated is different than the preliminary  
16 amount reflected in the determination notice, provided that  
17 costs can be substantiated and considering the limits in  
18 the rule.

19 In fact, of the 8609s issued in 2020 for 4  
20 percent deals, almost 60 percent of them received fewer  
21 credits than what we noted in the determination notice just  
22 prior to that.

23 In considering the requests, worth noting is the  
24 policy to streamline the processing of certain 4 percent  
25 applications recently adopted by the Board in April. The

1 Board approved a series of waivers relating to staff's  
2 evaluation of the reasonableness of certain costs  
3 represented in the applications.

4 The intent of the streamlined approach and  
5 requested waivers was to provide relief in the processing  
6 of the increased volume of not just 4 percent applications  
7 but recognizing the statutory timing constraints associated  
8 with the 9 percent program.

9 Moreover, the new approach recognizes the point  
10 in time in which evaluating the costs of a particular  
11 development provides value which is at cost certification  
12 when the costs are actually known instead of speculating  
13 what they might be at application. The reality is that  
14 costs will continue to change up until the cost  
15 certification package is submitted two years later.

16 As part of my presentation in April for the  
17 streamlined policy, I expressed that it is becoming  
18 increasingly difficult to arrive at a snapshot in time that  
19 solidifies staff's review is complete and the pressure  
20 created by that continuous process of review.

21 There is not a process in place or a provision  
22 in the QAP by which the supplemental application exhibits  
23 would be submitted post-issuance of the determination  
24 notice.

25 It is important to keep in mind what a

1 determination notice is. It is a piece of paper that  
2 basically says we've looked at your application,  
3 characterized by a snapshot in time, and have determined  
4 that it's possible that you could qualify for some amount  
5 in credits.

6 It is not an award of credits, nor does it  
7 constitute a legally binding allocation of credits. It is  
8 a comfort letter of sorts, and we are being asked to update  
9 the comfort letter -- which remains valid -- with a new  
10 comfort letter.

11 Staff recognizes that the increase in lumber and  
12 other construction related costs have impacted previously  
13 underwritten developments; however, staff does not believe  
14 that there is value added in accepting and reviewing  
15 another round of costs solely to produce a new  
16 determination notice that reflects a higher credit amount  
17 which an applicant has the ability to request at cost  
18 certification.

19 This is similar to the decision made by the  
20 Department to not reissue determination notices after the 4  
21 percent rate was fixed by federal legislation at the end of  
22 2020.

23 We recognize that those deals who had not closed  
24 would be eligible for the 4 percent rate and that we would  
25 reconcile the difference at cost certification. We did not



1 re-underwrite all of the applications for which we had  
2 already issued determination notices.

3 In closing, a reevaluation of these 4 percent  
4 applications where determination notices have already been  
5 issued defeats the purpose of the streamlined process and  
6 does not promote the efficiency for which it was intended.

7 MR. VASQUEZ: Okay. Again, just for clarify,  
8 I'm not sure I fully understand why they want a reissued  
9 notice. What's the crux of the argument?

10 MS. MORALES: I wish I knew.

11 MR. VASQUEZ: I think we have some commenters  
12 that might be able to answer that.

13 MR. BRADEN: Let me make a comment on that. You  
14 know, I understand what Teresa said, and I agree.  
15 Obviously staff has limited resources, and I understand  
16 that, and at the end of the day the tax credits are going  
17 to be what the tax credits are going to be.

18 But at the beginning of the financing, you know,  
19 the deal participants take this determination notice and  
20 they structure their financing, and they line up the tax  
21 credit purchasers on the basis of that, so that's why they  
22 want updated ones, because they need to know whether  
23 they're selling \$800,000 worth of tax credits or \$900,000  
24 of tax credits and how that flows through the equity of the  
25 deal.

1           And my real question is, well, it's one thing if  
2 the developers -- if it's delayed, if because we don't  
3 recertify the developers have to advance additional money  
4 and at the end of the deal when it's done they sell those  
5 tax credits and they get that money back.

6           To me, I'm like, well, okay, you have to wait  
7 for that to come in. I guess my question would be -- and I  
8 don't know the answer to this, maybe some industry  
9 participants do -- is are some of those credits lost  
10 because of us not recertifying it?

11           Is it the fact that they wind up a sale of all  
12 your credits and you think it's 800,000 but at the end it's  
13 900,000 and that buyer either doesn't the extra 100- or it  
14 buys it at some reduced amounts so there's some loss of  
15 value as part of that deal? That's the only thing I would  
16 ask as part of this.

17           MR. VASQUEZ: And again, along those same lines,  
18 though, we still don't finalize anything until that final  
19 cost certification anyway.

20           MS. MORALES: I will also add that there's  
21 always going to be a difference in the recommended credit  
22 amount that we come up with as opposed to everybody else.

23           So keep in mind that the QAP has certain  
24 underwriting parameters and feasibility indicators that we  
25 have to meet, the deal has to fit in our box, and if it

1 doesn't and results in a credit cut, then that's what we  
2 have to do in order to be compliant with the rule.

3 Lenders operate with a different box, and equity  
4 investors operate in another different box, and so  
5 recognizing that everybody has their box, at the end of the  
6 day when we issue that determination notice, there is  
7 always going to be some fluctuation.

8 And the way that's been handled in the past is  
9 through an email saying, yes, there is a provision in the  
10 QAP that allows for you to come back at cost cert even  
11 though there is that difference in what number you came up  
12 with as opposed to TDHCA.

13 MR. BRADEN: And the only other thing I'll note  
14 is we just did this under 7(e) when we recertified.

15 MR. WILKINSON: Where we were the issuer for  
16 that one.

17 MR. BRADEN: So I mean, that can't be the  
18 measuring stick; we only do this when we're the issuer? I  
19 mean, that doesn't seem right to me.

20 MS. MORALES: So keep in mind that the  
21 streamlined policy that the Board adopted was specific to 4  
22 percent local issuer transactions that did not involve  
23 multifamily direct loans from TDHCA nor did it involve  
24 TDHCA bonds.

25 It's customary that for our TDHCA transactions

1 we are usually the first entity to step out there with a  
2 published underwriting report and an approval, and as the  
3 deal tracks closer to closing if there's changes -- such as  
4 the item that was previously on the agenda for Caroline  
5 Lofts -- there's changes to the CDBG loan, so I have to go  
6 back and see how does that affect our underwriting, because  
7 there was a representation that was made to this Board, and  
8 there was a representation made to the Bond Review Board  
9 that the transaction was feasible.

10 So that's why in instances where TDHCA is the  
11 issuer there is that vested interest to ensure that from  
12 initial approval all the way through closing that that deal  
13 still fits within our box.

14 On 4 percent straight-up local issuer  
15 transactions where the streamlined policy applied, we don't  
16 have that vested interest.

17 MR. BRADEN: And I agree there were  
18 circumstances in Caroline Lofts that dictated that, and I  
19 was supportive of that, but I would think it can't be the  
20 sole reason we take another look at 4 percent determination  
21 letters is because we're the issuer. I think there were  
22 additional circumstances.

23 MR. WILKINSON: And as like an overall agency  
24 perspective, I worry, especially at this time, of throwing  
25 a lot more on the underwriting staff as we're trying to get

1       them all done for the 9 percent round.

2                       So you know, if it was one take-a-new-snapshot,  
3       all right, but what if we have 15 or 20 or 25, and all of a  
4       sudden we're overloaded with something that doesn't need to  
5       happen.

6                       I'd be curious to hear testimony from the -- I  
7       don't know if it's an expert investor or the developer  
8       who's going to speak on how it would help them to have a  
9       new determination notice when the tax credits are just  
10      going to be sized how they're going to be sized at cost  
11      cert anyway.

12                      MR. BRADEN:   And I agree with that.  I mean, I  
13      acknowledge our staff is doing a tremendous job with a lot  
14      more on their plate now, so I mean, at the end of the day,  
15      I agree with you, Bobby.

16                      MR. VASQUEZ:   Before we get into public comment,  
17      just again to clarify, this is not an action item or a  
18      vote that we're going to be taking today; we're just  
19      receiving more input on the process in this public meeting.  
20      Correct, Bobby?

21                      MR. WILKINSON:  Yes.  It's just a report item.

22                      MR. VASQUEZ:   Okay.  So just as we start with  
23      speakers, just a reminder that we're not taking action on  
24      this today, but we're hearing you out.

25                      And to reiterate, we have a little three-minute

1 clock on the screen that I'm going to encourage everyone to  
2 stay under. You don't have to use all three minutes, and  
3 please don't take offense if I have to start cutting you  
4 off because, again, we have a lot of speakers to get  
5 through.

6 So, Renee, I think our first speaker lined up is  
7 Reagan Maechling.

8 MS. NORRED: Reagan, you are self-muted.

9 MS. MAECHLING: Can you hear me?

10 MS. NORRED: Yes.

11 MS. MAECHLING: Thank you.

12 Good morning. My name is Reagan Maechling, and  
13 I'm vice president at Enterprise Housing Credit  
14 Investments. Enterprise is a national nonprofit dedicated  
15 to making homes and communities places of pride and  
16 belonging and promoting upward mobility.

17 Through our capital and investment platform,  
18 Enterprise has facilitated nearly one billion in lending  
19 and tax credit investment in Texas to support the creation  
20 of affordable housing over the past ten years. We value  
21 TDHCA and our developer partners' tremendous commitment to  
22 affordable housing.

23 We are currently working with LDG Development  
24 and the Bexar County Housing Authority on a 4 percent  
25 transaction called Agave, and we have requested that the

1 team seek a new predetermination letter because the  
2 original letter is based off much lower anticipated costs  
3 that did not take into account the recent dramatic rise in  
4 material costs.

5 Enterprise and its investors have historically  
6 been able to come up with workarounds to address concerns  
7 on this matter, but the impact of the pandemic and lumber  
8 prices has created special circumstances where the  
9 differences in the credit amounts are too large to  
10 mitigate.

11 Enterprise and its investors are aware of  
12 previous examples where states have reduced credits on 4  
13 percent deals at 8609. Even though this is not in Texas,  
14 it did create concern in the industry for some investors.

15 It is certainly not our intention to create  
16 unnecessary work for staff; we know their resources are  
17 limited. Rather we made this request because our fund  
18 investors require that, in order to fund the equity  
19 associated with the higher anticipated costs prior to  
20 receipt of 8609s, an updated letter will assure fund  
21 investors who will ultimately receive the credits months  
22 and years after deploying the equity to the deal that those  
23 credits will indeed be available.

24 Thank you for your consideration.

25 MR. VASQUEZ: Thank you, Reagan.

1 Next up Dru Childre?

2 MS. NORRED: Yes. We're looking to unmute him.

3 Dru, you are unmuted. Can you hear us?

4 MR. CHILDRE: Yeah, I can hear you. Can you  
5 hear me?

6 MS. NORRED: Yes, I can.

7 MR. CHILDRE: All right. Well, great. Well,  
8 thank you, everybody, thank you, Mr. Chairman and Board  
9 members and executive director, and a special thank you to  
10 Teresa Morales.

11 I want to put a big thank you to her and her  
12 staff and her team for all the work that they do and it's  
13 greatly appreciated. We really understand that their  
14 workload, especially at this time of year, is very limited,  
15 and so we definitely do not want to put any more burden on  
16 their shoulders.

17 With that being said, I just want to make that,  
18 as you know, due to the pandemic the construction costs of  
19 many of the materials has increased exponentially over the  
20 last several months, with lumber taking the charge in this  
21 increase.

22 We submitted a 4 percent tax credit application  
23 for our Agave development back in early January and  
24 received a determination notice in April. We're closing on  
25 the financing next month, and as you can expect the



1 construction costs are quite a bit higher now than what  
2 they were projected in January.

3 We realize there is a specific process at cost  
4 certification that allows for additional credits to be  
5 awarded for costs that are justified, but we're currently  
6 in a bind with our investors leading up to closing.

7 It is hard to say what will happen in the next  
8 two years during construction, but in the event costs  
9 exceed TDHCA's 10 percent threshold for staff's ability to  
10 approve additional credits administratively, our investors  
11 are concerned that we may not be awarded all the credits  
12 necessary for the development.

13 As you can see, this puts us in a difficult  
14 position right before closing, and we're just reaching out  
15 to TDHCA to see what we can do to ease our investors'  
16 minds.

17 Again, we do not want to put any more workload  
18 on Teresa and her staff and TDHCA staff during this time,  
19 but we are looking for some assistance in what we can do  
20 here. Thank you.

21 MR. VASQUEZ: Great. Thank you, Mr. Childre.

22 I think we have up next Barry Palmer.

23 MS. NORRED: Yes. We are looking to unmute Mr.  
24 Palmer now.

25 Barry, you are unmuted. Can you hear us?

1 MR. PALMER: Yes.

2 Good morning. This is Barry Palmer with Coats  
3 Rose, and we represent the developer, and as previously  
4 stated, there have been unprecedented increases in  
5 construction costs, lumber in particular, this year that we  
6 haven't really seen since probably 2005 after the  
7 hurricane.

8 So I think a lot of investors have gotten  
9 comfortable when the credit determination notice is within  
10 10 percent of what's projected, because the TDHCA rules do  
11 allow staff to administratively increase the credits by up  
12 to 10 percent, but it's the fact that the deals that go  
13 over 10 percent that's the problem, and this is one of  
14 those.

15 So one way that you could do this is only take  
16 deals back for reissuance of the determination letter if  
17 the new credit amount is more than 10 percent of what the  
18 original amount was, and that would limit the amount of  
19 deals that come back.

20 And in response to Mr. Vasquez's question  
21 earlier as to what happens on the credits, are those  
22 credits lost, well, usually the investor -- well, actually  
23 almost always the investor will agree that they'll buy more  
24 credits up to a certain level, but that level is oftentimes  
25 5 percent or at most 10 percent more, so investors will

1 commit up front to buy 5 to 10 percent more in credits over  
2 what's in the commitment notice, but they won't agree to  
3 commit to buy more than that.

4 So I just would request that the staff and the  
5 Board consider reissuing commitment notices in this case or  
6 in cases where the credit amount is more than the 10  
7 percent leeway that's allowed to staff to increase.

8 MR. VASQUEZ: Thank you, Barry.

9 I have a question again for staff, I guess,  
10 Teresa. How many applications have already submitted this  
11 request for reissuance?

12 MS. MORALES: I have probably received a handful  
13 at this point, not necessarily updated exhibits received  
14 but the question has been asked, and so that's what  
15 prompted the report item to bring before the Board.

16 MR. VASQUEZ: But if we have, say, fewer than  
17 five and then we make it known that our policy is changing  
18 and we will agree to reissue, and maybe it is a 10 percent,  
19 15 percent threshold as far as the change, do you think  
20 that will all of a sudden trigger another 25 requests?

21 MS. MORALES: Right. I wouldn't say that they  
22 requests would be limited to the one in which the speakers  
23 are asking about, but the question becomes of the 20 to 25  
24 determination notices that have already been or will within  
25 the next month be issued, it is the expectation that staff

1 is going to go back and effectively re-underwrite all of  
2 those with updated numbers.

3 MR. WILKINSON: Teresa, there's like a rush to  
4 this too, right, because it would be closer to the end of  
5 their ARM reservation or their closing to try to rush them  
6 through. Right?

7 MS. MORALES: Right. There are transactions  
8 that received reservations at the beginning of the year,  
9 and so their 180-day bond reservation is nearing its end,  
10 so ironically that coincides with the staff's deadline for  
11 the 9 percent applications.

12 And so what the request would do is it would  
13 tell underwriters to stop working on current 4 percent  
14 applications that are just trying to get a determination  
15 notice and also stop working on the 9 percent applications  
16 in order to reissue a notice that is already valid.

17 MR. VASQUEZ: Okay. Renee, do we have any other  
18 commenters actually queued up? I see we have some  
19 available for questions.

20 MS. NORRED: We have no one else in queue.

21 MR. VASQUEZ: Do any other Board members have  
22 questions for Teresa or Bobby?

23 MR. BRADEN: I have one follow-up question. I  
24 think this is sort of like a glitch or a temporary problem  
25 because new underwritings that you're working on now are

1 factoring in the higher costs. Correct?

2 MS. MORALES: It is whatever is included in the  
3 application. If the applicant says we've got updated  
4 numbers, can you use these instead, then that's something  
5 that we could factor in to the underwriting that we're  
6 currently doing.

7 MR. BRADEN: So at some point the applications -  
8 - I mean, the actual real world numbers are going to catch  
9 up with these applications, and they'll be submitting  
10 numbers based on what the costs are now.

11 MS. MORALES: At the end of the day, yes.

12 MR. VASQUEZ: Okay. Well, and then again, at  
13 this point since this is not an action item, unless any  
14 Board members object, I think we should direct staff to  
15 return back to their offices or home offices and reconsider  
16 seeing if there's any way that we can work within the  
17 timelines given the availability of staff that we have to  
18 address some of these requests to see if it's possible.

19 Maybe there is a threshold that's not just that  
20 10 percent, maybe it's a 25 percent threshold or something  
21 that would need to be met as far as a change. I'm not  
22 calling it out; you all figure out how to make it where  
23 it's not too burdensome or stalling the current activity  
24 that needs to be done but if there's some way.

25 And again, I think all of us understand what the

1 developers, the applicants are facing and the challenges  
2 with their financing, so if we can do something. So we're  
3 not saying no, absolutely not, but I guess I want to direct  
4 staff to go back and see if you can come up with a workable  
5 idea.

6 Does that work for everybody? No? Yes?

7 MS. MORALES: I think that the other thing to  
8 keep in mind as we get these requests would be the extent  
9 of changes. I think that it's being represented that it is  
10 solely based on an increase in construction costs, but just  
11 so everyone is aware that the internal process is not just  
12 to accept cost numbers and dump them into our underwriting  
13 but with a new set of numbers means that the underwriter  
14 has to go back and evaluate everything in its totality to  
15 ensure nothing else changed.

16 And so I think with the subject application it  
17 wasn't just an increase in costs but it was changes in  
18 expenses and changes in rents and the debt and equity  
19 providers were not those that we initially underwrote to.

20 So I think that within this ask there's going to  
21 be some spectrum of changes, and it may not necessarily be  
22 an update but it's effectively a re-underwrite because of  
23 how much has changed since the determination notice was  
24 originally issued.

25 MR. MARCHANT: Mr. Chairman?

1 MR. VASQUEZ: Yes.

2 MR. MARCHANT: Listening to the developer's  
3 reasons, I did not hear a compelling reason for the staff  
4 to go back and re-underwrite this. I do not believe  
5 there's a shortage of people ready to buy the housing  
6 credits, and most of these development agreements that I've  
7 read and see, they have sufficient language in there to  
8 cover this. And I believe if you begin to re-underwrite  
9 these things, we're going to have to hire a lot more staff,  
10 and I personally don't think it's necessary.

11 MS. THOMASON: Mr. Chair, I would agree with  
12 that. I know that this has been an unprecedented change,  
13 specifically in lumber prices, but we're recently starting  
14 to see some correction in that, and I think that, yes,  
15 opening this up to re-underwriting this one particular  
16 application could spin off into a whole lot of extra work  
17 for staff that may be unnecessary.

18 MR. BRADEN: The only thing I will reiterate  
19 what I said before: I recognize there are limits on  
20 staff's ability to do these things and so I think at the  
21 end of the day I'll defer to Bobby and Teresa because they  
22 have a lot of stuff going on and 9 percent tax credits  
23 obviously are coming up, so there's just so much you all  
24 can do.

25 MR. VASQUEZ: Okay. Bobby, Teresa, I think you

1 have a sense of how the Board feels about this. Let us  
2 know what ideas you have. I mean, obviously keep working  
3 with all the different constituencies involved and I'm sure  
4 they can help come up with some other ideas as well.

5 So with that, we're going to need to continue on  
6 with the Board meeting agenda for today.

7 Are we still in order or is 8(h) next or did  
8 someone want to move some items around?

9 MR. WILKINSON: We're switching to Marni, and I  
10 believe we have a request to put (i) before (h).

11 MR. VASQUEZ: So (i) before (h) except after  
12 (g).

13 (General laughter.)

14 MR. VASQUEZ: Okay. So we will skip to 8(i).  
15 Correct, Marni?

16 MS. HOLLOWAY: Correct.

17 MR. VASQUEZ: Presentation, discussion and  
18 possible action of a waiver of requirements under 10 TAC  
19 11.8(b)(2)(B) related to notification recipients. For  
20 those who are just listening on the phone, I just wanted to  
21 say that.

22 MS. HOLLOWAY: Good morning. This is Marni  
23 Holloway. I'm the director of the Multifamily Finance  
24 Division.

25 The 2021 QAP had a new requirement to provide



1 mailing addresses for notification recipients within the  
2 pre-application submission. A significant portion of the  
3 2021 pre-applications did not include the information due  
4 to lack of a prompt in the pre-application form. Without  
5 this prompt an estimated 234 pre-applications of the total  
6 276 received did not adhere to this new requirement.

7           Because failure to provide special documentation  
8 is generally considered a material deficiency, it's not  
9 possible for staff to request remedy of these errors per  
10 the administrative deficiency process. Waiver of the  
11 sentence that required applicants to provide accurate  
12 mailing addresses in the pre-application provides fairness  
13 across all of the applications, especially taking into  
14 consideration that it was staff's error in the design of  
15 the pre-application form that created this issue.

16           Amendment of the QAP in order to allow the  
17 errors to be addressed is not possible; therefore, a waiver  
18 of the requirement is necessary in order to resolve the  
19 question.

20           Staff recommends that the sentence in 10 TAC  
21 11.8(b)(2)(B) that requires accurate mailing addresses for  
22 notification recipients be submitted in the pre-application  
23 be waived for all 2021 applications.

24           I'd be happy to take any questions.

25           MR. VASQUEZ: Marni, just to clarify, for those

1 who didn't submit the addresses because there's no place  
2 for them to put it in there, we have requested that they do  
3 send us the addresses and they've filled in the background  
4 data, that part of the data?

5 MS. HOLLOWAY: We have not submitted requests to  
6 those applicants to provide that information, because it's  
7 outside of what we can do within the administrative  
8 deficiency process.

9 By definition, failure to provide threshold  
10 information is a material deficiency. So the action that  
11 we would take if this was just a few applications that  
12 didn't put the information in, if the form actually asked  
13 for it so they had that prompt, would be to move to  
14 terminate the pre-application and then therefore the  
15 applicant would lose those six points.

16 MR. VASQUEZ: Okay. We have several people that  
17 want to speak on this item. Do any Board members have any  
18 questions ahead of that?

19 (No response.)

