

TEXAS DEPARTMENT OF HOUSING AND
COMMUNITY AFFAIRS

BOARD MEETING

8:40 a.m.
Thursday
August 14, 2003

Board Room 437
Waller Creek Office Building
507 Sabine Street
Austin, Texas

PRESENT:

BOARD MEMBERS:

MIKE JONES, Chairman
KENT CONINE, Vice Chairman
NORBERTO SALINAS
ELIZABETH ANDERSON
SHADRICK BOGANY
VIDAL GONZALEZ

STAFF:

EDWINA CARRINGTON, Executive Director
BROOKE BOSTON
RUTH CEDILLO
TOM GOURIS
DAVID CERVANTES
BILL DALLY
CHRIS WITTMAYER, General Counsel
DELORES GRONECK
JIM ANDERSON
LISA VECCHIETTI
SARAH ANDERSON

ROBERT ONION

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03809	Cole Creek Apts.	5	\$96,000
03810	Stone Ranch Apts.	8	\$114,000
03813	La Villata Apts.	11	\$50,000
03815	Las Lomas Apts.	13	\$90,089
03816	Subdivision Develop.	11	\$150,000
03817	Fallbrook Ranch, Ltd.	6	0
03820	Villa Elaina	7	\$28,000
03823	Meadows on Airport Apts.	6	0
03824	Villas at Park Grove	6	\$180,000
03825	Reading Road Apts.	6	\$325,000
03826	The Peninsula Apts.	6	0
03827	Kingsland Trails Apts.	7	0
03828	Bentley Place Apts.	9	\$249,000
03829	The Village@Morningstar	6	0
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Executive Director's Report

EXECUTIVE SESSION 299

ADJOURN 299

P R O C E E D I N G S

1
2 MR. JONES: I will now call to order the Board
3 for the Texas Department of Housing and Community Affairs
4 of August 14, 2003. First order of business being roll
5 call. Mr. Conine.

6 MR. CONINE: Here.

7 MR. JONES: Ms. Anderson.

8 MS. ANDERSON: Here.

9 MR. JONES: Mr. Bogany.

10 MR. BOGANY: Here.

11 MR. JONES: MR. Gonzalez.

12 MR. GONZALEZ: Here.

13 MR. JONES: Mayor Salinas.

14 MR. SALINAS: Here.

15 MR. JONES: And I am here. We have six members
16 present, zero absent. And I do certify that we have a
17 quorum.

18 The next order of business we have is public
19 comment in accordance with our rules and policies. We
20 have a immense number of witness affirmation forms of
21 people who would like to speak.

22 In light of the very detailed and voluminous
23 agenda that we have, I think we are going to have to
24 impose time limits. And I apologize to everybody for

1 that. We try not to do that. But in this instance, I
2 think we will have to.

3 And also, you have an opportunity to speak now.
4 You also have an opportunity, if you choose to, to speak
5 at the time of the agenda item. Let me just say I've been
6 chairman here for a number of years. And my advice to
7 anyone is get to the board while they're fresh. But do
8 whatever you think should be best.

9 With that, we will turn to public comment. And
10 the first witness affirmation form I have is Vivian
11 Harris. You really need to be at the microphone, if you
12 don't mind. We have a court reporter here, and they
13 really can't hear you if you're not at the microphone.
14 Okay. I'm sorry. I apologize. Okay. I'm so sorry.
15 Thank you. Thanks for your help, Delores. Yes, ma'am.

16 MS. HARRIS: Members of the Texas Department of
17 Housing and Community Affairs, Representatives of the
18 Housing Authority of the City of Houston, Representatives
19 of Blaine Hinton Investments, Inc., Resolution Real Estate
20 Services, L.L.C., and other interested parties, I
21 represent the South Houston Concerned Citizens Coalition.

22 This coalition consists of approximately 15
23 civic clubs represented. I am here today to represent the
24 residents of these neighborhoods in the matter of the

1 proposed Peninsula Apartments to be built at 51 to 5200
2 Block of West Fuqua.

3 We have sent to the Texas Department of Housing
4 and Community Affairs our written protest comments that
5 were due on August 1, 2003. We would like to begin by
6 submitting to the panel an addendum to the South Houston
7 Concerned Citizens' Protest submitted to you on August 1,
8 2003.