20 MR. VASQUEZ: So at this point the staff is  
21 recommending, because we feel it is largely our formatting  
22 error that caused this problem, recommending to waive this  
23 aspect of the application form.

24 MS. HOLLOWAY: Correct.

25 MR. VASQUEZ: So let's first get a motion on

1 8(I), and if gets a motion and second, we will entertain  
2 public comment. So is there a motion on 8(i) concerning  
3 staff's recommendation?

4 MS. THOMASON: Mr. Chair, I move that the Board  
5 grant for all 2021 9 percent applications the staff  
6 requested waiver of the requirement in 10 TAC 11.8(b)(2)(B)  
7 that requires accurate mailing addresses for notification  
8 recipients be submitted in the pre-application.

9 MR. MARCHANT: Second.

10 MR. VASQUEZ: Okay. Motion made by Ms.  
11 Thomason, seconded by Mr. Marchant.

12 Let's hear public comment before we take an  
13 action on this, and I believe we have Justin Gregory first  
14 up.

15 MS. NORRED: Justin, you are self-muted. Can  
16 you please unmute yourself?

17 MR. GREGORY: Yes. So I was actually only  
18 planning on speaking if it was absolutely necessary to. I  
19 can give sort of my opinion, but this has been a very long  
20 meeting; I would not want to take up more of the Board's  
21 time. So if I could just defer my time, I would love to do  
22 that.

23 MR. VASQUEZ: All right, great. Thank you.  
24 Matt Gillam is up next.

25 MS. NORRED: We are looking to unmute Matt

1 Gillam.

2 Matt, you are unmuted.

3 MR. GILLAM: Thank you. Good morning, members  
4 of the Board and staff. My name is Matt Gillam, and I am a  
5 managing partner with Overland Property Group, speaking on  
6 behalf of our applications 21104, 21078 and 21114.

7 Our developments would be directly adversely  
8 impacted if this waiver requirement is made. Really this  
9 is a business of details and rules and our applications  
10 have followed these rules through intensive time and  
11 resources.

12 While we understand that a good amount of  
13 applications and applicants failed to follow this detail of  
14 the QAP; however, no one's applications would be terminated  
15 if this rule is upheld and waiver is denied, they would  
16 simply lose points due the requirement missed in the QAP.

17 Maybe a waiver would be justified if 85 percent  
18 of the applications were going to be terminated, but this  
19 isn't happening; they're just losing points.

20 To further demonstrate this, we would ask that  
21 staff complete an impact analysis so that the Board can  
22 fully understand the impact of upholding this rule.  
23 Upholding the current QAP rules would make sure that the  
24 applications following the QAP are not adversely impacted,  
25 and through our own impact analysis we believe this loss of

1 points only affects a small number of applications'  
2 funding, by our review, potentially only one to five  
3 applications, with more likely only one to two.

4           Again, we respectfully ask that more information  
5 be gathered on the impact of this waiver, which will give  
6 the Board the best possible information to consider this  
7 item at a future Board meeting. Thank you.

8           MR. VASQUEZ: Thanks, Matt.

9           Let me ask staff before we go to the next  
10 speaker -- who I believe is Alyssa Carpenter; let's get her  
11 teed up.

12           But, Marni, how many applicants -- which is  
13 easier to say: submitted the information with the  
14 application or did not?

15           MS. HOLLOWAY: We as staff haven't gone back  
16 through and counted how many there were. The recipient of  
17 one of our requests for administrative deficiency provided  
18 the numbers that I quoted to you earlier. It was most of  
19 them. As the speaker described, yes, they would lose  
20 points but not necessarily have an application be  
21 terminated.

22           My request as staff -- and keeping in mind that  
23 we're headed for a very compressed schedule for the 9  
24 percent -- I would like to have any appeals in front of you  
25 at the early July meeting, rather than the late July

1 meeting where we're making award decisions.

2 If we're not going to grant the waiver today, my  
3 request would be to deny it, and then we will issue scoring  
4 notices to all of these applicants, and they can make their  
5 case individually to you at the next meeting. Otherwise,  
6 we wind up going to the late meeting, potentially.

7 MR. VASQUEZ: Okay. But to clarify, most  
8 applicants did not submit the addresses?

9 MS. HOLLOWAY: Did not. Correct.

10 MR. VASQUEZ: Okay. Let's go on with the next  
11 speaker, Ms. Carpenter. Is that right?

12 MS. NORRED: Yes. We are looking to unmute her.  
13 Alyssa, you are unmuted. Can you hear us?

14 MS. CARPENTER: Yes. Can you hear me?

15 MS. NORRED: Yes, ma'am.

16 MS. CARPENTER: Okay, great.

17 Hello. My name is Alyssa Carpenter, and I am  
18 one of the consultants who did upload a file with the  
19 notification mailing addresses as specified in the  
20 pre-application section of the QAP.

21 I have been consulting on applications for  
22 approximately 15 years, and in all those years TDHCA staff  
23 has been fantastic about releasing blackline versions of  
24 the initial staff draft and the final approved QAP that  
25 show the changes from the previous year.

1 I think it is the responsibility of all  
2 consultants and developers to thoroughly read the QAP each  
3 year and take note of the changes. I read the 2021 QAP,  
4 and there's very clearly an underlined change with the new  
5 language in the pre-application notification recipient  
6 section that stated that mailing addresses were required in  
7 the pre-application. There is nothing ambiguous or  
8 confusing about the requirement.

9 Like the QAP, we also review the application  
10 procedures manual each year, and while I did not notice  
11 anything in the manual with specific directions on this  
12 requirement, there was nothing in the manual that stated I  
13 did not have to comply or that any QAP requirement was  
14 being waived. So we uploaded a file with the mailing  
15 addresses.

16 While the online application form did not change  
17 from last year, the system has always had a place for  
18 applicants to upload additional files relating to a pre-  
19 application, and this is where I uploaded the file.

20 There was not an inability for any other  
21 applicant to upload the required documentation to meet the  
22 requirement.

23 I would like to emphasize that while we do  
24 submit applications for several different developers, there  
25 were two unrelated applicants who also uploaded mailing

1 addresses with the pre-application.

2 I am not sure why so many other applicants  
3 failed to read this part of the QAP, but this new  
4 requirement was in the initial staff draft of the QAP that  
5 was posted by TDHCA all the way back in September 2020 and  
6 is obviously in the final version. This requirement was  
7 publicly available for everyone to read for four months  
8 prior to the pre-application due date.

9 While the procedures manual might not have  
10 specifically addressed this requirement, the QAP  
11 specifically states, and I quote, "The multifamily programs  
12 procedures manual is not a rule and it's provided as good  
13 faith guidance and assistance, but in all aspects and  
14 statutes, the rules governing the Low Income Housing Tax  
15 Credit Program superseded these guidelines and are  
16 controlling."

17 The fact of the matter, which is also codified  
18 in the QAP, is that it is the applicant's sole  
19 responsibility to perform the necessary due diligence  
20 regarding the application and what is included in any  
21 submittal in connection with an application.

22 This is a scoring item, and this is a  
23 competitive process. This is a requirement of the pre-app,  
24 and to receive pre-app participation points, the pre-app  
25 must have met all requirements. You do not have to submit



1 a pre-app to submit a full application.

2 We are not saying these applications should be  
3 terminated, but they did not meet the requirements of the  
4 pre-app scoring item and should lose the pre-app points.  
5 While many applicants did not meet this requirement, this  
6 rule still exists and it was not outside anyone's ability  
7 to comply. A blanket waiver might be appropriate if nobody  
8 fulfilled the requirement, but the waiver is not fair to  
9 the applicants who did comply with the QAP.

10 Thank you, and I can answer any questions.

11 MR. VASQUEZ: Thank you, Ms. Carpenter.

12 Let's go to -- is Ms. Tracey Fine lined up?

13 MS. NORRED: Yes. We are finding her.

14 Tracey, you are self-muted. Will you please  
15 unmute yourself?

16 MS. FINE: Hi. This is Tracey Fine, and I also  
17 was not planning to speak on this item. There is really  
18 great information in the Board book that said that 85  
19 percent of the applications did not include this  
20 information, that only 42 applications did include it.

21 Of the 42 applications, 40 had the same  
22 consultant -- that I believe may have just spoke, but I do  
23 not have confirmation on that -- so no one did except for  
24 one consultant, essentially, and two other applicants.

25 TDHCA did not prompt us to input this

1 information. We all have it, we all did in our  
2 notifications. This is a silly administrative item. By  
3 not granting the waiver, as Marni said, it's going to  
4 really put the program in chaos as we try to get awards out  
5 in a month.

6 That's all I have to say.

7 MR. VASQUEZ: Thank you, Ms. Fine.

8 Adam Horton, I believe, is next in our line.

9 MS. NORRED: We are finding Adam Horton now.

10 MR. HORTON: Okay. Can you hear me?

11 MS. NORRED: Yes.

12 MR. HORTON: Okay. Thank you.

13 My name is Adam Horton, and I am with Trinity  
14 Housing Development. We have four applications that have  
15 been submitted this round for funding. Our four  
16 applications do fall in the 15 percent of applications that  
17 followed the QAP and properly did include the notification  
18 addresses in our pre-application.

19 Our company, along with our consultant, we do  
20 have a successful track record in Texas, and I think one  
21 reason for that success is Texas historically has been a  
22 very objective, fair state to work in.

23 Your group passes a QAP and it's followed every  
24 year and we rely on that. We do work in a number of states  
25 where awards are made subjectively and at times rules are

1 disregarded, and so we appreciate the fairness that Texas  
2 has given over the years.

3 I can say that Trinity has been on the opposite  
4 side of this in a neighboring state just a few months ago  
5 where there was a small obscure change in the QAP. It was  
6 redlined. We did not catch that as part of our application  
7 process. We lost points, and at that time, I could not  
8 imagine going to agency staff or the board in that state  
9 and ask them to waive a rule that was in the QAP because I  
10 failed to catch something in my reading of the QAP.

11 This change, as mentioned before, was in the  
12 blacklined version of the QAP that TDHCA issued this year,  
13 and anyone submitting an application should take time to  
14 fully read the QAP and note changes from one year to  
15 another.

16 While there was not an explicit prompt to enter  
17 the information in the pre-application, there was a way to  
18 add it, as evidenced by the 42 applicants that did find a  
19 way to submit the information. And again, losing these  
20 pre-application points does not nullify an application; it  
21 only reduces their point scoring.

22 Something else that's been mentioned, taking  
23 away these pre-application points does not cause a massive  
24 reshuffling of projects that will be awarded. Staff has  
25 not done an analysis, but I do believe and concur with the

1 other analysis mentioned that less than a handful of  
2 projects in a handful of regions actually are impacted by  
3 this change.

4 But to that handful of projects that it does  
5 impact, it's a big deal. Lots of time and money is  
6 invested, consultants are hired to do the applications the  
7 right way. Those applicants should not be adversely  
8 affected because 85 percent of the applications didn't  
9 properly complete the application.

10 While it may seem this requirement was trivial  
11 or silly or dismissed as redundant, it was still a  
12 requirement in the QAP, and to start waiving rules after  
13 applications are submitted will, in fact, impact the  
14 integrity of the process.

15 My last comment would be if the Board does grant  
16 this waiver, I would just like us to help understand the  
17 precedent this sets. Going forward, if 85 percent of  
18 applications don't follow a certain rule, will that be an  
19 automatic waiver of that rule?

20 If a group of developers does not like a rule  
21 change in the QAP, can they band together and if a large  
22 enough group decides not to follow the rule, do we agree  
23 it's waived? And if we do, is 85 percent the threshold for  
24 that? Would it be 75 percent? Fifty percent?

25 What percent of applicants don't have to follow

1 a rule in the QAP for it to be waived? I just have concerns  
2 going forward about the precedent this sets.

3 Thank you very much for your time.

4 MR. VASQUEZ: Thank you, Mr. Horton.

5 MR. WILKINSON: Mr. Horton, you couldn't just  
6 band together to decide something; you'd have to be  
7 appointed by the governor to be on this Board.

8 MR. VASQUEZ: I'm sorry. Can you repeat that?

9 MR. WILKINSON: There's no method by which a  
10 certain percentage of applicants could band together for  
11 any rule change. The only people making decisions here are  
12 governor-appointed Board members.

13 MR. VASQUEZ: And I concur about the sentiment  
14 that it's not advisable for applicants to work to avoid or  
15 ignore the rules.

16 And with that stated, and again, we do have a  
17 couple more speakers lined up for this. I guess Mr. Braden  
18 and Ms. Thomason and staff kind of know my history of  
19 talking about getting rid of the "gotchas" that this  
20 Department on evaluations, I think, was a little too  
21 focused on the "gotcha, you messed up, you're out."

22 And this one it appears to me, and staff has  
23 stated clearly, we didn't follow -- we did not update the  
24 application form properly to allow for people to do this,  
25 as was evidenced by 85 percent of the applicants. Again,

1 we commend the ones who did put it in, but I feel like this  
2 is a "gotcha" caused by an error made by staff.

3 Do any other Board members have comment? I'll  
4 entertain a couple of other speakers.

5 MS. THOMASON: Mr. Chair, since I was the one  
6 who made the motion, I agree with your comment. I don't  
7 think this is an issue of 85 percent of people did not do  
8 this so we're going to waive it. It's because we didn't  
9 provide the proper prompt for applicants to follow the  
10 change. So yes, I'm also an overachiever, and hats off to  
11 those who found a way to do it anyway, but as far as I'm  
12 concerned, I agree with you and my motion stands.

13 MR. VASQUEZ: Okay. Let's hear another speaker  
14 or two. We have Ms. Anderson, Sarah Anderson up next.

15 MS. NORRED: Sarah, you are unmuted.

16 MS. ANDERSON: Can you hear me?

17 MS. NORRED: Yes.

18 MS. ANDERSON: Okay. Good afternoon. My name  
19 is Sarah Anderson, and I am another that along with Alyssa  
20 Carpenter, the consultant, who did do this correctly. And  
21 I'm going to throw away what I was going to say, because  
22 several of our comments have already been made, but I would  
23 like to address the issue of the "gotcha" question and  
24 whether or not this was or was not something that was  
25 possible for people to do.

1           The entire 9 percent round is competitive, and  
2           theoretically every item is a "gotcha". Any mistake can  
3           cause you to lose points or to be terminated in this  
4           program. It just is the nature of the competitive nature  
5           of it.

6           In this case you have an application that, while  
7           there was not a prompt, there was specifically a place in  
8           the application to upload this information. It  
9           specifically says "other items" to be uploaded.

10           I wouldn't say that this is a matter of the  
11           application being wrong, because at the end of the day, not  
12           a single one of the 85 percent that didn't do this asked  
13           staff what to do, which tells me this isn't a matter of the  
14           application being wrong, it is simply a matter of they  
15           didn't do their homework.

16           Any one of those could have seen and sent an  
17           email to staff and ask how to handle this because they  
18           didn't see a prompt. To my knowledge, not a single person  
19           asked this question, which tells me it isn't the fault of  
20           the application; it was the fault long before the  
21           application was filled out by people who simply didn't do  
22           their homework.

23           Now, I understand that there's a concern about  
24           how much change or how much this would upset. We are  
25           talking a potential of only a couple of applications, and I

1 believe that the system should play out and those  
2 applicants should have to come before you and specifically  
3 make the case about why they should have the waiver. The  
4 onus should not be on us who did not make the mistake to  
5 have to prove to you guys why the rules should be followed.

6 Now, I would also say that I have a concern  
7 about this waiver process in general. There is a threshold  
8 for waivers to be approved by the Board that have to be  
9 met, and I don't believe that this waiver meets it.

10 By rule, there are two things: one, the waiver  
11 must establish that the need for the waiver is because  
12 something was not within the control of the applicant, and  
13 this simply is not the case.

14 Second, the waiver must also establish that by  
15 granting a waiver it better serves the policies and  
16 purposes articulated in statute than by not granting the  
17 waiver, which this waiver doesn't do either.

18 So I don't even think this is an item that is  
19 eligible for waiver or certainly has not been presented how  
20 it meets this.

21 And again, we would just ask that for those  
22 people that did the job just a little bit better that we  
23 get the benefit of that extra work. Thank you.

24 MR. VASQUEZ: Thank you for those comments.

25 I believe the Board has the understanding of the



1 position by those against granting the waiver, and in the  
2 opinion of the chairman here, I don't believe that  
3 additional speakers are going to add anything that's going  
4 to really help us with that evaluation, so I'm going to cut  
5 off comment here.

6 I'll ask Bobby/Beau one more question here.  
7 Again, I'm assuming the fact that it's on the agenda here  
8 that we do have the ability/discretion of the Board to  
9 actually waive this, so there's no question on us being  
10 able to take the vote as is presented.

11 MR. ECCLES: This is Beau Eccles. Yes, I  
12 believe the Board does have the authority. This is a  
13 staff-requested waiver of a non-statutory item in the QAP.

14 MR. VASQUEZ: Okay. Thank for that; that's all  
15 I need to know.

16 Okay. Again, I appreciate there are other  
17 speakers, but again, we understand your positions, both for  
18 the waiver and against it, so closing discussion here.

19 We have a motion by Ms. Thomason, seconded by  
20 Mr. Marchant, so I'm going to call for the vote. So all  
21 those in favor of Ms. Thomason's motion to agree with the  
22 staff's requested waiver on item 8(i) say aye.

23 (A chorus of ayes.)

24 MR. VASQUEZ: Are there any opposed?

25 (No response.)

1 MR. VASQUEZ: Okay. Motion carries. Thank you  
2 all for your activity on this, and let's move back to item  
3 8(h).

4 Are these going to be taken together or one at a  
5 time?

6 MS. HOLLOWAY: One at a time.

7 MR. VASQUEZ: Okay. So we'll look at 21128  
8 Fisher Street Apartments first.

9 MS. HOLLOWAY: Should I go ahead?

10 MR. VASQUEZ: Yes, go ahead, please.

11 MS. HOLLOWAY: Item 8(h) is presentation,  
12 discussion and possible action on timely filed appeals  
13 under the Department's Multifamily Program rules. The  
14 first application is number 21128 Fisher Street Apartments  
15 in Houston.

16 Staff reviewed the application and determined  
17 that it did not qualify to receive points for community  
18 support from a state representative. The Department  
19 received a letter directly from State Representative Penny  
20 Morales Shaw regarding this application.

21 Staff determined the letter expressed neutrality  
22 towards the application and issued a notice of scoring  
23 adjustment revising the application to indicate zero points  
24 under this item.

25 Developments may receive up to eight points for

1 letters that express support, zero points for a neutral  
2 statement, or have deducted eight points for expressed  
3 opposition from the state representative. The distinction  
4 for scoring purposes in a support, neutral, or opposition  
5 letter comes directly from our statute.

6 According to the appeal, conversations between  
7 the applicant and the representative led the applicant to  
8 believe the representative intended to remain neutral in  
9 the process rather than neutral on the application.

10 The appeal refers to the representative's letter  
11 as an indicator of neutrality with regard to scoring,  
12 stating: "Her letter specifically says her desire is to  
13 remain outside the decision-making process." However, the  
14 letter itself actually states: "Please accept this letter  
15 expressing my neutrality on the SBP USA request, and I am  
16 afforded the option to draft an opposition letter, support  
17 letter, or remain neutral."

18 In contrast, the requirement for a letter that  
19 stated the representative's neutrality on the process is  
20 described in the QAP as "The sole content of the written  
21 statement is to convey to the Department that no written  
22 statement of support, neutrality, or opposition will be  
23 provided by a state representative for a particular  
24 development."

25 Staff recommends that the scoring appeal for

1 21128 Fisher Street Apartments be denied. I'd be happy to  
2 take any questions.

3 MR. VASQUEZ: Do any Board members have  
4 questions for Marni?

5 (No response.)

6 MR. VASQUEZ: Again, just to clarify, this is a  
7 statutory item, not just a rules item.

8 MS. HOLLOWAY: Correct.

9 MR. VASQUEZ: Stating that a letter of  
10 neutrality just gives no points, plus or minus.

11 MS. HOLLOWAY: Correct.

12 MR. VASQUEZ: Okay. Again, we do have to, I  
13 think, vote on these separately. That's the case?

14 MS. HOLLOWAY: Yes.

15 MR. VASQUEZ: So let's take a motion -- again,  
16 there are some speakers that want to speak, so let's get a  
17 motion first on 8(h) relating to application 21128.

18 MR. BRADEN: Mr. Chair, I move the Board deny  
19 the scoring appeal for application 21128, as indicated in  
20 the Board action request on this item.

21 MR. VASQUEZ: Great. Thank you.

22 Motion made by Mr. Braden. Is there a second?

23 MR. BATCH: I second, Mr. Chairman.

24 MR. VASQUEZ: Seconded by Mr. Batch.

25 We will entertain comments here. Renee, who do

1 we have up first, is it Zach Rosenberg?

2 MS. NORRED: Yes, we have Zach Rosenberg. We  
3 are looking to unmute him right now.

4 Zach, you are self-muted. Will you please  
5 unmute yourself?

6 MR. ROSENBERG: I believe I just did.

7 MS. NORRED: There you go.

8 MR. ROSENBERG: Good afternoon, Board and staff.  
9 My name is Zach Rosenberg. I'm the co-founder and CEO of  
10 the nonprofit organization, SBP. We have rebuilt over 285  
11 homes for families impacted by Hurricane Harvey, and we  
12 have completed over 150 free emergency repairs for families  
13 impacted by the cold snap Uri.

14 Let me first -- and this was not in my notes --  
15 acknowledge and applaud the staff for candor in relation to  
16 the previous matter. You know, frankly, I think it's  
17 beautiful when we're candid about what we might own, so  
18 please take my earnest appreciation.

19 We are, however, one of the organizations who  
20 was able to comply. We believe it was followable, and  
21 we're now in this -- and this is the matter, Mr. Chairman,  
22 just addressed earlier. So we did comply with submitting  
23 the names and addresses and we're in this interesting  
24 position where we have complied, others didn't, the onus  
25 was sort of on us.

1 MR. VASQUEZ: Mr. Rosenberg, are you speaking  
2 about the prior item that we already voted on, or are you  
3 speaking about this project?

4 MR. ROSENBERG: Well, I'm sorry, sir. I was  
5 comparing and contrasting the two, but I think you saw  
6 where I was going, so I'll move forward. We are one of the  
7 groups who would have been positioned in the money, as they  
8 say, had a waiver been rejected there.

9 Here we seek a successful appeal because it is  
10 our contention that from the 2020 QAP there was sufficient  
11 ambiguity. What I cannot tell you, Mr. Chairman and Board,  
12 I can relate to you the conversations that we had with  
13 Representative Shaw.

14 In our appeal we asked that the staff have  
15 conversations with Representative Shaw. It is my  
16 understanding that those conversations did not happen. If  
17 they did, I can't speak to what they said and so --

18 MR. WILKINSON: I met with her personally.

19 MR. ROSENBERG: Yes, sir?

20 MR. WILKINSON: I met with her personally.

21 MR. ROSENBERG: Okay. So I do not know, Mr.  
22 Wilkinson, what she told you or what she didn't; all I can  
23 do is respectfully share what I'm aware of, and so I hope  
24 you understand the position that I'm in.

25 It was my understanding, Board, that it was

1 Representative Shaw's intention in writing the letter to  
2 communicate with her constituents about how she was  
3 considering this matter.

4           And if you look at the letter she wrote, she was  
5 specific in articulating the favorable asset, and she did  
6 note that there were concerns but she didn't articulate any  
7 of the specific concerns with the process. We think that  
8 she indicated to us as well that she supported the process  
9 and endorsement as it came from the city council of  
10 Houston, which did endorse this project.

11           So it is our belief that with the ambiguity --  
12 now, I don't know what Mr. Wilkinson -- and I certainly  
13 respect his recitation of what he heard. I can just tell  
14 you what I heard. It is my understanding that she did not  
15 intend to do anything deleterious, merely was intending to  
16 communicate with her constituents and supported the  
17 endorsement of the city council of New Orleans [sic] for  
18 his project to move forward.

19           Again, we are a nonprofit organization. I have  
20 exceeded my time. Again, I do appreciate the service you  
21 all make.

22           MR. VASQUEZ: Okay, great. Thank you for your  
23 input, Mr. Rosenberg.

24           Renee, do we have another speaker on this item?

25           MS. NORRED: No, we do not have anyone else in

1 queue for 21128, but we do have one for 21131.

2 MR. VASQUEZ: Okay, great.

3 Do Board members have any further questions for  
4 Marni or Bobby?

5 (No response.)

6 MR. VASQUEZ: Hearing none, we have a motion on  
7 the floor by Mr. Braden, seconded by Mr. Batch, to continue  
8 with the staff's recommendation to not grant a waiver on  
9 the appeal, so all those in favor say aye.

10 (A chorus of ayes.)

11 MR. VASQUEZ: Any opposed?

12 (No response.)

13 MR. VASQUEZ: Hearing none, motion carries.

14 Go to the second item of 8(h), application 21131  
15 Boulevard 61.

16 MS. HOLLOWAY: So this item is going to be a  
17 little different, because the Board action request and  
18 supporting materials are not in your Board book. It was an  
19 error in the posting process that it didn't get done, was  
20 not included in that information.

21 We, of course, have been speaking with the  
22 applicant, and I've had a conversation with Janine Sisak,  
23 who will be speaking in just a moment, regarding the  
24 circumstances around presenting the item at this meeting.

25 During that conversation, I read a series of



1 conditions to which she agreed. Ms. Sisak acknowledged  
2 that she represents the applicant for 21131 Boulevard 61,  
3 she acknowledged that this is on the agenda, that there is  
4 no bar or associated documentation posted, and she has been  
5 offered the opportunity to have this matter full documented  
6 at the meeting on July 8.

7 She acknowledged that she will have an  
8 opportunity to have this appeal heard only at this meeting,  
9 if she's moving forward, and that she may present a  
10 document from the appeal file which hopefully our  
11 moderators are able to present on the screen.

12 Due to the circumstances, I will be reading the  
13 entire Board action request into the record rather than my  
14 usual summary, so the Board action request reads as  
15 follows:

16 Presentation, discussion and possible action on  
17 timely filed appeal under the Department's Multifamily  
18 Program rules for application 21131 Boulevard 61.

19 Recommended action:

20 Whereas, the appeal relates to competitive  
21 housing tax credit application 21131 Boulevard 61, which  
22 was submitted to the Department by the full application  
23 delivery date;

24 Whereas, a notice of scoring adjustment was  
25 provided to the applicant identifying points that the

1 applicant elected but that staff determined the application  
2 did not qualify to receive under 10 TAC 11.9;

3           Whereas, the applicant timely filed an appeal;  
4 and

5           Whereas, the executive director denied the  
6 appeal.

7           Now, therefore, it is hereby resolved that the  
8 scoring appeal for 21131 Boulevard 61 is hereby denied

9           Background.

10           Scoring criteria used in evaluating and ranking  
11 applications related to competitive HTC selection criteria  
12 is found in 10 TAC 11.9, including those items required  
13 under Texas Government Code Chapter 2306, Section 42 of the  
14 Internal Revenue Code, and other criteria established in a  
15 manner consistent with Chapter 2306 and Section 42 of the  
16 Code.

17           The application proposes the new construction of  
18 100 units for the general population in Houston, of which  
19 90 will be restricted and 10 will be market rate.

20           Relevantly, 10 TAC 11.9(e)(3), related to pre-  
21 application participation, allows six points for  
22 developments that complete all requirements under 10 TAC  
23 11.9(e)(3), as well as 10 TAC 11.8 related to pre-  
24 application requirements for competitive HTC only.

25           Accordingly, points may only be earned by

1 applications that adhere to all of the aforementioned  
2 requirements which includes but is not limited to the pre-  
3 application threshold requirement under 10 TAC  
4 11.8(b)(2)(B) related to notification recipients.

5 The rule requires, in relevant part (B),  
6 Notification Recipients, no later than the date the pre-  
7 application is submitted, notification must be sent to all  
8 of the entities prescribed in clauses (i) through (viii) of  
9 this subparagraph.

10 Officials to be notified are those officials in  
11 office at the time that the pre-application is submitted.  
12 Between the time of pre-application, if made, and full  
13 application, the boundaries of an official's jurisdiction  
14 may change. If there is a change in jurisdiction between  
15 pre-application and the full application delivery date,  
16 additional notifications must be made at full application  
17 to any entity that has not been previously notified by the  
18 applicant. Meetings and discussions do not constitute  
19 notification, only a compliant and written notification to  
20 the correct entity constitutes notification.

21 Under (viii) this is one of the entities to be  
22 notified, the state senator and state representative of the  
23 district whose boundaries include the proposed development  
24 site.

25 The appeal claims the application is eligible

1 for six points for submitting a pre-application saying the  
2 pre-application met all requirements of 10 TAC 11.8(a) and  
3 (b), as well as Section 11.9(e)(3), however, the appeal  
4 itself acknowledges the failure to properly notify the  
5 correct state senator prior to pre-application submission.

6 Per the appeal, the Boulevard 61 site is located  
7 within an enclave of District 13 surrounded on three sides  
8 by District 17. While not disputing that the site is  
9 actually located in District 13, for which State Senator  
10 Miles is the elected official, the appeal indeed states:  
11 The site is located just 728 feet to the west of the  
12 dividing line of the two districts. While we made an  
13 administrative error in notifying Senator Joan Huffman at  
14 pre-application, we have cured this by notifying Senator  
15 Borris Miles prior to submitting the full application.

16 I apologize. We have three senators mentioned  
17 here, and hopefully Janine will help us the two that are  
18 involved.

19 After reviewing the appeal, staff determined and  
20 the executive director affirmed that the rule is clear with  
21 regard to the applicant's responsibility and the relevant  
22 statute, which is Texas Government Code 2306.6704(b-1)(5).

23 It is clear that the pre-application process  
24 requires evidence be submitted that notification has been  
25 made to the state senator and state representative of the

1 district containing the development.

2 Because the applicant failed to properly notify  
3 the correct state senator of the correct district, the  
4 application was assigned a score of zero under 10 TAC  
5 11.9(e)(3) related to pre-application participation and its  
6 appeal to the executive director was denied. Staff  
7 recommends the Board also deny the appeal.

8 I will be happy to answer any questions.

9 MR. VASQUEZ: Just to clarify, so is this a not  
10 obtaining points for notification or is this a you're not  
11 qualified at threshold?

12 MS. HOLLOWAY: The notification of the  
13 appropriate state senator is a threshold requirement for  
14 pre-application. If you don't meet that threshold, your  
15 pre-application is terminated, so you lose six points on  
16 the full application.

17 MR. VASQUEZ: So the net effect is losing six  
18 points.

19 MS. HOLLOWAY: Correct.

20 MR. VASQUEZ: Okay. Do any Board members have  
21 further questions for Marni? And actually, on this one  
22 before we make motions and everything, due to the unique  
23 not having all the documents in here, I think I want to  
24 entertain -- have Ms. Sisak make her presentation before we  
25 proceed.

1 I'm sorry. Is someone telling me not to do  
2 that?

3 MR. ECCLES: Perhaps a motion to accept public  
4 comment then.

5 MR. VASQUEZ: Okay. Let's first entertain a  
6 motion to accept public comment. Anyone so move?

7 MR. BRADEN: So moved.

8 MR. VASQUEZ: Moved by Mr. Braden, and seconded?

9 MS. THOMASON: Second.

10 MR. VASQUEZ: By Ms. Thomason. All in favor say  
11 aye.

12 (A chorus of ayes.)

13 MR. VASQUEZ: Any opposed?

14 (No response.)

15 MR. VASQUEZ: So motion carries, so we'll take  
16 some public comment here before the motion, and let's put  
17 Ms. Sisak on the line -- on the camera, I believe.

18 MS. SISAK: Hi. Good morning. Can y'all hear  
19 me?

20 MR. VASQUEZ: Yes.

21 MS. SISAK: Great. Thank you. I'm Janine  
22 Sisak, senior vice president and general counsel of DMA  
23 Development Company.

24 I want to send my well wishes to the Board.  
25 Thanks, Board Chair. Happy to see the Board filled out,

1 and want to welcome Board Member Marchant. We're happy to  
2 have you on the Board.

3 This appeal is straightforward, which is why we  
4 decided to proceed today despite the lack of backup  
5 materials in your Board book. Here we made a mistake in  
6 identifying the state senator at pre-application, because  
7 our site is very close to the district boundaries.

8 You can see in the map that it's an odd-shaped  
9 district, and we were super close to the boundary and even  
10 having our address off by one digit, it put us on the other  
11 side of that line.

12 When we discovered this mistake, we corrected it  
13 immediately by notifying the appropriate state senator  
14 before the full application was submitted, which was more  
15 than 90 days ago.

16 The end result was that we satisfied we the  
17 notification requirements by notifying not one but two  
18 state senators, and neither senator has expressed any  
19 concern about our development in the past three months.

20 In fact, this high opportunity site for families  
21 received affirmative political support from the City of  
22 Houston as well as Representative Gene Wu, with no  
23 opposition from any neighbors.

24 Staff's position essentially is that we lose our  
25 pre-app points because notifications are required prior

1 pre-app submission. The rule specifically about pre-app  
2 points doesn't support this conclusion. Applicants receive  
3 six points for submitted pre-applications that meet the  
4 major requirements.

5           Within the larger context of the rules, we met  
6 the major requirements, including making 20 or so  
7 notifications, attaching evidence of site control, electing  
8 set-asides, et cetera.

9           Staff's position that any pre-app with even a  
10 single administrative error is disqualified for six points,  
11 and that's what Marni was suggesting on the prior item as  
12 well.

13           This conclusion simply isn't consistent with the  
14 overall rules and does not serve the policy goals of the  
15 agency. You should lose your pre-app points for a material  
16 deficiency, not an administrative one that was cured by  
17 full application.

18           We respectfully request that you reinstate the  
19 six pre-app points because we've met both the notification  
20 requirements and the pre-app requirements prior to  
21 submitting the full app.

22           When you look at our pre-application as a whole,  
23 we did 100 things perfectly and one thing wrong. In this  
24 larger context, a total disqualification of our pre-app  
25 seems unwarranted and creates a situation where the



1 punishment does not fit the crime.

2 This is a classic case of no harm, no foul, and  
3 this essentially affects nothing else in our application,  
4 and I'd like to add that, you know, this, in my opinion,  
5 falls in the "gotcha" category that was indicated at the  
6 last item.

7 So again, thank you for your time and  
8 consideration and your service to the State of Texas, and I  
9 did that with three seconds remaining. Thank you.

10 MR. VASQUEZ: Thank you, Janine.

11 We do have a couple more speakers. Let's just  
12 keep going with the public comment here while we're on  
13 this. We have Alyssa Carpenter lined up on this item,  
14 Renee?

15 MS. NORRED: Yes, sir. She is unmuted.

16 Alyssa, can you hear us?

17 MS. CARPENTER: Yes, I'm here.

18 MS. NORRED: Perfect.

19 MS. CARPENTER: Okay. Thank you very much.  
20 Sorry I don't have anything -- this is Alyssa Carpenter,  
21 and I am sorry I don't have anything prepared for this  
22 because nothing was put into the Board book, so I wasn't  
23 quite sure what the applicant here was arguing, but I want  
24 to make a couple of points here.

25 Number one, this is not a "gotcha" item;

1 everyone has to comply with this. I don't know that there  
2 are 85 percent of people with this problem. Again, it's  
3 the due diligence and responsibility of the applicant to  
4 correctly notify all individuals.

5 Number two, the application is not being  
6 terminated; it's the pre-application that did not meet the  
7 requirements, and it would be losing points. I do want to  
8 bring up that this issue has happened in prior years.

9 I was involved in an issue like this in 2013  
10 where an applicant did not notify the correct official, and  
11 the Board actually terminated that application because that  
12 applicant did not catch the error before the full  
13 application.

14 That's great that this applicant caught the  
15 error before full app but it cannot comply with the  
16 requirement that the notifications be sent prior to the  
17 date of pre-application. So it is not an administrative  
18 deficiency in any way to correct this. There is a specific  
19 time frame, I think that all other applicants did comply  
20 with that, and so this is not a "gotcha" or something  
21 that's just, you know, an oversight that staff can correct,  
22 there's a specific time frame.

23 I also want to point out that the development  
24 certification that is in the application that that  
25 certification has a certification of notifications and

1 there is something specific in there that states that:  
2 Development owner certifies that pre-application included  
3 evidence of these notifications pursuant to 10 TAC 11.203,  
4 the pre-application met all thresholds, and no additional  
5 notifications are required with the full application.

6 The notifications were clearly required at pre-  
7 application, and it's clear from the rules that you must  
8 notify the official in office that represents the site.  
9 I'm sorry that the boundary is close to the site. I think  
10 that that is not an uncommon occurrence, and most people do  
11 get that correct.

12 So again, I'm speaking in opposition and thank  
13 you very much, and if anyone has any questions, I'm here to  
14 answer.

15 MR. VASQUEZ: Great. Thank you, Alyssa.

16 I think we have one more speaker lined up, Sarah  
17 Anderson.

18 MS. NORRED: Yes. Sarah, you are unmuted. Can  
19 you hear us?

20 MS. ANDERSON: Thank you very much. Again, this  
21 is Sarah Anderson, and I don't really have much to add.  
22 Alyssa covered a lot of items, and I just want to say that  
23 I agree with her that I believe that this appeal should be  
24 denied.

25 I think that just as an applicant -- you know,

1 we have a lot of new Board members -- just consistency in  
2 the rules being applied is what makes the Texas QAP and our  
3 process better than most states, and we rely on that  
4 everybody has to follow the same rules.

5 The rules, again, here were very specific where  
6 it is precedent that you can't -- even fixing it later  
7 doesn't absolve and fix your pre-application, so we would  
8 request that you deny the appeal. Thank you.

9 MR. VASQUEZ: Okay, great. Thank you for those  
10 comments, Sarah.

11 I don't believe we have any other speakers lined  
12 up for this particular item.

13 Again, just Marni and Bobby, let me recap here.

14 This is the only application that we're aware that gave  
15 the wrong state -- or elected official notification.

16 MR. VASQUEZ: That is correct. It's the only  
17 one that we're aware of at this point.

18 MR. VASQUEZ: And again, this isn't a new -- I  
19 mean, this has been a requirement for a long, long, long  
20 time.

21 MS. HOLLOWAY: Correct.

22 MR. VASQUEZ: And it's gone through the appeal  
23 to staff, to the executive director, and you all feel that  
24 the appeal should be denied.

25 MS. HOLLOWAY: This is a statutory requirement,

1 so we don't feel that we have the ability to grant the  
2 appeal.

3 MR. VASQUEZ: Okay, that's right, another point.

4 It is statutory, and it's not just a rule -- not that the  
5 rules are just the rules, those are equally important.

6 I'm very much with mixed emotions because I do  
7 see it has the feel of "gotcha-ness" but again, I've got to  
8 agree that this is -- I would tend to agree with staff's  
9 representation on this.

10 Being that's the case, does any other Board  
11 member have questions for staff?

12 (No response.)

13 MR. VASQUEZ: Okay. Hearing none, we did not do  
14 a motion on this. Right? So I will entertain a motion on  
15 item 8(h) on application 21131 Boulevard 61.

16 MS. THOMASON: Mr. Chair, I will move that the  
17 Board deny the scoring appeal for application 21131, as  
18 indicated in the Board action request on this item.

19 MR. BRADEN: Second.

20 MR. MARCHANT: I second, Mr. Chairman.

21 MR. VASQUEZ: Motion made by Ms. Thomason,  
22 seconded by Mr. Marchant. All those in favor say aye.

23 (A chorus of ayes.)

24 MR. VASQUEZ: Any opposed?

25 (No response.)

1 MR. VASQUEZ: Hearing none, motion carries.  
2 Help me make sure, we are now at 8(j). Correct?

3 MS. HOLLOWAY: Correct.

4 MR. VASQUEZ: Because we took the other ones out  
5 of order.

6 Okay. So this is the --

7 MS. HOLLOWAY: Big long one.

8 MR. VASQUEZ: I'm debating about whether we take  
9 a break now or later. Let's keep going; it wasn't that  
10 long ago, unless any Board member has an urgent need to  
11 take a break at this point.

12 (No response.)

13 MR. VASQUEZ: Nobody. Okay. Let's charge on.  
14 So item 8(j), report of third party requests for  
15 administrative deficiency under 10 TAC 11.10 of the 2021  
16 Qualified Allocation Plan.

17 Ms. Holloway.

18 MS. HOLLOWAY: Under third party requests for  
19 administrative deficiency, or RFAD, as we affectionately  
20 call them, an unrelated party may bring new material  
21 information about an application to staff's attention.

22 Third parties request that staff consider  
23 whether an application should be the subject of an  
24 administrative deficiency based on the information they  
25 have submitted with the request.

1           Staff will consider the information provided  
2 within the context of the priority status of the  
3 application and the review process. We are not required to  
4 take action on any RFAD. The request may not be used to  
5 question a decision made by staff during their review of an  
6 application.

7           Requesters must provide sufficient credible  
8 evidence that if confirmed would substantiate the  
9 deficiency request. Requesters are required to inform the  
10 applicant of the request at the time it is submitted.

11           I'm going to give a brief description of each  
12 RFAD received and the action that was taken in response.  
13 This is a report item. The Board may accept or reject the  
14 report or direct staff to reconsider our actions on any  
15 application.

16           Any appeal taken on an application has been or  
17 will be handled through a separate process which may result  
18 in a Board action request at future meetings. A requester  
19 may not appeal the staff's determination regarding an RFAD.

20           The first application is 21003 Tomball Senior  
21 Village. The request asked the Department to review the  
22 application's zoning documentation to determine whether the  
23 application complies due to the age restrictions associated  
24 with the proposed development.

25           Pursuant to the Housing for Older Persons Act of

1 1995, or HOPA, zoning may be more restrictive with regard  
2 to age limitations for occupancy as long as it does not  
3 conflict with HOPA itself. Staff has considered the matter  
4 resolved with regard to this request.

5 21004 Skyline at Cedar Crest. Two requests  
6 asked the Department to determine whether the application  
7 proposes an eligible development and if the development  
8 site is consistent with the requirements for scattered-site  
9 developments under the QAP and Internal Revenue Code.

10 Staff issued an administrative deficiency  
11 regarding this scattered-site development, and the  
12 applicant timely responded. Based on the response, the  
13 applicant was notified of ineligibility of the development  
14 site, and the appeal of that determination to the Board  
15 will be heard at the early July meeting.

16 Application 21039 --

17 MR. VASQUEZ: Marni, sorry to interrupt here,  
18 but I think I need to get clarification from Bobby on how  
19 we want to handle comments on this list.

20 Do we take them as we go, or are comments even  
21 appropriate at this time because this is just saying  
22 whether we're going to have a further appeal process? So  
23 how should we handle comments?

24 MR. WILKINSON: I would prefer to take them at  
25 the end after she's laid out the presentation. And like



1 you can see with this one here, Skyline at Cedar Crest, if  
2 they appeal you'll hear the appeal that you can take action  
3 on at the early July meeting.

4 MR. VASQUEZ: Okay. So just so everyone who is  
5 on the list understands the flow and the process, I'd just  
6 reiterate that today is not the appeal hearing. If they  
7 are choosing to appeal, that's going to be at the early  
8 July meeting.

9 MS. HOLLOWAY: Correct.

10 MR. VASQUEZ: And in the interim between now and  
11 then, they would still have time to speak again with staff  
12 on clarifying whatever positions or whatever is needed on  
13 that.

14 MS. HOLLOWAY: Correct. Any action that we  
15 would take on an application would go through a completely  
16 separate process and follow all of the appeal rights that  
17 are afforded to applicants.

18 MR. VASQUEZ: All right. So just want Board  
19 members to understand the process and then also everyone  
20 else who might be commenting lined up to understand that at  
21 as well.

22 So let's continue on. You were 21004?

23 MS. HOLLOWAY: 21039 is Uvalde Village. Two  
24 requests asked the Department to determine whether  
25 sufficient documentation was provided to satisfy QAP

1 requirements related to occupied developments.

2 We sent an administrative deficiency regarding  
3 application requirements, and the applicant has timely  
4 responded. We will review the response and take  
5 appropriate action under the QAP.

6 The applicant has claimed that they did not  
7 receive notice of one of the RFADs, but because there are  
8 two requests for the same topic, there does not appear to  
9 be an impact here.

10 Application 21048 Price Lofts. The request  
11 asked the Department to determine if the application  
12 qualifies for points under proximity to jobs. It questions  
13 the legitimacy of the result produced by the Census  
14 Bureau's On the Map mapping tool.

15 Staff was able to replicate the information  
16 provided in the application, so no further action is  
17 necessary.

18 Application 21054 Reserve at Palestine. The  
19 request asked the Department to determine whether the  
20 applicant provided sufficient documentation to qualify for  
21 points under proximity to job areas and pre-application  
22 participation.