9 We respectfully ask that the panel adds this
10 addendum to our protests so the official record can be
11 corrected. I request that I may be able to give the panel
12 a copy of the addendum so they can better follow my
13 comments.

14 MR. JONES: You certainly may.

15 MS. HARRIS: Okay.

16 MR. JONES: If you would, hand it to -- oh,
17 we've got it? I'm sorry. I'm sorry. We already have it.
18 Thank you.

19 MS. HARRIS: All right. In the correct
20 protest, pages 11, lines 4 through 16 to delete. Addendum
21 to the protest submitted to the panel on August 1, '03,
22 incorrect placement of sign caused the Texas Department of
23 Housing and Community Affairs meeting to be held on July
24 9, 2003.

1 We believe such incorrect sign placement
2 constitutes a deceptive representation. We had met with
3 the Peninsula Apartments representatives on July 7, 2003.

4 The address that was given to the Coalition of the
5 proposed site was 5100 to 5200 West Fuqua. Coalition
6 representatives attended the public hearing on August --
7 on July 9, 2003.

8 We would like to state that the sound system
9 was not good, and we could not hear the public comments
10 very well. Also that night it was very stormy. The
11 public hearing transcript indicated a 280-unit multifamily
12 residential development to be constructed on approximately
13 15.5 acres of land.

14 Correct amount is 31.9089 acres of land located
15 in the 51 and 5200 Blocks of West Fuqua in Houston, Harris
16 County, Texas. This was how the site location was
17 described in the official transcript. When the coalition
18 representatives went to look at the area where the
19 proposed site would be, there was a sign posted in front
20 of the Harris County Flood Detention area.

21 There were no other signs or addresses on the
22 land posted from Hiram Park to South Post Oak. We had not
23 been furnished any mail to identify the site. We assumed
24 the location that had the sign was posted was the official

1 location of the proposed Peninsula Apartments.

2 We went out to the Harris County's Property
3 Records Office to verify that the site was Harris County
4 land, and obtained a map indicating the same. When we
5 then mailed off our protest, still believing that we had
6 the correct site, we were still concerned about what was
7 going to happen to the flood waters that were presently
8 being directed into this watershed.

9 We wrote to Mr. El Franco Lee on July 30, 2003,
10 and asked for some information from the Harris County
11 Flood Control District regarding Tropical Storm Allison
12 and the effect that it had on our drainage.

13 Mr. Curtis Lefly [phonetic] was designated as a
14 contact person, as he is the project coordinator. He
15 contacted me and said he would go out and look at the
16 site.

17 MR. JONES: Ma'am, excuse me. Your time is up.
18 If you could conclude.

19 MS. FORETICH: We're going to -- we have people
20 that are going to yield time.

21 MR. JONES: Okay. Can you tell me who is going
22 to do that?

23 MS. FORETICH: I am going to, Rita Foretich.

24 MR. JONES: Excuse me.

1 MS. FORETICH: How many -- do you need all the
2 names at one time?

3 MR. JONES: If you could, yes, ma'am. That
4 would be --

5 MS. FORETICH: Okay. Melva?

6 MS. THORNTON: Melva Thornton.

7 MR. JONES: Okay. Just a second. I'll write
8 it down.

9 MR. JONES: Excuse me. Reba?

10 MS. FORETICH: Rita, R-I-T-A.

11 MR. JONES: Okay. Excuse me. Thank you,
12 ma'am.

13 MS. FORETICH: Foretich, F-O-R-E-T-I-C-H.

14 MS. THORNTON: Melva Thornton.

15 MR. JONES: Melva Thornton.

16 MR. SINNETTE: My name will be Ronald Sinnette.

17 MR. JONES: Could you spell that last name for
18 me?

19 MR. SINNETTE: S-I-N-N-E-T-T-E.

20 MS. LILLY: Alma Lilly.

21 MR. JONES: Excuse me. I didn't --

22 MS. LILLY: Alma Lilly.

23 MR. JONES: Thank you, ma'am.

24 MR. CLARK: Homer Clark.

1 MR. JONES: Thank you, Mr. Clark.

2 MR. JONES: Delores, I have five people
3 yielding their time. Thank you, ma'am. Please continue.

4 MS. HARRIS: Okay. He went on to say that the
5 sign had been put up the wrong location. We have taken
6 pictures of the sign that was placed incorrectly, and the
7 detention pond behind the sign for your review, see
8 Attachment 1. Melva? The sign is still on Harris County
9 Flood Control land.