23 We were able to duplicate the On the Map report  
24 submitted by the applicant and determined that the  
25 application does quality for the two points selected under

1 proximity.

2 In regards to pre-application participation  
3 points and related notification recipient requirements, a  
4 separate Board item has been submitted for consideration at  
5 this meeting. That was the waiver that we discussed  
6 earlier.

7 Application 21061 Magnolia Lofts. The request  
8 asked the Department to review the application to determine  
9 whether staff properly reviewed the application in regards  
10 to points related to a letter from the state  
11 representative.

12 Staff determined that the assertion in the RFAD  
13 questions that scoring determinations that have already  
14 been addressed through the application review process, and  
15 the RFAD did not contain new information.

16 Application 21069 Dahlia Villas. The request  
17 asked the Department to review the application to determine  
18 whether they should have disclosed the adjacent Pharr Water  
19 Treatment Plant and Lab and oil pump as undesirable site  
20 features.

21 This application does not have a competitive  
22 score in the subregion and likely will not be eligible for  
23 an award. The information provided in the request will be  
24 considered if we proceed with a complete review of the  
25 application.

1           Application 21075 June West. The request asked  
2 the Department to determine whether the application should  
3 have notified the Shoal Creek Conservancy as a neighborhood  
4 organization, providing sufficient information related to  
5 the proposed development location in a flood plain and  
6 critical water quality zone and should have disclosed the  
7 critical water quality zone requirements in the feasibility  
8 report.

9           The applicant timely responded to a deficiency  
10 regarding notification and provided information regarding  
11 the nature of Shoal Creek Conservancy as an environmental  
12 interest group rather than a qualifying neighborhood  
13 organization subject to notification and disclosure.

14           Regarding application requirements for  
15 developments proposed in flood plains, the application  
16 appears to meet the basic documentation requirements and  
17 consideration of the proposed development in a flood plain  
18 will be addressed as an underwriting condition of the  
19 award, along with the requirements for the critical water  
20 quality zone as we have handled these applications in the  
21 City of Austin in the past.

22           The next one, 21080 Kodu Crossing. The request  
23 asked the Department to determine whether sufficient  
24 utility allowance documentation was provided and if the  
25 applicant should have re-notified all required recipients

1 due to an increase in density greater than 5 percent  
2 between pre-application and application.

3 This application has a non-competitive score in  
4 the subregion and likely will not be eligible for an award.

5 The information will be considered if we undertake a full  
6 review.

7 The next one, 21104 Heritage of Abilene, asked  
8 the Department to determine whether the application should  
9 be eligible for points related to the concerted  
10 revitalization plan.

11 We have sent an administrative deficiency  
12 regarding the application requirements. We have received a  
13 response, we will review that response and take the  
14 appropriate action under the QAP.

15 Application 21116 Sweetwater Station, asked the  
16 Department to determine whether the application should have  
17 disclosed the school ratings of Sweetwater Middle School at  
18 pre-application.

19 Staff had previously identified the issue and  
20 issued a deficiency. We will be working through that  
21 process with the applicant, and any appeal will be  
22 presented at a subsequent Board meeting.

23 21131 Boulevard 61, asked us to determine  
24 whether the applicant provided appropriate documentation to  
25 qualify for points in the pre-application, specifically as

1 it relates to notification recipients and the evidence of  
2 mailing addresses.

3 The assertions in the RFAD have already been  
4 addressed through the application review process, and the  
5 RFAD does not contain any new information. The question  
6 regarding accurate mailing addresses was handled through  
7 the waiver that you approved previously.

8 Application 21136 Oaklawn Place. The request  
9 asked the Department to determine whether the application  
10 should be considered ineligible due to the one more per  
11 census tract.

12 Staff addressed this request in the 2021 9  
13 percent housing tax credit application submission log  
14 posted on May 5.

15 Application 21149 Residences at Alpha. Three  
16 requests asked the Department to determine whether the  
17 application is eligible for the points related to proximity  
18 to jobs because the applicant used the incorrect data set.

19 They also requested review of leveraging because  
20 the applicant deferred more than 50 percent of its  
21 developer fee. Lastly, a requester asked the Department to  
22 determine whether the site control documentation provided  
23 is sufficient to be eligible for pre-application points  
24 because the specific site control documentation is for a  
25 different site.

1           Staff ran the proximity report using the 2017 On  
2 the Map data, which indicated there was sufficient jobs in  
3 the radius for the points selected. Regarding leveraging,  
4 staff review resulted in a determination that the  
5 application did not qualify for points because more than 50  
6 percent of the developer fee was deferred in the  
7 application, and a corresponding deficiency response did  
8 not resolve this issue.

9           We also determined the application did not  
10 qualify for pre-application points because site control  
11 submitted at pre-app was for a completely different  
12 development site than the one identified in the  
13 application.

14           Application 21177 Carver Ridge Apartments. The  
15 request asked the Department to determine whether the  
16 application qualified for points related to opportunity  
17 index, also asked us to assess whether spelling errors in  
18 the names of two elected officials could have led to  
19 officials not being properly notified.

20           We had previously identified the question  
21 regarding opportunity index and resolved that issue during  
22 the course of our review of the application. The  
23 applicant's response to an administrative deficiency  
24 includes documentation that shows the appropriate parties  
25 received proper notification.

1           Application 21185 Weslaco Village. The request  
2 asked the Department to determine if the application has  
3 overestimated development costs that would impact on  
4 scoring related to leveraging and asked the Department to  
5 determine whether the application provided sufficient  
6 documentation of their eligibility to participate in the  
7 at-risk set-aside.

8           Staff has determined that the application has a  
9 non-competitive score and will not likely be eligible. If  
10 we proceed with a complete review, we will consider this  
11 information.

12           Application 21186 Palms at Blucher Park. The  
13 request first asked the Department to determine whether the  
14 applicant notified the appropriate state representative and  
15 whether the development is eligible to claim an increase in  
16 eligible basis.

17           We had previously identified and addressed the  
18 pre-application notification requirements. The concern  
19 regarding eligible basis has also been addressed through  
20 the application review process.

21           Application 22189 Village at Boyer. The request  
22 asked the Department to determine whether there is  
23 sufficient documentation to be eligible for points under  
24 concerted revitalization plan.

25           Staff review of the documentation indicates it



1 is sufficient to support that determination that the CRP  
2 meets the rules in question.

3 Application 21200 Edson Lofts. The Department  
4 was requested to determine whether the application met  
5 several threshold requirements, including school ratings,  
6 direct loan documentation, and waiver requirements,  
7 pre-application notification of county commissioner,  
8 submission of the required feasibility report, as well as  
9 scoring related qualification under proximity to jobs,  
10 concerted revitalization plan and pre-application  
11 participation.

12 We issued an administrative deficiency for  
13 letters that had not been previously addressed. Based on  
14 the response that notified the applicant of their failure  
15 to meet threshold requirements resulted in termination of  
16 the application and denial of some of the requested points.

17 Any appeal of the termination will be presented at a  
18 subsequent meeting.

19 Application 21206 Woodcrest. Two requests asked  
20 the Department to determine if the application included  
21 appropriate documentation to qualify for points related to  
22 residents with special housing needs due to the  
23 application's elected participation in the at-risk set-  
24 aside, as well as related pre-application participation.

25 Staff determined that the assertions in the RFAD

1 questioned scoring determinations that will be or have  
2 already been addressed through the application review  
3 process and the RFAD does not contain new information.

4 Application 21210 Hebron Village Supportive  
5 Housing. Two requests asked the Department to determine  
6 whether the application is eligible for the points related  
7 to concerted revitalization plan, opportunity index, and  
8 the pre-application participation, along with whether the  
9 applicant should have disclosed the violent crime rate in  
10 adjoining census tracts and the sufficiency of quantifiable  
11 community participation document.

12 Staff notified the applicant of its failure to  
13 meet multiple requirements that resulted in the denial of  
14 points and termination of the application. Any related  
15 appeal will be addressed at a subsequent meeting.

16 Application 21230 Calle del Norte. First, a  
17 request asked the Department to determine the accuracy of  
18 the operating expenses provided, particularly with regard  
19 to debt coverage, expense ratio and the feasibility. The  
20 second request asked the Department to determine whether  
21 the applicant notified the appropriate school official.

22 We anticipate Real Estate Analysis staff will  
23 address any reasonableness concerns during its review and  
24 underwriting process prior to award, and we have previously  
25 evaluated and addressed the question regarding notification

1 through a limited review process.

2 Application 21243 Metro Lofts. The request  
3 asked the Department to review to determine whether they  
4 would be considered ineligible due to one award per census  
5 tract.

6 The second request claimed that the application  
7 does not comply with the definition of development for  
8 eligible scattered site. The third and fourth requests  
9 state the application did not qualify for points under  
10 opportunity index.

11 Staff addressed the tiebreaker request in our  
12 submission log. As regards the eligibility of the  
13 development, staff notified the applicant that the proposed  
14 scattered-site development was ineligible under IRS Code.  
15 Any appeals regarding this matter will be addressed at a  
16 subsequent meeting.

17 21259 Jackson Place Apartments. Three requests  
18 asked the Department to determine whether the application  
19 is eligible for points selected under proximity to jobs  
20 because they used the 2018 data set.

21 Staff was able to run a report using the correct  
22 2017 data set, and we determined that the application does  
23 not qualify for the four points selected but does qualify  
24 for two points.

25 Application 21260, this is Mountain View Villas.

1 The request asked the Department to determine whether is  
2 eligible for points selected for proximity to jobs. This  
3 is, again, the 2018 versus 2017 data question.

4 We ran the report that showed 4,273 primary jobs  
5 within a one-mile radius. We determined that the  
6 application does not qualify for two points but does  
7 qualify for one point under this item.

8 21261 The Ponderosa. The Department is asked to  
9 determine whether the application should have disclosed  
10 neighborhood risk factors relating to school ratings at  
11 pre-application and whether the applicant should have  
12 renotified notification recipients because of an increase  
13 as well as notifying the county commissioner.

14 The request also inquires as to whether the  
15 application qualifies for the points related to cost of  
16 development per square foot and pre-application  
17 participation.

18 Staff sent a deficiency regarding application  
19 requirements, and the applicant has timely responded.  
20 Staff will review the response and take appropriate action.

21 Application 21275 Avanti Heritage Park. The  
22 requests asked the Department to determine whether the  
23 applicant's site control had lapsed.

24 Staff has determined that the application has a  
25 non-competitive score and likely will not be eligible for

1 award. If we do complete a full review, we will take up  
2 this question.

3 Application 21290 Fish Pond at Alice. The  
4 request questioned the decrease in units and resulting  
5 increase in the amount of tax credits requested at  
6 application over the pre-application.

7 The request also inquired as to the applicant's  
8 eligibility for points related to local government support  
9 because of the information provided to the City of Alice  
10 prior to issuing a resolution. Lastly, the requests asked  
11 the Department to review the financial feasibility of the  
12 application.

13 The matters raised by the requester do not  
14 support issuance of an administrative deficiency, as they  
15 do not impact scoring or threshold requirements.

16 Application 21291 Legacy at Denton. Two  
17 requests asked the Department to determine whether the  
18 documentation supports eligibility for points under cost  
19 per square foot, income level of tenants, sponsor  
20 characteristics, and pre-application participation. The  
21 request also inquired as to whether the application  
22 includes sufficient documentation evidencing site control.

23 Staff determined that the application does not  
24 have a competitive score and will likely not be eligible  
25 for an award.

1           21305 Jackson Road Apartments. The Department  
2 was asked to determine whether the documentation related to  
3 proximity to jobs was sufficient. This is the 2017 versus  
4 2018 data set questions. The request also inquired as to  
5 the documentation provided to evidence site control and  
6 zoning.

7           Staff determined that this application is not  
8 currently in a position to be awarded due to the one award  
9 per census tract limitation. If we complete a full review,  
10 we will consider this information.

11           That concludes the report. I would be happy to  
12 take any questions.

13           MR. VASQUEZ: Very good, Marni. We need to send  
14 you to auctioneer school. Or was anyone listening to some  
15 of the legislative session? There's that part where they  
16 read into the record all these bills, and the woman who  
17 reads this long list, it's so incredible how fast she does  
18 it.

19           MS. HOLLOWAY: I realize that I kind of blew  
20 through many of those, so if I skipped over anything, I'm  
21 happy to go back and discuss it. During in-person meetings  
22 this is usually a much slower process, you know, I talk  
23 about one application, everybody gets up and talks, I talk  
24 about another application, everybody gets up. So it's a  
25 little bit different in person, not quite running through

1 all of them at the same time.

2 MR. VASQUEZ: Okay. Again, just Bobby and  
3 Marni, help us understand the process here, because we do  
4 have several who have registered to comment on one, two,  
5 three, four, five, only six of the items, but again, this  
6 part is still just a report. The actual hearing of the  
7 RFAD is going to be at the next meeting.

8 MS. HOLLOWAY: The hearing of any action that  
9 staff has taken as a result of the RFAD would come up at a  
10 subsequent meeting.

11 The Board has the option at this meeting, after  
12 hearing my report or hearing testimony, to remand back to  
13 staff to reconsider the action that was taken as regards an  
14 RFAD, but the meeting at this point is not about appealing  
15 anything that staff has done.

16 MR. VASQUEZ: Okay. I guess with that, let's go  
17 ahead and hear some comments, and I think we have people  
18 lined up in order.

19 On project application 21004, we have David  
20 Resnick.

21 MR. DARUS: Mr. Resnick needs to enter his audio  
22 PIN. It has been sent to you, it can also be found in the  
23 audio section of your GoToWebinar software. Do you want us  
24 to move to the next one until Mr. Resnick has done that?

25 MR. VASQUEZ: Okay, yes. Let's keep going. Our

1 next in order is 21039, and we have -- well, I guess Donna  
2 Rickenbacker is only if there's any comments from the RFAD  
3 requester, so I don't believe that's necessary.

4 And so we're at 21054 with Sallie -- well,  
5 again, this is if there's questions as well.

6 MR. DARUS: 21230 should be the first one and it  
7 will be Donna Rickenbacker.

8 MR. VASQUEZ: Very good. 21230 and we have  
9 Donna Rickenbacker set up to speak.

10 MS. NORRED: Donna, you are self-muted. Will  
11 you please unmute yourself?

12 MS. RICKENBACKER: Hello, Board members. My  
13 name is Donna Rickenbacker, and I'm the consultant to the  
14 Dahlia Villas applicant. We submitted an RFAD on  
15 application 21230, the Calle application that's on a site  
16 in Laredo.

17 I pointed out to the staff that the Calle  
18 applicant failed to properly notify at pre-application. As  
19 has already been stated in a prior agenda item, Section  
20 2306.6704 of the Texas Government Code establishes the pre-  
21 application process that requires all applicants to notify  
22 certain individuals and entities, including the  
23 superintendent and presiding officer of the school district  
24 containing the development.

25 The notifications must be sent no later than the



1 date of the pre-application. The pre-application delivery  
2 deadline was January 8. This requirement has been in state  
3 statute for many years.

4 The development site is located within the  
5 boundaries of United ISD. The Calle applicant showed in  
6 their pre-application that they notified Laredo ISD.

7 I did an open records request to United ISD and  
8 included a letter in our RFAD that is signed by the school  
9 board superintendent and is dated February 2, 2021. The  
10 letters states that United ISD was not aware of the  
11 proposed development until after January 8. The letter is  
12 shown on page 575 of your supplemental Board materials.

13 TDHCA staff indicated in this RFAD report item  
14 that they previously evaluated and addressed the question  
15 regarding notification of the appropriate school district  
16 through the limited review process.

17 I am not sure what this means, and there is no  
18 further discussion in the RFAD report or in the Calle  
19 application as to what action was taken by staff.

20 I believe it's important to point out to the  
21 Board that state statute requires the Department to  
22 reject -- and specifically uses this word -- and to return  
23 the applicant any application -- in this instance a  
24 pre-app -- assessed by the Department that fails to satisfy  
25 this threshold criteria.

1           As recognized in the letter from the  
2 superintendent of United ISD, the applicant failed to  
3 properly notify at pre-app, in violation of state statute.  
4 This failure is not curable through any process under our  
5 rules. The pre-application must be terminated, and the  
6 Calle applicant should lose the pre-application points.

7           Given my testimony and the Board's denial of  
8 Boulevard 61's appeal on a similar failure to properly  
9 notify at pre-application, I hope the Board and staff will  
10 look more closely into this RFAD report item. Thank you.

11           MR. VASQUEZ: Okay. Thank you, Ms.  
12 Rickenbacker.

13           Marni, do you have just the summary of what our  
14 recommendation is or staff's recommendation on this one?

15           MS. HOLLOWAY: We received a limited review  
16 request of this item shortly after the applicant realized  
17 what had happened.

18           If the development address is entered into TEA  
19 records, at some places it gives you Laredo ISD, in other  
20 places it gives you United. If you look at the maps for  
21 both school districts on their respective website, they  
22 actually do overlap, and the address for this development  
23 is in a place that it overlaps.

24           So looking at what was presented to us in the  
25 limited review request -- and I was the one actually went

1 and looked to the websites and looked at the mapping and  
2 figured out that there was this overlap -- it was very  
3 clear that based on the information that was available to  
4 the applicant, they were notifying the appropriate school  
5 district.

6 It appears to be a situation that if you weren't  
7 aware of what's going on with the school districts in  
8 Laredo, you wouldn't realize that there is this overlap of  
9 the two.

10 MR. VASQUEZ: So the staff is recommending?

11 MS. HOLLOWAY: Staff had made a determination  
12 that the applicant had notified the appropriate school  
13 superintendent based on the information that was available  
14 to them.

15 MR. VASQUEZ: Okay.

16 MS. THOMASON: So the applicant is in the Laredo  
17 School District?

18 MS. HOLLOWAY: The two school districts actually  
19 overlap. It appears to be for certain schools -- it  
20 appears to be for high school it overlaps, so depending on  
21 where you're looking, you're going to get Laredo or you're  
22 going to get United.

23 But even going to the websites of those  
24 districts and looking at their map of the area that they  
25 cover, both maps include this development site.

1 MR. VASQUEZ: Okay. We actually have several  
2 speakers who have jumped on who would like to make some  
3 comments on this application, and I think Ms. Rickenbacker  
4 might want to readdress, but let's wait for her at the end.  
5 So let's bring in Alyssa Carpenter again.

6 MS. NORRED: Yes. We are looking to unmute  
7 Alyssa Carpenter.

8 Alyssa, you are unmuted.

9 MS. CARPENTER: Yes. Can you hear me?

10 MS. NORRED: Yes, ma'am.

11 MS. CARPENTER: Yes. I don't have an  
12 application in this region; I don't know anything about  
13 who's in contention here, I just want to speak on this kind  
14 of situation briefly.

15 As far as information being available to the  
16 applicant, what I and I think many other consultants do, is  
17 that if you look at the county central appraisal district,  
18 you can always easily find tax information, and the  
19 appropriate ISD will be taxing the site, and that will  
20 always be listed.

21 So I don't know if anyone has looked up that  
22 information, but that would have been available to any  
23 applicant prior to the pre-application due date.

24 The second item is that if there is some sort of  
25 like school sharing thing, which I think Marni maybe has

1 implied or maybe a high school goes to Laredo or something,  
2 then my question is whether then the applicant needed to  
3 have notified both ISDs in order to comply with the school  
4 district, because if both actually serve the site, then  
5 should both have been notified at pre-app and not just one.

6 So those are just my two quick comments. Again,  
7 I'm not in this region, I just would like to clarify if  
8 this issue does come up in the future that we're all on the  
9 same page. Thank you.

10 MR. VASQUEZ: Thank you, Alyssa.

11 Next we have up Robbye Meyer.

12 MS. NORRED: Robbye, you are self-muted. Will  
13 you please unmute yourself?

14 MS. MEYER: Can you hear me?

15 MS. NORRED: Yes, ma'am.

16 MS. MEYER: Okay. I'm going to agree with  
17 both -- my name is Robbye Meyer with Arx Advantage, and  
18 thank you, Chairman and Board for allowing me to speak.

19 I'm going to agree with both Donna and Alyssa.  
20 In your Board materials it shows that they notified the  
21 Laredo ISD at pre-application and then at full application  
22 they notified United.

23 I'm going to back up just a minute and go back  
24 to the decision that you made on item 8(h) with Ms. Janine  
25 Sisak's item, and it's the same situation there. She

1 notified the wrong state representative -- or state  
2 senator, and it was determined that it's the applicant's  
3 responsibility to get this right.

4 Even though she was right next to the border of  
5 two senators, it's the applicant's responsibility. It's  
6 the same thing here with the school district; it's the  
7 applicant's responsibility to make sure that they have the  
8 right school district at the time of pre-application.

9 Staff is saying that they reviewed this during  
10 the limited review process and under the QAP the limited  
11 review process is only allowed for application items that  
12 don't involve scoring, and this particular item would  
13 involve scoring, because it has to do with pre-application  
14 threshold and therefore pre-application points.

15 And so therefore, I don't think the limited  
16 review process would be allowed here, and I would ask the  
17 Board to instruct staff to re-look at this and look at the  
18 applicant's responsibility at the time of pre-application  
19 and needing to get that right and not getting that right.

20 And that's my comments. Thank you.

21 MR. VASQUEZ: Thank you, Ms. Meyer.

22 I think we have next Jeff Beckler.

23 MS. NORRED: WE are looking to unmute Jeff now.

24 Mr. Beckler, you are self-muted. Will you  
25 please unmute yourself?

1 MR. BECKLER: Yes. Do you have me?

2 MS. NORRED: Yes, we can hear you.

3 MR. BECKLER: Okay. Thank you.

4 I represent the developer on the Calle del Norte  
5 Apartments, and I wanted to chime in and thank Marni and  
6 staff for allowing us to go through the limited review  
7 process and agreeing with our assessment that while there  
8 is no guidance on what exactly to search, we felt that the  
9 TEA website was as valid as anything out there.

10 Should we need to search tax records and things  
11 of that nature, we'll certainly do that whenever we're  
12 instructed to. We felt that if the application process  
13 uses TEA scores for other thresholds and for other items of  
14 that nature, we certainly felt that it was the germane  
15 website to use to find our school district.

16 And as Marni stated, there was overlap; however,  
17 the overlap was not stated on our search. Laredo was  
18 stated on our search, and upon finding this out, it was  
19 immediately brought to staff's attention.

20 We've been nothing but transparent in trying to  
21 resolve this immediately through that limited review  
22 process. And I think the difference on past situations  
23 brought up in other phone calls is that this has gone  
24 through a limited review, and it's a limited review on the  
25 districts. We're not asking for a limited review on a

1 point item.

2 While some may ascertain that indirectly it's a  
3 point item, the limited review was solely focused on the  
4 districts and what the TEA website brought back.

5 So again, I would like to thank Marni and staff  
6 for agreeing with us, and I certainly hope that the Board  
7 sees our situation and sees our transparency and what we've  
8 done to alleviate it. So thank you.

9 MR. VASQUEZ: Great. Thank you, Mr. Beckler.

10 We have Michael Tamez.

11 MS. NORRED: Yes. We are finding him to unmute  
12 him now.

13 Michael, you are unmuted, there you go.

14 MR. TAMEZ: Good afternoon at this point in the  
15 day.

16 My name is Michael Tamez. I'm with Madhouse  
17 Development. I'm actually a representative for a developer  
18 that actually submitted another application in Laredo, and  
19 we ran into this same issue when we were searching.

20 However, we did the diligence that every  
21 developer does: We contact the school district directly,  
22 we get the information from the individuals to make sure  
23 that our site is represented by a certain school district.

24 In this case it is United.

25 There is no overlap. It's confusing to say, but



1 there is no true overlap. There are no students in my  
2 district that will be sent to Laredo Independent School  
3 District, and vice versa. It's actually pretty clear when  
4 you actually dig in and ask the question or do the research  
5 on the county tax records that someone has pointed out.

6 So I ask the Board, given that there were very  
7 similar circumstances on the previous item where an  
8 incorrect state rep was notified, this is the same  
9 situation; it's just changing the word "state rep" with  
10 "school district superintendent." So I just ask the Board  
11 that they advise staff to re-review this issue.

12 I appreciate your time. Thank you.

13 MR. VASQUEZ: Thank you.

14 I think we are now back to Donna Rickenbacker.  
15 I believe this is the last speaker on this item.

16 MS. NORRED: Yes, that is correct.

17 Donna, you are unmuted. Can you hear us?  
18 Donna, you are self-muted. Can you please unmute yourself?

19 MS. RICKENBACKER: Yes, I'm unmuted now.

20 Thank you, Chairman. I don't want to repeat  
21 what everybody has been saying, I just want you to  
22 understand that as the requester it was very easy for us to  
23 determine what school district that this particular site  
24 was located in. There truly is not any overlapping at all  
25 with respect to the two school districts, and I don't even

1 operate in Laredo, Texas.

2 And I also want to make it very, very clear that  
3 this is a statutory requirement and that it cannot be  
4 solved through any type of administrative or limited review  
5 process.

6 The Department is required to reject the  
7 applicant if they fail to properly notify at  
8 pre-application. It's very clear in state statute.

9 Thank you.

10 MR. VASQUEZ: Great. Thanks, Donna.

11 Again, clarifying the process here, we are not  
12 taking an action or we are directing staff to re-review?

13 MS. HOLLOWAY: The Board has the option to  
14 direct staff to, yes, take up any item that we've had an  
15 RFAD for and bring it back to you for action specifically  
16 on that application.

17 MR. VASQUEZ: And we vote on this, or how is  
18 this done?

19 MS. HOLLOWAY: I would bet Beau could help us  
20 with how that works.

21 MR. VASQUEZ: Okay. Bobby or Beau?

22 MR. ECCLES: No. Since this is a report item --  
23 this is Beau Eccles -- you could simply give direction to  
24 staff to reconsider an item or to consider the comments  
25 that have been made in response to this report, but indeed

1 this is a conclusion that's been reached by staff to not  
2 take an adverse action against this applicant, so it's not  
3 going to be reviewed again.

4 If there's information that's been presented  
5 here in comment that causes a Board member to believe that  
6 staff should perhaps consider those and then issue another  
7 opinion -- but the opinion, you have to realize, if  
8 considering all of this and staff is still of the same  
9 opinion, it will not see the Board's attention again as  
10 this issue; it will simply be that this application  
11 proceeds toward award.

12 MR. WILKINSON: Chairman, we'd be happy to give  
13 it another look if you want us to just direct us to look at  
14 the school district issue again on this application.

15 MR. VASQUEZ: I'm happy to hear any other Board  
16 member's comments, but the only one that stuck out in my  
17 mind was whether they should have indeed notified two  
18 school districts.

19 I mean, if one is zoned for the high school and  
20 one is zoned for the elementary school or something, that  
21 might be a case.

22 MR. BRADEN: I think I would ask staff to take  
23 another look at it. School districts don't work that way;  
24 I mean, they don't really overlap like that unless there's  
25 some really unusual stuff.

1           They are separate taxing entities, and while  
2 they might about each other, they don't really share  
3 facilities because you've got separate tax bills and that  
4 kind of stuff. So I'd probably ask staff to take another  
5 look.

6           MR. VASQUEZ: Okay. With no other Board member  
7 objection, let's direct staff to just reconfirm that.

8           Okay. Let's try to move on here. According to  
9 my notes that have been given to me -- no, actually  
10 everyone else is just available if there are questions.

11           So Renee, is the list up to date here?

12           (No response.)

13           MR. VASQUEZ: It appears that it is so we can  
14 accept the report and direct staff to review the 21230.

15           Do we need to take any other action on this, or  
16 do we move on to 8(k)?

17           MR. ECCLES: If that's a legal question -- this  
18 is Beau Eccles -- you've accepted the report, given  
19 direction. You can move on to the next item.

20           MR. VASQUEZ: Very good. Also just note in the  
21 next half hour or so we're going to lose at least one of  
22 our Board members, and then I think after that there's  
23 going to be another, so we'll try to move right along to  
24 8(k), which is presentation, discussion and possible action  
25 to issue a list of approved applications for the 2021

1 housing tax credits in accordance with Texas Government  
2 Code Section 2306.6724(e).

3 Ms. Holloway, continue.

4 MS. HOLLOWAY: Our statute requires that the  
5 Board review recommendations of Department staff regarding  
6 applications and issue a list of approved applications no  
7 later than June 30 of each year.

8 Not all of the applications on the list in your  
9 Board materials have completed the review process, and not  
10 all applicants' appeal rights have concluded, and not all  
11 applications will ultimately receive an award of housing  
12 tax credits.

13 This list is comprised of those applications  
14 that were eligible to receive an award as of the Board book  
15 publication date. The list includes the current score for  
16 each active application as well as the relevant application  
17 information.

18 Staff recommends that the list of active  
19 applications for the 2021 competitive housing tax credit  
20 application round be approved in accordance with Texas  
21 Government Code 2306.6724(e), subject to meeting the  
22 requirements of the Qualified Allocation Plan and  
23 associated applicable rules.

24 I'd be happy to take any questions.

25 MR. VASQUEZ: Again, just clarifying, these are

1 not approving awards; these are approving applications that  
2 remain eligible in the process.

3 MS. HOLLOWAY: Approving the list of  
4 applications, yes.

5 MR. VASQUEZ: Okay. Do any Board members have  
6 questions for Marni or staff?

7 (No response.)

8 MR. VASQUEZ: Hearing none, the chair will  
9 entertain a motion on item 8(k).

10 MR. BRADEN: Mr. Chair, I move the Board accept  
11 the list of approved 9 percent applications in accordance  
12 with Texas Government Code Section 2306.6724(e), and  
13 subject to the descriptions and stipulations stated in the  
14 Board action request on this item.

15 MR. MARCHANT: Second.

16 MR. BATCH: Second.

17 MR. VASQUEZ: Motion made by Mr. Braden,  
18 seconded by Mr. Marchant first. We don't have any  
19 commenters lined up, so all those in favor say aye.

20 (A chorus of ayes.)

21 MR. VASQUEZ: Any opposed?

22 (No response.)

23 MR. VASQUEZ: Hearing none, motion carries.

24 Just letting everyone know we are actually  
25 getting relatively close to the end of the agenda, but

1 there are still more comments and things going on. Let's  
2 forge ahead because, again, we're going to start losing  
3 quorum.

4 Item 8(1), presentation, discussion and possible  
5 action regarding eligibility under 10 TAC Section  
6 11.101(b)(1)(C) related to the ineligibility of  
7 developments within certain school attendance zones for 800  
8 Middle in Houston.

9 Marni, give us the background, please.

10 MS. HOLLOWAY: The QAP includes a limitation  
11 that any development site that falls within the attendance  
12 zone of a school that has an accountability rating of F for  
13 the most recent year available and an Improvement Required  
14 rating for the most recent year preceding is ineligible  
15 with no opportunity for mitigation.

16 The proposed site of 800 Middle is within the  
17 attendance zone of Wheatley High School in Houston, which  
18 received a TEA accountability rating of F for 2019 and was  
19 rated Improvement Required from 2015 to 2017. The school  
20 did not receive a rating in 2018 due to Hurricane Harvey.

21 According to information provided in a waiver  
22 request, there are currently multiple concerted efforts to  
23 improve the quality and performance of Wheatley High  
24 School.

25 Although a complete tax credit application has

1 not been submitted, the information provided by the  
2 applicant reflects the new construction of 400 mixed-income  
3 units, of which 325 will be rent and income restricted at  
4 50 percent of AMI, while Section 8 project based vouchers  
5 will be in place for the remaining 75 units.

6 800 Middle is proposed to be built as part of a  
7 multi-phase development with the ultimate goal of replacing  
8 296 public housing units that are being lost due to the  
9 planned disposal of the Clayton Homes public housing  
10 development. As part of its proposed improvements to  
11 Interstate 10 in Houston, the Texas Department of  
12 Transportation must acquire the 21-acre tract of land owned  
13 by the Houston Housing Authority, which is the site of  
14 Clayton Homes.

15 The Department has been informed that a  
16 condition to the relocation stipulated by TxDOT requires  
17 that 80 percent of the proceeds must be used to fund the  
18 relocation of the public housing units within two miles of  
19 their current location.

20 The Department has been unable to obtain  
21 documentation of this condition, although it has been  
22 discussed in multiple venues. The applicant stated that  
23 TxDOT and HUD requirements have greatly reduced the number  
24 of viable options for the proposed development site.

25 Within the neighborhood risk factor rule there



1 is no framework by which staff could review the information  
2 submitted and arrive at a recommendation other than  
3 ineligibility.

4           According to the QAP, the applicant must  
5 demonstrate how the need for the waiver is not within  
6 control of the applicant and establish how by not granting  
7 the waiver the Department would not be meeting its policies  
8 and purposes under statute.

9           The Board could find that the request meets the  
10 requirements of our rules regarding waivers but then must  
11 determine whether or not to waive the ineligibility of the  
12 proposed site based on the information provided.

13           If the waiver was granted, it would be specific  
14 to the facts and circumstances related to this request and  
15 the information provided by the applicant. Should those  
16 change at the time the application is submitted, or should  
17 the application be submitted in a subsequent program year,  
18 a reevaluation of the request would be warranted.

19           Staff recommends that the proposed site of 800  
20 Middle be determined ineligible based on the factors and  
21 information related to Wheatley High School. I'd be happy  
22 to take any questions.

23           MR. VASQUEZ: Okay. Being that I'm the Board  
24 member from the Houston area, I'm probably a little more  
25 familiar with this than the others.

1           So, Marni, just to clarify, what is the staff's  
2 recommendation on this?

3           MS. HOLLOWAY: Staff recommends ineligibility.  
4 The rule is very clear that this site is ineligible due to  
5 the Wheatley High School rating.

6           MR. VASQUEZ: Okay. And again, I don't  
7 dispute -- we recognize that the multiple years in a row  
8 and the last ratings available make it ineligible.

9           However, can you just re-clarify the situation  
10 where we are -- the applicant here is moving an existing  
11 development, the Clayton Homes development, and they're  
12 forced to move it because TxDOT is expanding the highways  
13 and building over everything.

14           MS. HOLLOWAY: Correct. So TxDOT is undertaking  
15 this improvement of I-10 in Houston that will take these 21  
16 acres where the Clayton Homes development is located on.

17           They are required under federal regulation to  
18 relocate those units. Part of that relocation is that  
19 TxDOT has imposed this requirement that 80 percent of the  
20 relocation funds be used within two miles.

21           The current proposal that's in front of us  
22 discusses an application that we will be receiving in the  
23 future -- the bond reservation was just issued so we'll be  
24 getting the 4 percent apps in -- proposes to move 75 of the  
25 296 Clayton Homes vouchers, project-based vouchers, from

1 the Clayton Homes site to the 800 Middle site.

2 The request talks about further development  
3 plans, but we don't at this point know what those are, and  
4 we actually at this point don't know the full extent of  
5 this current development that's planned at 800 Middle,  
6 because we don't have the application.

7 MR. VASQUEZ: Okay. But the Clayton Homes  
8 existing development is zoned to Wheatley High School  
9 already?

10 MS. HOLLOWAY: Correct.

11 MR. VASQUEZ: And as would be the new proposed  
12 location would remain with the same high school.

13 MS. HOLLOWAY: Correct. That's true.

14 MR. VASQUEZ: And the limitations based on HUD  
15 and Houston Housing Authority as the distance to relocate,  
16 and part of the deal, I recall, is they're moving Clayton  
17 Homes, and they're not going to move them way out.

18 The Clayton Homes location is very centrally  
19 located in Houston so it's already a heavily developed  
20 area. There's not a lot of alternative sites for a new  
21 development.

22 MR. MARCHANT: Mr. Chairman, could I ask a  
23 question?

24 MR. VASQUEZ: Sure, Mr. Marchant.

25 MR. MARCHANT: So when Clayton Homes is actually

1 removed, there will be a net loss of population in Wheatley  
2 High School?

3 MS. HOLLOWAY: So there are 75 units under the  
4 current proposal that are going to be moved to the new  
5 site. Whether or not there will be a net loss to the high  
6 school will depend on what happens to the balance of those  
7 220-some-odd units that remain to be relocated from Clayton  
8 Homes.

9 MR. MARCHANT: Yeah. I mean, I think that's an  
10 important factor, Mr. Chairman. I understand you not  
11 wanting to move new units into a bad school, but when  
12 you're not really doing that, you're actually moving units  
13 out of a bad school, there's going to be a residual amount.

14 So maybe our policy and our rules are in conflict with  
15 HUD's.

16 MR. VASQUEZ: And this is a very unique  
17 situation where they're being forced to move it.

18 Let's have a motion. Again, we have several  
19 speakers. Let's have a motion, please, to hear public  
20 comment, again before we make an action motion. So is  
21 there a motion to receive public comment on this item?

22 MR. BRADEN: So moved.

23 MS. THOMASON: Second.

24 MR. VASQUEZ: Moved by Mr. Braden, seconded by  
25 Ms. Thomason. All those in favor say aye.

1 (A chorus of ayes.)

2 MR. VASQUEZ: Any opposed?

3 (No response.)

4 MR. VASQUEZ: Hearing none, motion carries.

5 Let's bring up Mark Thiele, I think is the first  
6 speaker.

7 MS. NORRED: Yes. We are moving him over to  
8 panelist so that he can use his webcam.

9 MR. THIELE: Good afternoon, Mr. Chair and  
10 Governing Board. My name is Mark Thiele. I'm the interim  
11 president and CEO of the Houston Housing Authority and  
12 speak on behalf of our residents and a deeply committed  
13 board.

14 HHA provides affordable homes and services to  
15 more than 58,000 low-income Houstonians, half of them  
16 children, and oversees a large portfolio of public housing  
17 and tax credit developments across the city.

18 Clayton Homes is a public community built on the  
19 banks of Buffalo Bayou in 1952. For decades this vibrant  
20 community served as the home for hundreds of families in  
21 the historic Second Ward. I'm here today because TxDOT is  
22 set to demolish Clayton Homes as part of their I-45  
23 expansion project.

24 After almost 70 years of serving low-income  
25 Houstonians, this critical housing will be no more.

1       However, we have a plan to replace Clayton with a modern  
2       new construction development and keep these families in the  
3       same neighborhood.

4                 HHA has acquired a suitable site less than half  
5       a mile down the road in the same census tract. We believe  
6       our residents deserve the opportunity to remain in the  
7       community they've historically called home.

8                 This belief was one -- the basis of one of the  
9       key conditions of our agreement with TxDOT that 80 percent  
10      of the units will be reestablished within a two-mile radius  
11      of Clayton. With our vote today, you can make that a  
12      reality.

13                800 Middle will be a Class A new construction  
14      providing 400 units for working families, seniors and  
15      children. All units will be affordable, including 305  
16      units serving households with incomes less than 60 percent  
17      of the area median income and 95 units with project-based  
18      vouchers assisting households with incomes at or below 30  
19      percent of AMI.

20                Numerous community amenities and upgraded unit  
21      features are included in the design. Wraparound supportive  
22      services will be provided at no cost to residents,  
23      including financial literacy, after-school programs and  
24      health and wellness screenings.

25                This community will be an innovative, high-

1 quality, affordable, and safe space that generations of  
2 Houstonians can be proud to call home.

3 The development has undergone significant  
4 vetting but itself has already approved the development.  
5 We received HUD FHEO approval of the site on April 3, 2020.

6 We received ultimate approval from HUD's special  
7 application center to use Clayton disposition proceeds for  
8 the purchase of this parcel and developing project based  
9 vouchers on December 17, 2020.

10 Your vote will allow us to avoid displacement of  
11 these residents and provide new high-quality housing in the  
12 same neighborhood as Clayton Homes.

13 We deeply appreciate your support as we work to  
14 honor our commitment to these families. Thank you.

15 MR. VASQUEZ: Good. Thank you, Mr. Thiele.

16 Let me ask one more question just to clarify.  
17 So there are going to be more units at the new location  
18 than are being displaced from the Clayton Homes location.  
19 Is that correct?

20 MR. THIELE: Yes, sir. Our current plans, many  
21 of which do not involve your agency, will replace more than  
22 the 296 units within the two miles.

23 MR. VASQUEZ: Great. Thanks.

24 Do any other Board members have questions for  
25 Mr. Thiele?

1 (No response.)

2 MS. NORRED: We have Joseph Williams, and we  
3 have to move him over to panelist because he also wants to  
4 share his webcam.

5 MR. VASQUEZ: Perfect. Thank you, Mr. Thiele.  
6 Let's go to Mr. Williams.

7 MR. WILLIAMS: Can you guys hear me okay? I'm  
8 going to try to get my webcam up here. Can you guys hear  
9 and see me okay?

10 MR. VASQUEZ: Yes.

11 MR. WILLIAMS: All right. Can you guys still  
12 see me?

13 MR. VASQUEZ: Please proceed.

14 MR. WILLIAMS: Good morning, Chair Vasquez and  
15 fellow Board members. Thanks for giving me this  
16 opportunity to speak. My name is Joseph E. Williams, Sr.  
17 and I'm the principal of Phillis Wheatley High School in  
18 the Houston Independent School District.

19 I'm here today to speak in support of the  
20 proposed housing project at 800 Middle in Houston. The  
21 Second Ward is experiencing rapid changes and immense  
22 growth, but it is important to remain inclusive of families  
23 of all socioeconomic levels, and that is why the proposed  
24 housing project is important.

25 I understand that a school can be a deciding



1 factor for a future resident of any community, thus I  
2 understand concerns have been raised about moving this  
3 affordable housing in a school zone of a school where  
4 according to TEA improvement is required.

5 I'm pleased to share with you that Phillis  
6 Wheatley has made great improvements in the past few years  
7 and is equipped to appropriately serve present and future  
8 scholars of this historical learning institution.

9 Phillis Wheatley High School has served the  
10 community for 95 years and has a legacy of excellence,  
11 producing the likes of the late Honorable Congresswoman  
12 Barbara Jordan and Congressman Micky Leland. We are on the  
13 right track in continuing this tradition of excellence.

14 The year prior to the COVID-19 pandemic, Phillis  
15 came up only one scholar short of meeting state  
16 accountability due to a new TEA provision this year;  
17 additionally, has been proven for preparing scholars for  
18 college and careers by providing a dual-credit program with  
19 Houston Community College, advance placement classes, and  
20 several career pathways to its scholars.

21 I'm also elated to share that TEA has accepted  
22 our application to become TEA eTech early college high  
23 school. This coming school year will be our planning year,  
24 and our new early college high school will start in the  
25 fall of 2022 with the first cohort of ninth graders.

1           The pandemic that has affected all of us  
2 unfortunately caused a pause in our ability to meet state  
3 standards, being that the accountable expectations were  
4 waived the past two years; however, we are confident if  
5 given the chance this coming school year that we will not  
6 only meet but also exceed state standards.

7           I will end by sharing that we graduated 178  
8 scholars this past Saturday. Many of them had great  
9 challenges throughout their educational journey but were  
10 successful with the support of their alma mater.

11           HISD's Achieve 180 Program is committed to  
12 assisting us in meeting the needs of our scholars, are  
13 affording us an array of targeted resources, from  
14 effectively serving English learners to providing mentors  
15 to those needing a push or a pat.

16           Phillis Wheatley is a great school but the  
17 potential for more scholars to join our school make it even  
18 greater. Increased enrollment will allow us to offer even  
19 more programs to our youth, thus I hope and pray that you  
20 decide on providing this housing to our present and future  
21 Wildcats.

22           I encourage you to come by and visit our  
23 beautiful campus and see for yourself the many  
24 opportunities it offers our youth.

25           Thanks again for this opportunity to speak on

1       behalf of our school and community. I'm sorry I went over  
2       the three minutes.

3                   MR. VASQUEZ: We appreciate you. Thank you,  
4       Principal Williams, for joining us today and giving us that  
5       important information.

6                   MR. WILLIAMS: Yes, sir, my pleasure. Thank  
7       you.

8                   MR. VASQUEZ: Okay. We have next up Jason  
9       Arechiga. Is that right?

10                   MS. NORRED: Yes. We are looking for him to  
11       unmute him now.

12                   Jason, you are unmuted. Can you hear us?

13                   MR. ARECHIGA: Yes, I can hear you just fine.  
14       Thank you very much.

15                   Good afternoon, Board members. My name is Jason  
16       Arechiga with the NRP Group, and on behalf of the 800  
17       Middle proposal of the Houston Housing Authority, I would  
18       like to clarify how a waiver applies specifically to this  
19       worthy development.

20                   As noted in the staff report to this item, the  
21       Board has the ability to find this site eligible. In order  
22       to do so, you must consider two points: the need for the  
23       waiver is not within the control of the applicant; and the  
24       second point, the waiver request must establish how by  
25       granting the waiver it better serves the policies and

1 purposes of TDHCA.

2 To the first point, there are numerous reasons  
3 this particular site was chosen, necessitating a waiver  
4 outside the control of the applicant. In this case, TxDOT  
5 is definitively going to demolish Clayton Homes, and those  
6 families need a place to live.