10 We are attaching the Harris County Flood
11 Control District's letter on August 12, 2003. If you'll
12 see Attachment 2, a letter from Mr. Curtis B. Lefly,
13 Project Engineer, we would like to draw your attention to
14 page 2.

15 We believe the explanation given by Mr. Curtis
16 B. Lefly regarding this watershed explains our concerns
17 about the proposed location of Peninsula Apartments.

18 The Peninsula Apartment land is adjacent to the
19 Harris County Flood Control land. However, after reading
20 the Harris County Flood Control's letter of August 12,
21 2003, page 2, paragraph 2 and 3 above, we are of the
22 belief that building the Peninsula Apartments at the
23 proposed site will reduce the storage capacity in our
24 existing flood plain.

1 We do not believe the proposed retention pond
2 at the Peninsula Apartments site will be sufficient
3 protection from the flood waters, and the Westbrook
4 Subdivision's homes will be flooded.

5 The city has not started their work on drainage
6 and storm water capacity. We need to demand of our city
7 and county officials that they absolutely prohibit any
8 increase in the amount of water into our bayous and
9 streams from public and private drainage improvement or
10 development projects. See Attachment 3, page 2, The Cost
11 of Storm Water Management for Houston.

12 The proposed drainage fee for this project by
13 the city would be 31.9089 acres times \$75, equals
14 \$2,393.17 times 12 months would equal \$28,718, times ten
15 years would equal \$287,180 over a period of ten years.

16 Since this complex would be operated by the
17 Housing Authority of the City of Houston, the city will
18 receive no fee money. Taxpayers will have to absorb this
19 fee for Peninsula Apartments, Housing Authority of the
20 City of Houston, landlord or owner.

21 The Housing Authority of the City of Houston
22 has assured us that the Peninsula Apartments would be well
23 maintained for the life of these apartments. We decided
24 to visit some of the housing sites that are operated by

1 the -- by this landlord, and we came up with these stats
2 from the Housing Authority of the City of Houston, January
3 1, 2002 to August 7, 2003.

4 The name of the apartments, one, is Clayton
5 Homes, 1919 Ronald Street. No gate. Was in fair
6 condition. Crime calls during this period of time was
7 1,576.

8 Ewing Apartments, 1815 Ewing, Good, and the
9 gates were working. We didn't ask for the stats on those.

10 Irvington Village, 2901 Fulton Street, bad. 1,482 crime
11 service calls. Lincoln Park, 790 West Little York, broken
12 gates, holes driveway, Fair, 1,483 crime calls.

13 Long Drive, 6767 Long Drive, had no gates. 396
14 crime service calls. We found the housing sites mowed and
15 trash picked up. We do not believe the air conditioning
16 was working, as people were sitting outside in 98-degree
17 weather fanning themselves.

18 The structures are old, and some had window
19 units that may not have been working. Some of the parking
20 lots had large holes. Irvington Village was in bad shape.

21 It looked like some remodeling was going on, but many of
22 the units were boarded up. We believe it would have been
23 better to start over with something more modern and
24 perhaps central air-conditioned.

1 The security -- the gates on all but the Ewing
2 Apartments were either gone or broken. We went down to
3 the City of Houston Police Records that had the crime
4 statistics pulled for the above housing apartments.

5 These records are for the period January 1,
6 2002 through August 7, 2003. These statistics are for the
7 exact addresses of the apartments, not for any of the
8 neighborhood crimes that may have been around the housing
9 apartments.

10 And then the conclusion, the profile of the
11 HACH indicates that it operates and manages housing
12 developments to provide decent, safe, sanitary and
13 affordable housing to low-income families, the elderly and
14 the disabled, and implements various programs designed and
15 funded by the U.S. Department of Housing and Urban
16 Development.