7 Per the conditions of TxDOT, the vast majority  
8 of units must be rebuilt within two miles of Clayton Homes.

9 HUD also strongly recommended relocation to the same  
10 census tract per their site selection standards, which is  
11 one of the reasons they recommended approval of funds to  
12 purchase this land.

13 The two-mile requirement limited where we could  
14 build, as evidenced by the following points. The Wheatley  
15 High School attendance zone covers the entire census tract  
16 and the majority of the two-mile radius. Also, the areas  
17 not covered are either downtown Houston, completely  
18 developed properties, or areas within the flood plain.  
19 These factors are outside the control of the applicant and  
20 inevitably led our team to 800 Middle as the only suitable  
21 location to rehome families of Clayton.

22 The second criteria that must be met: Does  
23 granting the waiver better serve the policies and purpose  
24 of TDHCA has laid out in Section 203 of Texas Government  
25 Code. The answer is a resounding yes.

1           To quote staff: "Staff believes that the Board  
2 could find that the construction of the proposed  
3 development would serve to not only maximize the number of  
4 affordable units added to the state's housing supply but  
5 contribute to the preservation of government-assisted  
6 housing occupied by individuals and families of very low  
7 and extremely low income. The Board could find that the  
8 waiver request meets the requirements under 10 TAC 11.207.

9           By granting this waiver, TDHCA will keep  
10 extremely low income families in their community,  
11 contributing to the preservation and development of a  
12 diverse and vibrant Second Ward, of which these Houstonians  
13 have called home for decades.

14           We respectfully request that the Board approve  
15 this waiver in light of these circumstances. Under the  
16 joint leadership of the Houston Housing Authority and the  
17 NRP Group, and with the support of TxDOT, TEA, the Houston  
18 Independent School District, the City of Houston, dozens of  
19 community partners and TDHCA, 800 Middle will be a safe and  
20 stable home for the residents of Clayton Homes and for the  
21 greater community.

22           Thank you.

23           MR. VASQUEZ: Thank you, Jason.

24           We have more speaker lined up, Stephanie  
25 Ballard.

1 MS. NORRED: We are looking to unmute her now.  
2 Stephanie, you are self-muted. Will you please  
3 unmute yourself?

4 MS. BALLARD: Can you hear me?

5 MS. NORRED: Yes, ma'am.

6 MS. BALLARD: Good afternoon, Chairman Vasquez,  
7 Board of commissioners. My name is Stephanie Ballard. I  
8 am a resident of Kennedy Place, a member of the Wheatley  
9 High School community, a proud parent of former Wheatley  
10 students, a board commissioner for the Houston Housing  
11 Authority, and one of the representatives; I am here today  
12 to support the waiver request.

13 As a community advocate for housing, I know how  
14 important access to quality schools and supportive services  
15 are. When they say it takes a village, well, at Wheatley  
16 that's what you get, a community that supports the school,  
17 students and families.

18 I know firsthand, because my children attended  
19 Wheatley and they benefitted from the wraparound services  
20 and other academic and non-academic community resources  
21 that the school provides them.

22 The dozens of partnerships that Wheatley has  
23 established with nonprofits and the community-based  
24 organizations is beneficial, and not only to the students  
25 but to their families. Wheatley provides wraparound

1 support services to work with the students to coordinate  
2 these services directly for them.

3           These services range from tutoring, monitoring,  
4 mental health counseling, legal and crisis assistance, and  
5 coordinating access to food pantries, shelters, among other  
6 things.

7           My daughter was a recipient of some of these  
8 services. I remember when my daughter was a student at  
9 Wheatley; she participated in the Fifth Ward enrichment  
10 program and became the first female in the program. This  
11 provided her with mental and tutoring access and other  
12 resources that were very helpful to her. These supportive  
13 partners dedicate and ensure the success of the Wheatley  
14 community.

15           I applaud Wheatley High School Principal  
16 Williams and his team for their dedication to the students,  
17 their families and the community. I know I can say on  
18 behalf of the Houston Housing Authority and Chairman  
19 Snowden and on behalf of my fellow members that we're in  
20 full support of this waiver request and proud to be  
21 associated with NRP to provide high-quality affordable  
22 housing in this community. But more importantly, as a  
23 Houston Housing Authority resident, a parent of former  
24 Wheatley students and a community advocate, I fully support  
25 this waiver request.

1 Thank you, Chairman and Board of commissioners  
2 for providing me this opportunity to speak.

3 MR. VASQUEZ: Thank you, Ms. Ballard. We  
4 appreciate it.

5 Okay. That concludes our registered commenters  
6 on this item. Do any Board members have any questions  
7 remaining, and do you feel you have a sufficient  
8 understanding about the existing location already in this  
9 same school district or high school zone?

10 MR. BRADEN: Mr. Chair, I'm willing to make a  
11 motion.

12 MR. VASQUEZ: Does anyone else have any  
13 questions before Mr. Braden makes a motion?

14 (No response.)

15 MR. VASQUEZ: Okay. Mr. Braden, please.

16 MR. BRADEN: I move the Board grant the waiver  
17 of 10 TAC 11.101(b)(1)(C) regarding ineligibility of  
18 developments in attendance zones of schools with certain  
19 performance ratings, as requested for the proposed site at  
20 800 Middle in Houston and as described and conditioned in  
21 the Board action request on this item.

22 MR. VASQUEZ: Great. Thank you.

23 Motion made by Mr. Braden to grant the waiver.  
24 Is there a second?

25 MS. THOMASON: I'll second.



1 MR. VASQUEZ: Motion made by Mr. Braden,  
2 seconded by Ms. Thomason. Let's go for the vote. All  
3 those in favor say aye.

4 (A chorus of ayes.)

5 MR. VASQUEZ: Any opposed?

6 (No response.)

7 MR. VASQUEZ: Hearing none, motion passes. I  
8 thank everyone for this kind of unique situation that was  
9 done.

10 Also, letting everyone know in the next couple  
11 of minutes Mr. Marchant is going to have to leave us. So  
12 we appreciate your participation here in your first  
13 meeting, and this is a fun one to start at. Wait till next  
14 time.

15 MR. MARCHANT: My apologies to the group, but I  
16 made a commitment before the governor appointed me to be at  
17 a meeting, and I think this will be the last time I'll  
18 have to do this, but thank you; I've enjoyed it.

19 MR. VASQUEZ: Understood. Remember, we pick  
20 volunteers for things at the end of the meeting, so if  
21 you're not here --

22 MR. MARCHANT: I know that custom really well.  
23 Bye-bye.

24 (General laughter.)

25 MR. VASQUEZ: Moving right along to item 8(m) --

1 is it 7(m) or 8(m)?

2 MS. HOLLOWAY: Eight.

3 MR. VASQUEZ: Okay. All right, I believe it's  
4 8(m), presentation, discussion and possible action  
5 regarding the approval for publication in the Texas  
6 Register of the 2021 through 2023 Multifamily Direct Loan  
7 notice of funding availability, and Marni is still with us.

8 MS. HOLLOWAY: Last one. This is actually 2021-  
9 3, so this is our third NOFA for the 2021 year, just so  
10 we're all clear on that.

11 HUD has announced that Texas will receive an  
12 allocation for program year 2021 of National Housing Trust  
13 Fund in the amount of \$41,750,738, which is more than twice  
14 the previously year's allocation.

15 The Trust Fund allocation comes with strict  
16 regulatory requirements for commitments and expenditure.  
17 At the same time, developments that received low-income  
18 housing tax credits in 2019 and 2020 may have been  
19 negatively impacted by rapidly increasing costs of building  
20 materials due to the COVID-19 pandemic, and the National  
21 Housing Trust Fund can be used for gap financing that  
22 supports the developments' continued feasibility.

23 In order for use the Housing Trust Fund for us  
24 so to support the feasibility of the earlier awards, waiver  
25 of certain non-regulatory and non-statutory requirements,

1 along with application of alternative requirements, will  
2 allow for a more efficient and less expensive application  
3 process.

4           Waivers in the NOFA include requirements that  
5 were met with the previous award along with fewer  
6 application forms and exhibits. The requirement that the  
7 Housing Trust Fund be used to create new 30 percent units  
8 is waived for this NOFA so that applicants are able to  
9 access the funds without changing the unit mix in the  
10 original application.

11           Due to the unprecedented nature of the NOFA and  
12 the many waivers required to create a quick and efficient  
13 process for applicants, staff recommends that the executive  
14 director be authorized to amend the 2021-3 NOFA without  
15 further Board approval, however, with all proper public  
16 notifications.

17           The ability to quickly make adjustments or  
18 correct errors will be important to the successful  
19 implementation of this NOFA.

20           Staff recommends that the waivers described in  
21 the NOFA be approved, that \$37,575,662 of non-  
22 administrative funds for the National Housing Trust Fund be  
23 made available for applicants through this 2021-3 NOFA and  
24 that the executive director be authorized to amend the  
25 2021-3 NOFA without further Board approval.

1 I'll be happy to answer any questions.

2 MR. VASQUEZ: Okay. Thank you, Marni. Just one  
3 quick question. This would not lower future loan  
4 availability. Correct? This is just adding for this year.

5 MS. HOLLOWAY: It could impact our ability to  
6 make awards to new 2021 applications, but keep in mind that  
7 we've already received all of our 9 percent applications,  
8 and we still have some funds available in our regular  
9 annual NOFA left.

10 So what this does is it takes this new  
11 allocation and points it towards this purpose.

12 MR. VASQUEZ: It's an addition to the current;  
13 it's not stealing from future years.

14 MS. HOLLOWAY: No. It's just for this year.

15 MR. VASQUEZ: Okay. Great.

16 Do any other Board members have questions on  
17 this?

18 (No response.)

19 MR. VASQUEZ: We do have some speakers that wish  
20 to comment on this item. Well, I guess on the last couple  
21 we had the comments before the motion, so let's not go back  
22 and forth. Let's make a motion for comments. Does anyone  
23 so move?

24 MS. THOMASON: So moved.

25 MR. VASQUEZ: Ms. Thomason moves to accept

1 public comments first.

2 MR. BRADEN: Second.

3 MR. VASQUEZ: Seconded by Mr. Braden. All in  
4 favor aye.

5 (A chorus of ayes.)

6 MR. VASQUEZ: Any opposed?

7 (No response.)

8 MR. VASQUEZ: Hearing none, motion carries.

9 So we have first up Deepak Sulakhe.

10 MS. NORRED: Deepak, you are self-muted. Will  
11 you please unmute yourself?

12 MR. SULAKHE: Okay. Can you hear me?

13 MS. NORRED: Yes, we can.

14 MR. SULAKHE: Thank you, Chairman and Board, for  
15 allowing me to speak. I'm president and CEO of OM Housing.  
16 I'm the developer for three projects, including Hammack  
17 Creek Apartments.

18 As background, Hammack is a 9 percent deal with  
19 2020 credits, and it closed its financing and started  
20 construction on January 26 of 2021. It's met its 10  
21 percent test, and it's about 25 percent complete.

22 We are nearly done with site work, underground  
23 utilities, access and we are ready to go vertical; however,  
24 our general contractor has not bought lumber due to the  
25 high lumber prices. We are currently close to \$1.25

1 million over budget, and we were actually close to \$2  
2 million over budget just a week ago.

3           The project has an FHA 221(b)(4) loan with a  
4 cost-plus with a guaranteed maximum price contract with a  
5 pretty reputable third party general contractor. This  
6 contractor is working on two of my other projects, Lake  
7 View Point and Barton Apartments, both of which are on  
8 schedule and on budget because lumber was bought at the  
9 right time in September 2020 on both projects.

10           Both projects are getting ready to open up here  
11 pretty shortly. Due to delays and unavoidable extensions  
12 on closing our financing, lumber on Hammack could not be  
13 bought when prices were low, causing the current  
14 predicament that we are in.

15           The third-party general contractor on this  
16 deal -- and I'm sure any GC in the same situation -- is  
17 unable to take this \$1.25 million hit on the budget. The  
18 option under consideration is to provide the direct loan.

19           I have three comments on that. The most  
20 important thing here is that right now as it stands, the  
21 term for the direct loan states that it's only eligible for  
22 projects that are not under construction. Unfortunately,  
23 Hammack is a 2020 deal that is under construction and 25  
24 percent complete, and as I've mentioned before, it's \$1.25  
25 million over budget. So the question is what happens to a

1 deal like Hammack?

2 The second thing is, you know, when there is an  
3 overage like that, I know we have a guaranteed maximum  
4 price contract, but this is an unprecedented situation  
5 where it appears like the developer might have to  
6 participate in this shortfall.

7 If the developer participates, well, what  
8 happens to the general contractor, how does he participate  
9 without any access of direct loans to him? And like I  
10 said, if the developer participates the entire shortfall  
11 then that obviously changes the risk factor for our  
12 underwriting purposes.

13 So therefore, it appears that the more equitable  
14 option to handle the situation is to increase the credits  
15 and not just rely on the direct loans.

16 So I'm just bringing this to your attention that  
17 this project has started construction, has a third-party  
18 GC, and so I respectfully ask that the Board reconsider  
19 situations like this and provide assistance to such  
20 projects that are under construction and that do have  
21 third-party GCs.

22 That's all I have to say. Thank you.

23 MR. VASQUEZ: Great. Thank you for your  
24 comments, Mr. Sulakhe.

25 We will bring up Bobby Bowling as our next

1 commenter.

2 MS. NORRED: Bobby, you are unmuted. Can you  
3 hear us?

4 MR. BOWLING: Can you hear me?

5 MS. NORRED: We can barely hear you. You might  
6 need to turn your volume up, maybe.

7 MR. BOWLING: Hello. Can you hear me?

8 MS. NORRED: We can barely hear you.

9 MR. BOWLING: Should I try to call in maybe on  
10 the phone?

11 MS. NORRED: Oh, we can hear you better now.

12 MR. BOWLING: You can hear me?

13 MS. NORRED: Yes.

14 MR. BOWLING: Okay. I apologize, Mr. Chairman.  
15 And good afternoon, Board and Chair. I'll jump right into  
16 my comments.

17 First of all, I want to make sure that the Board  
18 and staff understand that there's a crisis happening in the  
19 residential construction industry, a hyperinflation crisis.

20 There's a tremendous demand and a lack of supply in all  
21 construction materials, especially wood and wood-based  
22 products, and all construction subcontractors and labor.

23 These supply shortages are mainly due to a  
24 forced government shutdown of many manufacturing  
25 facilities, and also the reluctance of many workers to go



1 back to work for a variety of reasons, including fear of  
2 COVID as well as massive unemployment benefits in this  
3 country. There are many reasons for the demand increases,  
4 including unprecedented increases in personal savings over  
5 the pandemic period.

6 The result of this supply-and-demand phenomenon  
7 is tremendous hyperinflation to a level not seen since the  
8 original OPEC oil embargo, the resulting hyperinflation of  
9 the 1970s and early 1980s.

10 The cost increases we are seeing in the  
11 residential construction industry range from 20 percent on  
12 some items to a 300 percent increase on wood framing  
13 materials. The entire increase in our budget since this  
14 time one year ago are easily above 20 percent and are  
15 approaching 30 percent.

16 TDHCA awarded over \$800 million in 9 percent  
17 credits over the ten-year credit period in 2020, but it was  
18 well over \$100 billion worth of construction work. Using a  
19 conservative 20 percent increase in cost number, that is a  
20 \$200 million shortfall.

21 The solution proposed to that shortfall today is  
22 to issue more debt in the amount of \$37 million. As you  
23 can see, more relief is going to be needed to get these  
24 developments built and ready for occupancy. The solution  
25 needs to be additional tax credits.

1 More debt is problematic for a variety of  
2 reasons, including that it requires a complete  
3 restructuring of deals already closed. New debt would  
4 require re-underwriting and approval by the primary lender  
5 and investors as well.

6 In most cases it would not be approved, because  
7 debt service coverage ratios and loan-to-value ratios are  
8 already maxed out, so if access to this Housing Trust Fund  
9 loan program, we would likely have to lower the primary  
10 debt amount and just replace it with this debt. This would  
11 create no new additional capital as a source of funds to  
12 get these deals built.

13 And to address the excellent question that Mr.  
14 Braden had earlier on item 8(g) about additional credits  
15 and Congressman Marchant noted, tax credit syndication  
16 agreements always have clauses to purchase additional  
17 credits, in my experience.

18 All of my deals have always had that clause. So  
19 additional credits would not require restructuring of  
20 deals. There have been crises before in our industry,  
21 including the hyperinflation in residential construction  
22 costs and the 2005 to 2007 housing bubble, and then another  
23 crisis with the 2008 financial crash.

24 We would like to meet with you and discuss the  
25 remedies to both of these crises. Congressman Marchant was

1 involved in federal relief packages to this program in the  
2 past during both of these crises, and I wish he hadn't  
3 signed off, because I want to personally thank him at this  
4 time for always being a friend to this program in Congress  
5 and welcome him to the TDHCA Board.

6 Please meet with us as an industry in a public  
7 roundtable setting where we can share with you actual on-  
8 the-ground scenarios we are facing with our previously  
9 awarded deals that we're trying to build. We very much  
10 need your help and other solutions besides and in addition  
11 to what are doing today.

12 And Mr. Chairman, I can walk through an example.

13 MR. VASQUEZ: We're going to need to wrap up  
14 there, Bobby.

15 MR. BOWLING: I understand. That concludes my  
16 testimony then. But I have a case example that I'd really  
17 like to share with you, like the previous speaker did,  
18 about my project, and I think we would be able to do that  
19 in a roundtable discussion. So thank you, Mr. Chair and  
20 Bobby.

21 MR. VASQUEZ: Okay great. Thanks, Bobby.

22 Okay. We have two more speakers lined up, but I  
23 need to ask that -- while the Department is very well aware  
24 of the industry's desire to advance more tax credits, this  
25 item on the agenda is not addressing that topic. This item

1 is solely for notifying everyone that we're going to have  
2 more funds available as described under this Board item.

3 So we're not saying that you have to take more  
4 loans. We're not saying this is the only solution; not  
5 saying that there's going to be these other solutions  
6 either, but if you could direct your comments more to this  
7 item on the Board agenda, which is simply notifying  
8 everyone that there's more money available to borrow and  
9 we're trying to make it easier for the Department to issue  
10 those funds that are going to be available.

11 Bobby, did I summarize that correctly?

12 MR. WILKINSON: Yes, sir.

13 MR. VASQUEZ: All right.

14 With that, does Ms. Sisak want to provide some  
15 comment on item 8(m)?

16 MS. SISAK: Hi. I'm Janine Sisak, this time  
17 representing the Texas Association of Affordable Housing  
18 Providers. I'll be really quick based on the chairman's  
19 comments.

20 We appreciate staff's work on this NOFA. Char  
21 was great in reaching out to me in short order after the  
22 Board directive on this issue and just kind of hashing  
23 through what rules we would like to see waived, so I  
24 appreciate her and her staff's efforts, as well as the  
25 entire Multifamily Division staff's efforts on this

1 request, but I also echo Bobby's comments about the need  
2 for more assistance.

3 I don't think loan funds will help certain types  
4 of deals. Like rural deals are going to be really hard  
5 pressed to carry more debt, so I just think we need as many  
6 tools in the toolkit to address this unprecedented cost  
7 problem.

8 Thank you for your time and allowing me to  
9 speak.

10 MR. VASQUEZ: Great. Thanks, Janine. And  
11 again, we hope that this is one of those tools that we're  
12 addressing here.

13 Mr. Kelley, Nathan Kelley is up.

14 MS. NORRED: We are looking to unmute Nathan  
15 right now.

16 Nathan, you are unmuted. Can you hear us?

17 MR. KELLEY: I can hear you. Can you hear me?

18 MS. NORRED: Yes, we can.

19 MR. KELLEY: Perfect. And. Chair, I'll keep my  
20 comments brief as well.

21 I just want to say thank you for the opportunity  
22 to speak. My name is Nathan Kelley. I'm the CFO of Blazer,  
23 a Houston-based developer, and specifically a developer of  
24 a 2020 housing tax credit project.

25 I echo your comments in that the use of the

1 National Housing Trust Fund is one mitigation tool to  
2 offset the negative impact of the cost increases, but just  
3 ask that the Department to evaluate other tools.

4           Because of the readiness-to-proceed  
5 requirements, our 2020 project, Canal Lofts, commenced  
6 construction in February but is now facing a \$1.6 million  
7 cost overage in our framing and walls categories -- framing  
8 and lumber cost categories alone. So based on the current  
9 NOFA, our deal would be ineligible to apply for any of  
10 those additional NOFA loan funds.

11           But that said, you know, layering additional  
12 debt on to our project would really negatively impact  
13 rather than to help solve the issue at large. Our deal had  
14 layered housing tax credits with conventional debt, as well  
15 as some Community Development Block Grant funding from the  
16 City of Houston.

17           And so the potential solution that both Bobby  
18 and Janine mentioned of allocating additional housing tax  
19 credits would obviously help us to avoid the labor and cost  
20 of the process of modifying all the equity debt and CDBG  
21 documents, but that assumes our capital partners would  
22 agree to do so in the first place.

23           Additional credits, as you well know, would just  
24 simply resolve the issue without burdening what is already  
25 a tight deal.

1           So I appreciate the staff for working hard to  
2 put together this NOFA. I do believe it will be the  
3 solution for certain deals; I don't believe it's our  
4 solution and so just look forward to additional  
5 conversations for other tools that can help those deals  
6 that are already under construction and facing these cost  
7 increases head on.

8           Thank you for your time.

9           MR. VASQUEZ: Great. Thank you, Nathan.

10           I'd like to wrap up comment on this item. We do  
11 not yet have a motion on item 8(m), and I'd like to  
12 entertain a motion on 8(m) of the agenda.

13           Mr. BRADEN: So, Mr. Chair, I'll make a motion.

14           I move the Board grant the waivers detailed and outlined  
15 in the Board action request for this item for applicants  
16 qualified to apply under the 2021 NOFA, that the funds be  
17 made available under this NOFA, and the executive director  
18 be authorized to amend the NOFA and be granted the  
19 authority, as expressed in the Board action request for  
20 this item.

21           MR. VASQUEZ: Great. Thank you.

22           Motion made by Mr. Braden. Is there a second?

23           MS. THOMASON: I'll second.

24           MR. VASQUEZ: Seconded by Ms. Thomason. All  
25 those in favor say aye.

1 (A chorus of ayes.)

2 MR. VASQUEZ: Any opposed?

3 (No response.)

4 MR. VASQUEZ: Hearing none, motion passes.  
5 We're on to item 9 on the agenda.

6 MS. HOLLOWAY: Thank you.

7 MR. VASQUEZ: Thank you, Marni. Good job.

8 So item 9, we have presentation, discussion and  
9 possible action on an appeal of Galveston County Community  
10 Action Council's terminated application to administer the  
11 Comprehensive Energy Assistance Program in Brazoria, Fort  
12 Bend, Galveston and Wharton counties.

13 And Gavin Reid joins us for the background.  
14 Please go ahead.

15 MR. REID: Thank you, Mr. Chairman.

16 Good afternoon, Mr. Chairman, Board members.

17 As the chairman already noted, item 9 addresses  
18 the appeal of GCCAC's terminated application to administer  
19 the Comprehensive Energy Assistance Program. I'm going to  
20 refer to that as CEAP throughout this Board action item.

21 In March the Board approved staff to terminate  
22 Galveston County Community Action Council's 2020 CEAP and  
23 CEAP CARES contracts and authorized staff to release a  
24 request for applications, or RFA, to designate a CEAP  
25 provider to administer utility assistance in Brazoria, Fort



1 Bend, Galveston and Wharton counties. This is GCCAC's  
2 four-county service area.

3 On April 5, staff released the RFA. To meet the  
4 requirements of the RFA, applicants were given 25 days to  
5 submit applications by April 30 at 5:00 p.m. Central Time,  
6 which was the deadline through the established Wufoo system  
7 described in to the RFA. And just so you know, Wufoo is an  
8 online database managed by an outside vendor which staff  
9 uses to collect and store applications.

10 Seven other applicants successfully submitted  
11 applications by the deadline and through Wufoo. GCCAC, or  
12 Galveston County Community Action Council, submitted their  
13 application at 5:18 p.m. via email after the deadline and  
14 not through Wufoo.

15 GCCAC claims they submitted their application  
16 via Wufoo at 4:59 p.m. but their application was rejected  
17 by Wufoo stating: There was a problem with your  
18 submission, please resubmit your form. Minutes later GCCAC  
19 provided staff a screenshot depicting this message, which  
20 showed GCCAC computer time as 4:59 p.m.

21 On May 5, staff wrote GCCAC a letter terminating  
22 their application due to the failure to meet the  
23 requirements of the RFA and explained to them their appeal  
24 rights.

25 GCCAC then appealed to our executive director.

1 Our executive director denied the appeal based on the ample  
2 time to submit the application, which was 25 days, and that  
3 seven other applicants successfully submitted their  
4 application on time and through Wufoo.

5 In response, GCCAC has now appealed to the  
6 Board, this Board action, citing bias against GCCAC and  
7 that their application was submitted on time but rejected  
8 by Wufoo.

9 Staff recommends the Board affirm the executive  
10 director's decision to deny the appeal and uphold the  
11 termination of GCCAC's application, because the  
12 requirements of the RFA were clearly stated in the RFA and  
13 GCCAC failed to apply either on time or using the  
14 submission method required by the RFA.

15 It also seems unfair to the seven other  
16 applicants who successfully submitted their applications  
17 according to the requirements of the RFA to disregard those  
18 requirements for GCCAC.

19 I would like to note that the seven successfully  
20 submitted applications have yet to be scored and finalized,  
21 as we are awaiting the outcome of the proceedings to  
22 terminate GCCAC as the designated CEAP provider in the  
23 four-county service area.

24 Staff is in the process of scheduling a hearing  
25 with the State Office of Administrative Hearings, otherwise

1 known as SOAH. This hearing, following by a Board  
2 decision, will determine the outcome of GCCAC's status as a  
3 CEAP provider.

4 Should GCCAC prevail in the hearing, they will  
5 resume their status as CEAP provider and the applications  
6 will not be reviewed. Should they not prevail, the  
7 decision by the Board on this appeal today only determines  
8 whether GCCAC will have a submitted application in response  
9 to the RFA to become the designated CEAP provider and be  
10 able to compete against the other seven applicants to serve  
11 the four-county service area. Thus, this bar is  
12 exclusively to determine whether GCCAC can compete in the  
13 application process if they do not prevail at the SOAH  
14 hearing.

15 That is all I have. I can answer any questions  
16 you might have.

17 MR. VASQUEZ: Well, I just have to say I'm  
18 shocked that this organization missed the deadline.

19 Do any other Board members have any other  
20 comments or questions for Mr. Reid?

21 MR. BRADEN: Mr. Chair, I have a question.

22 So do we know when the SOAH hearing or about  
23 when the SOAH hearing is going to take place?

24 MR. REID: To my knowledge as of several hours  
25 ago, it has not been scheduled, but maybe legal has more

1 information regarding that.

2 MR. ECCLES: This is Beau Eccles.

3 When the notice of hearing is filed, it is  
4 scheduled at the same time. We have -- through multiple  
5 correspondences over the last couple of months; we've asked  
6 Galveston County Community Action for their availability  
7 for a hearing.

8 I'm hoping that there's somebody in the wings  
9 who is going to be arguing for GCCAC, because at the end of  
10 it I would like to ask -- because we're going to have to  
11 just schedule this for a hearing, we'd like to ask for  
12 first available from SOAH and if there are any sort of  
13 blackout dates of the next two months that they'd like to  
14 inform us of. We want to get this in and done.

15 So it hasn't been scheduled yet, but we're going  
16 to force it to a scheduling, and we're going to be looking  
17 for first available early next week.

18 MR. WILKINSON: Beau, do we know if they've  
19 retained counsel yet?

20 MR. ECCLES: We do not. That's another question  
21 they have not answered.

22 MR. BRADEN: But Beau, in your experience, first  
23 available, does that mean it's 30 days away or six months  
24 away? I mean, do we have any kind of feel for that?

25 MR. ECCLES: We actually don't have a feel for

1 that because of where we are with the pandemic. I expect  
2 that we'll still be in a virtual format, and that's not  
3 something that you can ask kind of what's the wait for a  
4 table of four.

5 I believe that this is a hearing that can be  
6 done in a half-day setting, and hopefully that will reduce  
7 the time to somewhere inside 30 days as first available.

8 MR. BRADEN: Thank you.

9 MR. VASQUEZ: Any other Board members have  
10 questions? We don't have anyone lined up to talk.

11 MS. THOMASON: I just have one question. So in  
12 the meantime is GCCAC keeping people from being able to  
13 benefit from these funds?

14 MR. REID: No, they are not keeping people from  
15 benefitting from these funds. Applicants or clients who  
16 are requesting for assistance are being referred to  
17 temporary providers, and that's how those are being served,  
18 and their applications are getting processed and served  
19 through temporary providers until a decision is made at the  
20 SOAH hearing as to whether to not GCCAC will remain the  
21 CEAP provider or they will be terminated, in such case that  
22 this RFA will decide the permanent provider in place of  
23 GCCAC.

24 MS. THOMASON: Okay. Thank you.

25 MR. VASQUEZ: Okay. The chair would like to

1 entertain a motion on item 9 of the agenda.

2 MS. THOMASON: I'll move that the Board deny  
3 Galveston County Community Action Council's appeal  
4 regarding their application made in response to the April  
5 5, 2021 RFA to administer CEAP in Brazoria, Fort Bend,  
6 Galveston and Wharton counties.

7 MR. VASQUEZ: Thank you.

8 Motion made by Ms. Thomason. Is there a second?

9 MR. BATCH: I second, Mr. Chairman.

10 MR. VASQUEZ: Seconded by Mr. Batch. Let's take  
11 the vote. All those in favor say aye.

12 (A chorus of ayes.)

13 MR. VASQUEZ: Any opposed?

14 (No response.)

15 MR. VASQUEZ: Hearing none, motion carries.

16 Moving right along to 10(a), presentation,  
17 discussion and possible action regarding a resolution of a  
18 dispute concerning the carryover agreements related to  
19 project 16258.

20 Rosalio Banuelos. Are we getting Rosalio up?

21 MS. NORRED: Yes, we're trying.

22 MR. VASQUEZ: So we can say it's Rosalio's fault  
23 that this meeting is going so long.

24 (General laughter.)

25 MS. NORRED: Hold on. We are moving him on

1 right now.

2 MR. BANUELOS: Good afternoon. Can you hear me  
3 and see me now?

4 MR. VASQUEZ: We've got you.

5 MR. BANUELOS: Okay. Sorry about that.

6 This is Rosalio Banuelos, director of Asset  
7 Management.

8 As you indicated, Mr. Chairman, item 10(a) is  
9 presentation, discussion and possible action regarding a  
10 resolution of a dispute concerning the carryover agreement  
11 for Provision at West Bellfort, Housing Tax Credit 16258,  
12 which received a 9 percent housing tax credit award in 2016  
13 for the construction of 116 units in Sugar Land, Fort Bend  
14 County.

15 The cost certification documentation for the  
16 development has been submitted by the owner and is  
17 currently under review by staff; however, before IRS Forms  
18 8609 are issued, the Department's rules require that all  
19 conditions noted in the underwriting report and commitment  
20 be met.

21 The underwriting report issued by the  
22 Department's Real Estate Analysis Division on June 27,  
23 2016, and later amended on July 11, 2017, included several  
24 conditions regarding environmental issues identified in the  
25 environmental site assessment, including one condition due

1 at cost certification that required an architect  
2 certification on asbestos survey recommendations be  
3 successfully implemented in the completion of the  
4 development.

5 At application the site was leased to a salvage  
6 yard and a livestock sales-grocery store which would be  
7 torn down before construction began. The ESA provider  
8 recommended conducting a thorough asbestos survey prior to  
9 disturbance of any suspect asbestos-containing materials  
10 during the plant renovations or building demolition.

11 As part of the cost certification package, the  
12 owner submitted a copy of a pre-demolition asbestos-  
13 containing building materials inspection report completed  
14 in January 2017, which identified asbestos products in the  
15 salvage yard and the grocery center.

16 According to information submitted by the owner,  
17 the combined materials equaled 280 square feet; however,  
18 the development owner could not locate any records  
19 regarding the asbestos remediation and therefore could not  
20 obtain an architect certification to clear the condition  
21 for the issuance of IRS Forms 8609.

22 Through documentation from the Texas Department  
23 of State Health Services obtained through an open records  
24 request, the owner confirmed that the previously existing  
25 buildings were demolished with no notice of demolition



1 having been filed and asbestos mitigation was not done.

2 According to the owner, in August 2018 the  
3 developer and the construction contractor agreed to filing  
4 of agreed orders and paid administrative penalties of  
5 \$1,000 each.

6 In a letter dated May 26, 2021, a representative  
7 for the development owner submitted a request for a waiver  
8 of the requirement in the rules regarding this underwriting  
9 condition. Under the rules a waiver from the Board may be  
10 requested and may include any plans for mitigation or  
11 alterative solutions.

12 In any case, since the demolition had occurred  
13 already and mitigation and alternative solutions are not  
14 available, the owner has offered to pay \$17,500, which  
15 equals \$150 per unit; however, staff believes a waiver is  
16 not appropriate because the underwriting condition was  
17 known and preventable by the owner.

18 Typically, violations that are not corrected  
19 during a corrective action period are referred to the  
20 Enforcement Committee for a conference and consideration of  
21 administrative penalty or for debarment, but staff does not  
22 believe either choice is ideal in this case.

23 The first option is typically used when a  
24 violation has not been corrected during the corrective  
25 action period, and the second option is typically used for

1 repeated violations or a material failure to comply. While  
2 staff does think failure to comply with the underwriting  
3 condition is a material failure, it isn't clear whether  
4 debarment is an appropriate solution in this case.

5           Instead, it might serve the State's interests to  
6 draft a final agreed order where the owner agrees to  
7 responsibility for the failure to comply with the  
8 underwriting condition and containing a \$17,400 payment to  
9 the Department.

10           The agreed final order would also be considered  
11 by the Compliance Division during future previous  
12 participation reviews and in any future action by the  
13 Enforcement Committee. The owner has agreed with this  
14 proposed resolution, and IRS Forms 8609 would not be issued  
15 until the agreed final order has been finalized and its  
16 terms are met.

17           Staff requests Board Authority to resolve this  
18 dispute regarding the carryover agreement by entering into  
19 an agreed final order in accordance with the terms and  
20 conditions described here. The agreed final order would be  
21 brought to the Board for adoption at a future meeting.

22           That concludes my presentation, and I am  
23 available for questions at any time.

24           MR. VASQUEZ: Great. Thank you for that.

25           Does anyone have questions for Mr. Banuelos?

1 (No response.)

2 MR. VASQUEZ: I believe we have someone  
3 available for questions, but if not, we would entertain a  
4 motion on this item with staff's recommendation to grant  
5 the authority to draft an agreed final order. Is there a  
6 motion to that effect?

7 MR. BATCH: Mr. Chairman, I move that the Board  
8 grant staff the authority to draft an agreed final order to  
9 be presented to the Board at a future meeting and to  
10 resolve the condition, as described and presented in the  
11 Board action request on this item.

12 MR. VASQUEZ: Great. Thank you.

13 Motion made by Mr. Batch. Is there a second?

14 MR. BRADEN: Second.

15 MR. VASQUEZ: I'll give that to Mr. Braden,  
16 second by Mr. Braden. All those in favor say aye.

17 (A chorus of ayes.)

18 MR. VASQUEZ: Any opposed?

19 (No response.)

20 MR. VASQUEZ: Hearing none, motion carries.

21 Continuing to item 10(b), presentation,  
22 discussion and possible action on timely filed appeal under  
23 the Department's Multifamily Program rules relating to  
24 95007.

25 Mr. Banuelos again.

1 MR. BANUELOS: Thank you.

2 So that is correct. The Heights at Post Oak  
3 Apartments received a 9 percent housing tax credit  
4 allocation in 1995 for the rehabilitation of 563 units in  
5 Houston.

6 The land use restriction agreement, or LURA, for  
7 the development requires that if, at any time after the  
8 15-year compliance period, the owner determines to sell the  
9 development, prior to any sale the owner must notify the  
10 Department of its intent to sell so that the Department can  
11 attempt to identify one or more qualified nonprofit  
12 organizations or tenant organizations that make a bona fide  
13 offer to purchase the development for fair market value.  
14 And if the owner receives bona fide offers to purchase the  
15 development from a qualified nonprofit organization or  
16 tenant organization, the owner shall sell the development  
17 pursuant to such offer.

18 The owner notified the Department of its intent  
19 to sell the development, and the 90-day right of first  
20 refusal, or ROFR, posting period ran from January 13, 2021  
21 through April 14, 2021.

22 The Department was informed of two purchase  
23 offers received during the ROFR posting period, but one of  
24 the offers was not from a qualified nonprofit organization  
25 or tenant organization.

1           The second purchase offer was in the form of a  
2 letter of intent from the 33-53 Williams Foundation, a  
3 503(c)(3) nonprofit organization, and it's for the purchase  
4 of the development and its adjacent first phase property,  
5 Housing Tax Credit No. 93074, which is not subject to ROFR  
6 but is being operated as a single property along with the  
7 development.

8           In accordance with the rules, the fair market  
9 value of \$33,837,850 for the development was established  
10 using an executed purchase offer that the development owner  
11 would like to accept from a third party.

12           The purchase and sale agreement submitted to  
13 determine fair market value, which the owner would like to  
14 accept, reflects a purchase price of \$56,500,000 for the  
15 development and the adjacent phase.

16           At the request of staff, an amendment to the  
17 agreement allocates the purchase price between the two  
18 phases. The letter of intent from the 33-53 Williams  
19 Foundation reflects a purchase price of \$57,250,000 for  
20 both phases.

21           On April 21, 2021, staff informed the owner's  
22 attorney that under the LURA a bona fide offer is required,  
23 which staff has determined is accomplished with the letter  
24 of intent.

25           As of May 4, 2021, the Department received a

1 letter from the owner's attorney, Tamea Dula, appealing the  
2 determination by staff that a response to the right of  
3 first refusal posting from the 33-53 Williams Foundation is  
4 a bona fide offer by a qualified nonprofit organization  
5 pursuant to the LURA. The letter from Ms. Dula states that  
6 the letter of intent does not comply with the ROFR notice  
7 as it requires the sale of both Phase I and Phase II, while  
8 only Phase II was offered pursuant to the ROFR posting.

9 Ms. Dula further stated the LOI does not have  
10 any mechanism for the purchase of only Phase II and is  
11 therefore not responsive to the ROFR posting.

12 Additionally, Ms. Dula indicated that under the terms of  
13 the second amendment to the purchase contract, the  
14 purchaser under the contract has the right to purchase  
15 Phase I by itself if Phase II is bought pursuant to the  
16 ROFR.

17 According to Ms. Dula, accepting the nonprofit's  
18 LOI would force the owner into default under the contract.

19 However, under the Department's rules, the purchase  
20 contract is only to be used to determine fair market value  
21 and is conditioned upon satisfaction of the ROFR  
22 requirement. Additionally, upon submission of the LOI, the  
23 buyer and the seller may negotiate further before reaching  
24 an agreement on the terms of the sale.

25 In addition to the issues raised above, the

1 owner is concerned that a nonbinding letter of intent would  
2 be considered a bona fide offer under the Department's  
3 current interpretation of the ROFR regulations.

4 Ms. Dula pointed out that no earnest money was  
5 provided, no information regarding the financial capability  
6 of the nonprofit was provided, and no information  
7 concerning the proposed financing of the development was  
8 offered.

9 Ms. Dula points out that there is no indication  
10 that the nonprofit has any skin in the game in presenting  
11 its LOI and the lack of terms creates doubt as to whether  
12 the LOI rises to the level of an offer made in good faith.

13 Staff's interpretation of the ROFR provision and  
14 the rules is that the LOI is a good-faith offer and, if  
15 accepted by the owner, the offer in the form of an LOI will  
16 result in the execution of an enforceable, valid, and  
17 binding contract once all parties have agreed to certain  
18 terms.

19 In accordance with the rules, in the event that  
20 the nonprofit fails to close the transaction, the ROFR  
21 provision is satisfied if the failure is determined to not  
22 be the fault of the development owner and the development  
23 owner received no other bona fide offers from a qualified  
24 nonprofit organization.

25 In a letter dated June 8, 2021, Ms. Dula further

1 explained that the owner has no objection to selling to a  
2 qualified nonprofit organization on similar terms to those  
3 currently under contract.

4 For that reason, Elliott Aronson, representative  
5 of the owner, has been in communications and negotiations  
6 with Victor Russell, representative of the nonprofit, since  
7 January 25, 2021 concerning the possible sale of the  
8 project to a nonprofit.

9 However, after months of email correspondence  
10 and telephone conferences with Mr. Russell, Mr. Aronson has  
11 concluded that the nonprofit is not a capable purchaser,  
12 and the owner is requesting that the Department determine  
13 has complied with the ROFR through its good faith  
14 negotiations with the nonprofit for the sale of both  
15 phases.

16 According to Ms. Dula, a proposed form of  
17 purchase and sale agreement in response to the nonprofit's  
18 proposal was provided to Mr. Russell on May 3, 2021. Over  
19 a month later he has failed to reply with any counteroffer  
20 or any other response to the terms offered.

21 Ms. Dula further pointed out that in his most  
22 recent communications to the owner, Mr. Russell has asked  
23 the owner to supply over \$60 million to facilitate a  
24 closing.

25 Ms. Dula indicated that while this is not



1 exactly the scenario sent forth in the rules, it is very  
2 similar, and they feel that the owner has made a good-faith  
3 effort to comply with the ROFR requirements.

4           However, although the owner has been negotiating  
5 with the nonprofit and the process is taking longer than  
6 the owner would prefer, the nonprofit has not confirmed  
7 that it cannot close the purchase, and as a result, staff  
8 cannot make an affirmative recommendation that the  
9 nonprofit has failed to close the purchase.

10           According to the representative from the  
11 nonprofit, they are working to get an all-cash funding  
12 finalized. The nonprofit acknowledged that they asked the  
13 owner representative if they would be interested in  
14 participating in the financing strategy, but also indicated  
15 that the transaction could still move forward without the  
16 seller's financial assistance.

17           Given the fact pattern to date, staff cannot  
18 affirm that the ROFR has been satisfied, and staff also  
19 recommends that the Board deny the appeal regarding the LOI  
20 being a bona fide offer.

21           I'm available for any questions at this time.

22           MR. VASQUEZ: Could you repeat that, please?

23           MR. BANUELOS: What part?

24           (General laughter.)

25           MR. VASQUEZ: Do any Board members have

1 questions for Mr. Banuelos? And note that we do have  
2 several speakers that Rosalio mentioned in his remarks or  
3 his summary that are wanting to speak on this item. So  
4 everyone is clear?

5 (No response.)

6 MR. VASQUEZ: In this case, why don't we again  
7 have comment before we entertain motions.

8 MR. BRADEN: I'll make a motion for public  
9 comment.

10 MR. VASQUEZ: Okay. Great. Motion made to hear  
11 comment by Mr. Braden.

12 MR. BATCH: Second.

13 MR. VASQUEZ: Seconded by Mr. Batch. All in  
14 favor aye.

15 (A chorus of ayes.)

16 MR. VASQUEZ: Any opposed?

17 (No response.)

18 MR. VASQUEZ: Hearing none, motion carries.

19 Let's hear some comment. We will start out with  
20 Barry Palmer.

21 MS. NORRED: Barry, you are unmuted. Can you  
22 hear us?

23 MR. PALMER: Yes. Can you hear me?

24 MS. NORRED: Yes.

25 MR. PALMER: Barry Palmer with Coats Rose,

1 speaking on behalf of the project owner.

2 Because this was such a complicated situation,  
3 my main job on our team was the lay out the fact pattern.  
4 Well, Rosalio has done that pretty completely, so I'll cut  
5 my remarks short and just add a couple of things to kind of  
6 supplement the fact pattern here.

7 There's two phases of this project, 940 total  
8 units. Phase I does not have a right of first refusal  
9 requirement; Phase II does. And so the project owner  
10 entered into a purchase and sale agreement to sell both  
11 phases to a third party, which triggered the right of first  
12 refusal requirement for Phase II.

13 And there was a nonprofit that submitted a  
14 nonbinding letter of intent to buy both phases, not to buy  
15 just Phase II, so they submitted a letter of intent to buy  
16 more than what had been offered.

17 And I'm going to let Tamea get into more of the  
18 details of our argument, but I guess to a large extent it  
19 boils down to how long can somebody tie up a property like  
20 this, a \$50 million property, by just submitted a  
21 nonbinding letter of intent and then not having the ability  
22 to follow through on that.

23 With that, I'll turn it over to Tamea.

24 MR. VASQUEZ: Thanks, Barry.

25 Let's pull up Tamea.

1 MS. NORRED: We are looking to unmute her right  
2 now.

3 Tamea, you are unmuted. Can you hear us?

4 MS. DULA: I can hear you, can you hear me?

5 Ms. NORRED: Yes, ma'am.

6 (Interference from background music begins.)