17 The HACH is a public housing agency. What we
18 observed does not depict the profile that was represented.

19 We believe these housing developments need private
20 security officers. Residents need to feel safe. We
21 believe the proposed Peninsula Apartments will bring more
22 crime to our area. We have worked for many years to fight
23 drugs and gangs. We do not need any additional crime in
24 our areas.

1 Past experience in our neighborhood and
2 adjacent neighborhoods have made us acutely aware of what
3 apartments can contribute to crime in an area.

4 Other concerns -- I will review our other
5 concerns to the panel. We ask that you look at all of our
6 concerns before making a decision. Several years ago the
7 city asked our community to turn in a comprehensive
8 development plan. And you see Attachment 5. One copy was
9 furnished.

10 We did so, and recommended that our community
11 needed affordable single-family dwellings. Over the years
12 we asked banks, lending institutions, contractors, et
13 cetera to meet with our coalition and help us with the
14 goal of affordable single-family dwellings.

15 We have gradually been meeting this goal. The
16 housing pace for low-income affordable housing has
17 accelerated with the Government's low-interest rates and
18 being able to roll over the down payment and closing
19 costs.

20 As stated in our written protest on page 3,
21 Attachment 3, there are 994 single-family homes to be
22 built in our community soon. These new homes are in
23 addition to those affordable homes that have already been
24 built.

1 The disadvantages of having the Peninsula
2 Apartments are crime, and see Protest Page 4(a). We have
3 provided the City of Houston Police crime statistics of
4 surrounding areas. We have broken out apparent apartment
5 crime statistics on Police Permit 17-E-40 for your review.

6 See Attachment 6.

7 This area is a good example of what happens
8 when apartments gradually run down and crime takes over.
9 See the exhibit we have. It has now been taken over by
10 crime. And this area was once one of Houston's elite
11 areas to have a home. It has now been taken over by crime
12 and deteriorating apartments and multifamily housing.

13 Houston has an apartment glut. There are
14 450,000 apartment units in Houston with another 5,200
15 building permits issued so far this year for new
16 dwellings. See 7-21-03 Houston Chronicle article by
17 Andrew Guy, Jr., Get in a Good Deal, Protest page 9,
18 Attachment 11.

19 Schools -- see page 3 of protest and attachment
20 2(a) and 2(b). HISD sent the coalition the attendance
21 boundaries and demographics, Federal and state compliance,
22 July 23, 2003.

23 Our elementary schools are at capacity. See
24 Protest Attachment 2(a) on the pie chart. We have

1 extracted data from the internet for the year 2002 for
2 schools within the HISD South District.

3 HISD has no charter schools in the South
4 Administrative District. HISD plans to have a pre-K
5 center to open in 2004 in the area adjacent to the South
6 District Office. HISD does not furnish transportation to
7 charter schools.

8 The panel should look at the overcrowded
9 schools long-term, not just a year or so. See Houston
10 Independent School District Letter of August 12, 2003,
11 indicating that Ms. Sally Gaskin, who is with the
12 Peninsula Apartments, contacted Mr. Warner D. Irvin, the
13 Superintendent of the South Administrative District.

14 He informed Ms. Gaskin that at this time the
15 schools in the Madison Feeder Pattern are filled to
16 capacity. If these apartments were to be built, the
17 additional students would certainly overburden the schools
18 and make it very difficult to meet the full academic need
19 of all the students. See Attachment 7, the letters of
20 support.

21 And we have -- we have pictures of schools --
22 the temporary buildings? Okay. And the taxes -- the
23 Housing Authority of the City of Houston is to be the
24 owner of the Peninsula Apartments. As they are a non-

1 profit entity, the City of Houston, Harris County, Houston
2 Community College and HISD will receive no tax money. The
3 investors will receive tax-exempt credit on their internal
4 revenue for ten years.

5 These tax credits can be sold. Residents of
6 our community will continue to pay increased taxes as we
7 carry the burden of this apartment complex. Many of our
8 residents are low to moderate-income families, and some
9 are out of work.

10 We have many, many elderly residents who are on
11 fixed income. Residents will be paying sewer fees that
12 match water usage. If the new drainage fee goes into
13 effect, residents will be paying a minimum of 3.50 per
14 household per month. Business will be paying up to \$75
15 per acre per month, for businesses and institutions.