7 MS. DULA: Thank you very much. This is Tamea  
8 Dula with Coats Rose here and on behalf of the project  
9 owner.

10 As has been said, the project owner has no  
11 objection whatsoever to selling the project to a qualified  
12 nonprofit organization. In the time that -- I'm sorry;  
13 there's a lot of noise. Are you still able to hear me?

14 MR. VASQUEZ: We're going to pause for a second;  
15 there's background music.

16 MS. DULA: Yes, there's background music, but I  
17 will press on.

18 From the time the foundation first contacted the  
19 project owner on January 25, 2021, Elliott Aronson, the  
20 owner's representative, has maintained a continuing email  
21 and telephone correspondence with Victor Russell, the  
22 foundation's representative, concerning the project. Since  
23 January there have been almost 50 different emails between  
24 the parties.

25 At Mr. Russell's request, the property manager

1 gave him a tour of the project. Upon request, Mr. Aronson  
2 provided additional and updated due diligence materials to  
3 Mr. Russell beyond those provided in the ROFR posting.

4 (Interference due to background music.)

5 MR. VASQUEZ: I'm sorry, Tamea. Let me  
6 interrupt. There is hold music or something going on in  
7 the background. You may have like another window opened;  
8 it sounds like hold music.

9 MS. NORRED: We are trying to find out who that  
10 phone caller is. We are not really sure, so we are trying  
11 to find them to mute that person.

12 MR. WILKINSON: Mute everyone, just turn the  
13 Board back on.

14 MS. NORRED: It's a phone caller and it doesn't  
15 identify who the phone caller is.

16 MS. DULA: I stand ready to do whatever you  
17 want.

18 MR. VASQUEZ: And, Tamea, you do not hear it  
19 from your side?

20 MS. DULA: I do not have a cell phone; I'm  
21 talking through my computer.

22 MR. VASQUEZ: No. You don't hear the music?

23 MS. NORRED: I'm trying to mute it right now,  
24 I'm working on it.

25 MR. VASQUEZ: I'm not sure what we're going to

1 do about this.

2 MR. WILKINSON: Can you force disconnect it,  
3 kick him out.

4 MS. NORRED: We're trying to find a way to do  
5 that right now. We muted everyone, and it didn't work.

6 (Pause; music still playing.)

7 MR. WILKINSON: Tamea, are you still there?

8 MS. DULA: I am still here. I just want to  
9 suggest that we possibly could take a break and reconvene.

10 MR. WILKINSON: Try closing off your window.

11 MS. DULA: I'm sorry; I cannot hear what is  
12 being said. Have we stopped?

13 (Pause; music still playing.)

14 MS. DULA: Would it help if I exit and come back  
15 in, or have you determined it's completely without regard  
16 to me?

17 MR. VASQUEZ: Okay. Why don't we have Tamea  
18 disconnect, and let's have another speaker and then have  
19 Tamea reconnect.

20 (Pause; music still playing.)

21 MR. VASQUEZ: For everyone listening in, we're  
22 sorry for this inconvenience, but the tech guy is working  
23 to try and fix it.

24 (Pause.)

25 MR. VASQUEZ: That sounds like it was cut off.

1 MS. NORRED: Can you guys hear me?

2 MR. VASQUEZ: Yes.

3 MS. NORRED: Okay. So I think we've temporarily  
4 fixed it. We had to take it off phone call to go to  
5 computer audio.

6 MR. VASQUEZ: Okay, but did we lose Tamea?

7 MS. NORRED: She is back, but she said that  
8 there's still music. She just sent it through the  
9 questions box at 2:42 p.m. and said, I exited the webinar  
10 and rejoined; it did not stop the music.

11 Oh, Tamea says it's okay now, so I think we're  
12 good to go. We're just going to be on my computer audio so  
13 I may be kind of spotty.

14 MR. VASQUEZ: Okay. Let's bring her back on.

15 MS. NORRED: Okay.

16 MS. DULA: Can you hear me now?

17 MS. NORRED: Yes, ma'am.

18 MS. DULA: Thank you very much.

19 Okay. I'll try to recoup where I am. I did  
20 want to say that after the ROFR process the posting had  
21 expired on April 14. The representative of the project  
22 owner continued discussions with the foundation concerning  
23 the possible sale of the project, and at the request of Mr.  
24 Russell, the foundation's representative, the project owner  
25 had their attorney prepare a purchase and sale agreement

1 drafted using the terms that had been presented in the  
2 letter of intent.

3           The letter of intent could not be signed, on my  
4 recommendation, by the project owner because they had  
5 already entered into a purchase and sale agreement with  
6 regard to Phase I with an unrelated third party, and to  
7 enter into the letter of intent would have placed a cloud  
8 on the title of Phase I and would have put them into  
9 default with regard to performance of that preexisting  
10 contract which was subject to the ROFR as to Phase II but  
11 not subject to any ROFR as to Phase I.

12           So the project owner prepared a PSA, purchase  
13 and sale agreement. It was sent to Mr. Russell on May 3,  
14 with the understanding that Mr. Russell would either sign  
15 it and send it back or propose changes to it, give a  
16 counter offer, and to this date there has not been any  
17 response to the offered PSA.

18           On June 3, Mr. Aronson finally notified the  
19 foundation that he was going to terminate negotiations  
20 because of their failure to respond.

21           Now, that did elicit a response from Mr. Russell  
22 on June 4, in which he provided a bank comfort letter  
23 evidencing an average bank balance of a billion dollars a  
24 year over year for a family office that appears to be  
25 unrelated to the foundation.



1           Mr. Russell indicated that \$16,250,000 good  
2 faith deposit would be needed to pre-qualify the foundation  
3 for financing available to philanthropic communities from  
4 the family office, and he offered a \$250,000 fee to Mr.  
5 Aronson and/or to the project owner -- it wasn't clear --  
6 to put up these funds.

7           The project owner is looking for a cash sale  
8 with no seller financing to match the third-party bona fide  
9 offer that triggered this ROFR. The owner does not have an  
10 interest in providing a \$16.25 million good-faith deposit  
11 on behalf of the proposed buyer.

12           We see this request as a further demonstration  
13 of the foundation's inability to close on the transaction.  
14 Accordingly, we request that the TDHCA either, one, grant  
15 the proposed owner's appeal of the determination that the  
16 Williams Foundation provided a bona fide offer or, number  
17 two, provide guidance to the staff that the project owner  
18 has met the requirements of the ROFR by negotiating in good  
19 faith with the foundation and that the foundation has not  
20 been able to close on the transaction or get close to  
21 closing, or three, at the very least indicate to staff a  
22 reasonable time frame in which the foundation must conclude  
23 its negotiations to purchase the project. Right now it's  
24 open-ended, and we need to resolve this and move on.

25           Thank you.

1 MR. VASQUEZ: Great. Thanks for the  
2 information, and we got through that.

3 MS. DULA: Yes.

4 MR. VASQUEZ: We have Elliott Aronson.

5 MR. ARONSON: Hello. Can you guys hear me?

6 MR. VASQUEZ: Yes.

7 MR. ARONSON: Hi. I represent the owner of VBC  
8 Pines. I am very grateful for you guys at the end of a  
9 very long day. I'll try and keep this short.

10 The one thing I want to clarify is we never had  
11 an issue with a letter of intent being used as a bona fide  
12 offer. We had an issue with this letter of intent because  
13 this letter of intent contained no -- we had been in  
14 contact with this group. We know their inexperience: They  
15 have never bought another property, they have no financial  
16 capability, and they've been asking us since February to  
17 finance their purchase of the asset, so we knew they  
18 weren't credible from a financing perspective.

19 Further, their letter of intent required us to  
20 let them assume our financing, which is Freddie Mac  
21 financing and not assumable. And then third of all, their  
22 letter of intent required things that we knew they couldn't  
23 do.

24 So even while we were doing that appeal, as  
25 Tamea pointed out, we've been negotiating with them, and we

1 provided them a purchase and sale agreement at their  
2 request, and even per their letter of intent, they said  
3 they would endeavor to get the purchase and sale agreement  
4 within 25 days.

5 Well, 25 days came and went, they never even  
6 responded. We still never had any response from them and  
7 it's been 45 days. They also said purchaser and seller  
8 shall make their best efforts to execute a mutually  
9 acceptable purchase and sale agreement. They also said  
10 there was a good faith provision that parties shall make  
11 good faith efforts to negotiate a final purchase and sale  
12 agreement and they haven't responded.

13 When I reached out to Mr. Russell multiple  
14 times, he said his attorney was going to reach out to our  
15 attorney, or he said his attorney had the wrong notice  
16 provision, or multiple excuses.

17 But the point is he then came back in June, when  
18 we terminated discussions, with the same request for \$16  
19 million that he had made in February and didn't include in  
20 his letter of intent.

21 And what we're really asking here is this is --  
22 we have no problem selling to a not-for-profit. In fact,  
23 this sale would be more lucrative for us than the sale that  
24 we posted.

25 We are fine selling it to Mr. Russell's group,

1 but what is happening here is the process is being abused  
2 by a non-qualified group to try and tie this up in  
3 perpetuity so that they can either force us to finance them  
4 to buy the property -- which we're not capable of doing --  
5 or they have an open-ended period to go raise their funds.

6 But just to be clear, to this date there has not  
7 been a single lender on site, there has not been a single  
8 contact from a lender for Mr. Russell, there has not been  
9 any comment from an attorney for Mr. Russell, and this has  
10 not progressed since we've been talking to him for the past  
11 five months.

12 And we request simply that you treat him like  
13 any other purchaser would and say, You've had your  
14 opportunity, we've negotiated in good faith, you haven't  
15 been able to even progress the transaction, forget about  
16 getting to a closing, and find that we've satisfied any  
17 definition of best efforts or good faith in dealing with  
18 him and that we've satisfied our ROFR.

19 Because notwithstanding that, Mr. Russell has  
20 not -- he's a very nice man, I'm fond of him, but he's  
21 never purchased a property. He has a complex financing  
22 scheme that Mr. Banuelos referenced which is he's trying to  
23 finance these deals with no money down, pay himself a  
24 brokerage fee out of his brokerage -- that's what he is, is  
25 a broker -- and then go public, and that's the plan.

1           And I'm not disparaging the plan, but that's not  
2 what this ROFR was meant to establish in a nonprofit  
3 eligibility. So again, I don't need to say any more, but I  
4 appreciate your consideration, and we just ask that you  
5 find that we've done everything that we can possibly do to  
6 progress this and find that we've met the ROFR terms.  
7 Thank you.

8           MR. VASQUEZ: Great. Thanks, Mr. Aronson.

9           The final speaker we have lined up is Victor  
10 Russell, so let's get Mr. Russell up.

11           MS. NORRED: Mr. Russell, you are unmuted. Can  
12 you hear us?

13           MR. RUSSELL: Yes. Good afternoon. Can you  
14 hear me?

15           MS. NORRED: Yes.

16           MR. RUSSELL: Okay. Good afternoon. Thank you,  
17 Chair Vasquez, how are you doing this afternoon?

18           MR. VASQUEZ: Great. It's been a long meeting.

19           MR. RUSSELL: There is a debate in terms of the  
20 qualifications of our foundation, and there are some  
21 inaccuracies that have been displayed, I guess you might  
22 say from Elliott, Tamea and Barry, who have presented their  
23 side of the argument.

24           Our intent is to acquire the property. We were  
25 presented with a PSA, as they've stated, the first week of

1 May, and we worked with our counsel through the 29th of May  
2 in looking over what would be the best possible  
3 opportunities and look at the shortfalls that they  
4 provided.

5           Some of it was set on with some reluctance from  
6 our counsel, is that they wanted \$600,000 hard money from  
7 day one without any inspection and financing to be within  
8 30 days. That is highly unusual, albeit it may be  
9 acceptable in the traditional sense of some commercial real  
10 estate transactions, but a foundation has a little bit  
11 slower agenda.

12           And that being the case, the opportunity to move  
13 forward and being creative is why we did consult with the  
14 seller on an outside mechanism in order to be able to help  
15 fund our transaction.

16           As in the documents that you received at pages  
17 1109 through 1112, you'll see that our family office that  
18 is providing us with the capital has more than adequate  
19 funds; they have \$995 million in their particular bank at  
20 J.P. Morgan, and we provided that information to Elliott as  
21 well as to some others as it relates to being able to  
22 substantiate our financial capability.

23           At the end of the day, we've put together a  
24 small schedule that we think will be somewhat workable in  
25 getting us to approximately an August 20 date to try to

1 close.

2 In the meantime, over the course of the  
3 following few days here -- I will say in the next couple of  
4 days -- we will be submitting the PSA back, but it will be  
5 without having non-refundable money. We're not putting  
6 \$600,000 into the seller's hand on a non-refundable basis.

7 And also, it will be with the understanding that  
8 to the extent that we can be able to come to a meeting of  
9 the minds that the timeline as we indicated in the LOI --  
10 which we clearly stipulated was 150 days -- irrespective of  
11 assuming the Freddie Mac loan, which was just an option  
12 that we threw into the LOI if it was possible, knowing that  
13 that type of financing was there.

14 In the meantime, we've solicited our private --  
15 our family office, which has the capability of closing, and  
16 at the current time we'll be prepared to send our PSA back  
17 with the changes that we received from our counsel the end  
18 of May and the first week of June.

19 MR. VASQUEZ: Okay. Great. Thank you, Mr.  
20 Russell, for that background information.

21 So I guess this is back to the final Board  
22 discussion. That was all of our speakers. Was there any  
23 clarification that Rosalio wanted to add? I don't know if  
24 he's still around.

25 MR. BANUELOS: No, sir.

1 MR. VASQUEZ: Okay.

2 MR. BRADEN: I'd like to make some comments, and  
3 maybe Bobby or Rosalio can comment.

4 You know, when I read this ROFR provision, I  
5 mean, the whole idea behind it is if possible we'd like to  
6 keep nonprofit housing as nonprofit, of course; I mean,  
7 that's our mission.

8 So if somebody is going to sell a property and  
9 it can be sold to a nonprofit entity in such a manner that  
10 it will still serve as low-income housing, it makes sense  
11 for us to say, well, if you're going to sell it to somebody  
12 else, can you go ahead and make an offer and sell -- you  
13 know, entertain offers from other buyers who will keep it  
14 within the mission of this agency. That makes sense.

15 But I've never thought this was supposed to be  
16 some mechanism by which you tie up a property for a long  
17 period of time. I've always thought this mechanism really  
18 is you have a contract in hand that says you're going to  
19 buy it for this price, you're giving for somebody else to  
20 walk in with a similar contract in hand and say, Instead of  
21 selling it to this guy, sell it to this other guy. The  
22 terms are about the same, maybe there's a little more due  
23 diligence, there's a little delay, but it's just -- there's  
24 no question that you can close on this second deal just as  
25 easily as you could close on the first deal.



1           That doesn't seem the case here, and I don't --  
2 you know, it seems like the seller has been trying to  
3 cooperate and work with them; there's been a lot of back  
4 and forth.

5           It sounds like the buyer is scrambling to make  
6 things work and scrambling to make money, and to me it just  
7 seems like it's not an apples-to-apples comparison; it's  
8 not in the spirit of a right of first refusal, and in my  
9 opinion, I just don't see how this satisfies, and it seems  
10 like the seller has already satisfied the requirement.

11           That's contrary to what staff's recommendation  
12 is, but that's my thoughts on it.

13           MR. WILKINSON: I would like to note a lot of  
14 this information is new since it went to staff and post my  
15 denial. The June letter was well after my denial on the  
16 18th.

17           I thought what was before us before was an LOI,  
18 an offer for purposes of ROFR, yes or no. And we said yes,  
19 but that doesn't mean that negotiations would be forever; I  
20 don't see why this seller can't set some kind of deadline.

21           Beau, do you have any comments on what we're  
22 trying to accomplish?

23           MR. VASQUEZ: While Beaus -- again, I mean, a  
24 letter of intent is not a purchase and sale agreement.

25           MR. ECCLES: Yes. My impression is the same as

1 Bobby of this issue, and that is whether this LOI  
2 constitutes a bona fide offer under the ROFR rule.

3 All of the talk of subsequent negotiations and  
4 it seems unfair and it feels unfair -- well, I'm sure that  
5 every big real estate transaction is going to be a little  
6 bit different, but really the only issue that was brought  
7 up and appealed to Bobby and brought before the Board is  
8 just that simple question of whether this letter of intent  
9 constitutes a bona fide offer for purposes of ROFR.

10 MR. VASQUEZ: Okay. And at the same time, there  
11 is no reason why, even if we say that the LOI does not lock  
12 up the property for Mr. Russell and his group, there is  
13 still no reason he can't still make an offer satisfactory  
14 to the owner to go ahead and still buy it. Right? But  
15 it's up to the owner, the seller, who they feel more  
16 confident selling to.

17 MR. ECCLES: Well, I think that the issue -- and  
18 Rosalio can certainly speak to this as well -- is whether  
19 they satisfied the rule as it specifies what constitutes  
20 satisfaction of ROFR and what does not constitute  
21 satisfaction of ROFR.

22 And we're into the latter of those two, and  
23 we're talking about if they have received a bona fide offer  
24 and it doesn't close, is that because of the seller or is  
25 it by no fault of the seller? And I'm just not really sure

1 that that happened yet.

2 The issue of how long can a seller set  
3 conditions for, can the seller set closing for a certain  
4 date and if it doesn't make, are we then making that  
5 determination?

6 These are all fascinating questions that really  
7 aren't either before Rosalio or this Board. We're still at  
8 that first point where the question that -- the only one  
9 that staff has addressed is whether the LOI, as it was  
10 originally presented, constitutes a bona fide offer for  
11 purposes of entering this conversation on whether they have  
12 or have not satisfied ROFR.

13 All of these discussions of negotiations and  
14 this is dragging on too long, honestly, I think have popped  
15 up in the last couple of weeks.

16 Rosalio, is that about right?

17 MR. BANUELOS: Correct. We received a letter  
18 from Tamea on June 8, so a little more than a week ago,  
19 regarding the negotiations. Up until that point the appeal  
20 had been that the LOI is not a good-faith effort, so it is  
21 not a bona fide offer.

22 That was the appeal that was submitted to the  
23 executive director.

24 MR. BRADEN: And in light of that -- and Tamea  
25 made note of this -- so the LOI -- I read it, and it's

1 nonbinding, there's nothing to it. So it's hard to say is  
2 that truly even an offer. And it wasn't an offer for Phase  
3 II, it was an offer for both.

4 So you know, I think the Department, the agency  
5 made the seller break out his contract into two distinct  
6 components so that we could identify which part is subject  
7 to the ROFR, and expecting people to make an offer for  
8 that. And what he gets is a letter of intent for the whole  
9 thing. You know, I just don't see how that still ends up  
10 being a bona fide offer for satisfaction of this purpose.

11 MR. BANUELOS: And I cannot speak to the  
12 discussions between the buyer and the seller, because I was  
13 under the impression as well that the seller was interested  
14 or would consider selling both phases, but I think that  
15 morphed into the negotiations not being acceptable to the  
16 seller.

17 And we're at the stage where we're discussing  
18 that the process is taking too long, but as Beau pointed  
19 out, that deviates from the initial request that we have  
20 before our ED and now the Board.

21 MR. VASQUEZ: Okay. So to summarize the Board  
22 action request here, if we deny the appeal that the ROFR  
23 was satisfied or the ROFR requirement was satisfied, that  
24 frees up the seller to sell to whomever they want? Or if  
25 we say that it was satisfied, they gave an opportunity for

1 bona fide offers to come in?

2 I'm just trying to make sure I understand what  
3 we're -- the impact of what we're voting on.

4 MR. BRADEN: I think we'd have to approve the  
5 appeal to indicate the seller could move forward with other  
6 deals, because they're the ones appealing the ruling of the  
7 executive director.

8 MR. WILKINSON: I think that would make it most  
9 clear to them that they could move forward, and it doesn't  
10 set precedent, right, as we're often reminded.

11 MR. VASQUEZ: Okay. So do Brandon and Sharon  
12 kind of understand where we are?

13 MS. THOMASON: Yes. I think there have been  
14 multiple attempts on behalf of the seller to move this  
15 forward, so I understand.

16 MR. VASQUEZ: Okay. Would Mr. Braden like to  
17 make a motion?

18 MR. BRADEN: Sure. I'll move that the Board  
19 approve the appeal regarding the Heights at Post Oak  
20 Apartments that it satisfies the ROFR as the facts are  
21 described in the Board action request on this item.

22 MR. VASQUEZ: Okay. So did I hear a second on  
23 that, Ms. Thomason?

24 MS. THOMASON: Yes.

25 MR. VASQUEZ: Okay. Motion made by Mr. Braden,

1 seconded by Ms. Thomason. Let's have a vote. All in favor  
2 say aye.

3 (A chorus of ayes.)

4 MR. VASQUEZ: Any opposed?

5 (No response.)

6 MR. VASQUEZ: Hearing none, motion carries,  
7 motion passes. Definitely a complicated one.

8 Okay. We are finally complete with the posted  
9 agenda items, and now is the time of the meeting when  
10 members of the public can raise issues with the Board on  
11 matters of relevance to the Department's business or  
12 request that the Board place specific items on future  
13 agendas for consideration.

14 We do not have anyone lined up for additional  
15 public comment.

16 So the next scheduled meeting of the Board is  
17 July 8, 2021. We have two meetings in July, the second one  
18 being July 22.

19 So with that, is there a motion to adjourn?

20 MS. THOMASON: Yes, please.

21 MR. BATCH: Second.

22 MR. BRADEN: Second.

23 MR. VASQUEZ: Made by Ms. Thomason, seconded by  
24 everybody, but we'll give it to Mr. Batch. All in favor  
25 say aye.

1 (A chorus of ayes.)

2 MR. VASQUEZ: Hearing no objections, it is 3:07  
3 p.m., and we are adjourning the meeting. Thank you all for  
4 your patience.

5 (Whereupon, at 3:07 p.m., the meeting was  
6 adjourned.)

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MEETING OF: TDHCA Board  
LOCATION: Austin, Texas  
DATE: June 17, 2021

I do hereby certify that the foregoing pages,  
numbers 1 through 239240, inclusive, are the true,  
accurate, and complete transcript prepared from the verbal  
recording made by electronic recording by Nancy H. King  
before the Texas Department of Housing and Community  
Affairs.

DATE: June 22, 2021

\_\_\_\_\_  
(Transcriber)

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