16 The Peninsula Apartments property information
17 sheet indicates the development cost is \$19,963,632. In
18 checking with the Harris County Appraisal District, the
19 taxes on that big a loan would amount to \$291,574.44 per
20 year, estimated.

21 If you multiply that figure by 30 years, the
22 long life of the property, the revenue from taxes would
23 have amounted to approximately \$8,747,233.20, or
24 approximately \$9 million. Why would the community want to

1 take on the burden of having these apartments and lose
2 much-needed revenue that can be obtained from single-
3 family residences and businesses?

4 Benson library? We have no adequate library
5 facilities. And it needs to be refurbished. The parks --
6 we have very poor park service. We have Windsor Village
7 Community Center and Alameda Community Center. We need two
8 additional community centers at the Townwood Park and
9 Canterbury Village Park.

10 We need shelter for the residents from the heat
11 and inclement weather. New playground equipment needs to
12 be installed and walkways around the park. The grounds
13 need to be landscaped.

14 And in our conclusion, our community is looking
15 for home ownership and business development. We do not
16 believe that the Peninsula Apartments would help our
17 community to meet our goal of affordable home ownership
18 housing. We ask that the application of Peninsula
19 Apartments for issuing a multifamily mortgage revenue bond
20 for Peninsula Apartments, Houston, Texas in an amount not
21 to exceed \$12,600,000, and issuing of determination notice
22 in the amount of \$679,386 for Low Income Housing Tax
23 Credits for Peninsula Apartments, 03-411 with TDHCA as an
24 issuer be permanently denied in our community.

1 We ask that when the Peninsula Apartments
2 request comes before the Texas Bond Review Board, that it
3 also be denied. Supporting documents -- we have letters
4 from the Houston Independent School District,
5 Superintendent Warner D. Irvin, and also signed by Dr.
6 Abelardo Saveedra, Deputy Superintendent, School Support
7 Services, dated August 12, 2003, indicating that HISD
8 would find it difficult to meet the needs of the Peninsula
9 Apartments complex's children; letter from Chris Bell,
10 Congress of the United States House of Representatives,
11 who -- dated August 12, 2003, and that property is in his
12 congressional district; letters from Councilmember Ada
13 Edwards, District D, dated August 11, 2003, and Ms.
14 Edwards represents the district where these apartments
15 have been proposed to be built.

16 And letters from Councilmember at Large, Annise
17 Parker, Houston City Councilmember at Large Position 1,
18 dated August 13, 2003, supporting our position.

19 And there is areas G-U-N-T instead of
20 G-A-U-L-T, but it's from Mr. David Gault, Civic Planner
21 and retired architect, supporting our position, dated
22 August 12, 2003, and a letter from Giddy [phonetic] Gunt
23 Investment and Development Company, Inc., civic planner
24 and retired architect, supporting our position, dated

1 August 12, 2003.

2 And then we also have petitions of some of the
3 members that could not come with us. Mr. Gunt is a
4 developer that is proposing to do a development in our
5 area. So we are asking you to please hear our plea.

6 MR. JONES: Thank you, ma'am. We appreciate
7 your very detailed and obviously well prepared
8 presentation.

9 MS. HARRIS: Thank you.

10 MR. JONES: Board members, are there any
11 questions? Thank you so much. We certainly appreciate
12 it. Hattie Connor?

13 MS. CONNOR: I yield my time to Ms. Harris --
14 Vivian Harris.

15 MR. JONES: Thank you, ma'am. She did well by
16 you. Adrian Collins.

17 MR. COLLINS: Hello. My name is Adrian
18 Collins. I am representing State Senator Rodney Ellis's
19 office. And State Senator Ellis would like -- Senator
20 Ellis would like to also support his constituents.

21 We have received numerous calls over the last
22 couple of days from our constituents concerned with the
23 new development, and he would like to support our
24 constituents. Thank you.

1 MR. JONES: Okay. I just want to make sure.
2 That would mean he then would be against the development?

3 MR. COLLINS: He would be against. Yes.

4 MR. JONES: Okay. Thank you. I'm sorry. You
5 have to -- he's against. I'm sorry. John Garvin. And
6 come up fast.

7 MR. GARVIN: I'll wait till the item.

8 MR. JONES: Oh, great. Thank you. Here I
9 thought you were going to bail us out, and you just --
10 we'll remember you some day. Tony Sisk.

11 MR. SISK: I'll defer to the agenda item.

12 MR. JONES: Les Kilday.

13 MR. KILDAY: I'll wait till the agenda item.

14 MR. JONES: R.R. Kilday.

15 MR. R.R. KILDAY: Same.

16 MR. JONES: Walter Moreau. There he is.

17 MR. MOREAU: Sorry.

18 MR. JONES: We've been missing you.

19 MR. MOREAU: I'm Walter Moreau, the Director of
20 Foundation Communities. We're a Austin-based affordable
21 housing and social service provider. We serve about 1,200
22 families a year, and operate eight learning centers as
23 well.

24 I actually just wanted to deliver positive good

1 news and say thank you.

2 MR. JONES: You're welcome.

3 MR. MOREAU: Great. Well, I wanted to say a
4 few more things. Our latest property is Southwest Trails
5 in Austin we built and finished about 18 months ago. The
6 learning center had about 60 kids enrolled this summer.
7 They're off this week before school starts.

8 And they put together a thank-you card with
9 pictures that they drew of some of the computers and
10 things that they did at the learning center.

11 The second thank you is that last week we had a
12 really -- reached some milestones with the Garden Terrace
13 SRO, which stands for Single-Room Occupancy. We bought an
14 old nursing home in South Austin, knocked out all the
15 walls, and converted it into 85 little studio apartments
16 that will serve individuals that are homeless or extremely
17 low income.

18 About 50 units have HUD vouchers, 35 units are
19 private pay. Thursday we released applications. We had
20 90 individuals show up that completed applications -- very
21 extensive paperwork. We had another 50 just in the last
22 few days.

23 An overwhelming need for that type of housing.
24 Most of the individuals -- the majority of individuals

1 that applied -- you really would have no idea, based on
2 appearance, that they were homeless. However, everybody
3 has a story.

4 Lots of referrals from Caritas, LifeWorks,
5 SafePlace, Family ElderCare, AIDS Services of Austin.
6 It's really a significant first project of its kind in
7 Austin. And I wanted to thank you, because the state put
8 in about \$1 million. It's a \$4-and-a-half million project
9 without debt.

10 We fund-raised about a million-five. We have
11 150,000 left to go. The state support was huge. The
12 project will open the first week of September, a big grand
13 opening in November. And it's only seven miles away. So
14 I hope at some point, if you're interested in taking a
15 tour, that that's a possibility.

16 The final thank you is to staff. Later in the
17 agenda there are some underwriting guidelines. And for
18 projects like Garden Terrace that are not -- that don't
19 have conventional debt, they're not underwritten like Tax
20 Credit deals -- they sometimes hit snags in the
21 underwriting department when you underwrite them with
22 normal guidelines.

23 And there is some flexibility in the rules to
24 evaluate those projects, that is very much needed, because

1 these are exactly the kinds of projects that may be ideal
2 for HOME funds, or Trust funds. It just -- they're not
3 garden-style apartments. They serve special-needs
4 populations. So I'll wrap it up. Thank you very much.

5 MR. JONES: Thank you. Thank you for all your
6 hard work. Tim Fluetsch.

7 MR. FLUETSCH: I'll defer to the agenda items.

8 MR. JONES: Thank you, sir. Michael Eaton.

9 MR. EATON: Yes, I'll defer to the agenda item.

10 MR. JONES: Thank you, sir. Tom Scott?

11 MR. SCOTT: I'll defer to the agenda item.

12 MR. JONES: Alfred Calloway.

13 MR. CALLOWAY: I'll wait for the agenda item.

14 MR. JONES: Sally Gaskin.

15 MS. GASKIN: I'll wait for the agenda item.

16 MR. JONES: Steve Ford.

17 MR. FORD: The agenda item.

18 MR. JONES: John Ford.

19 MR. JOHN FORD: Agenda item.

20 MR. JONES: Neal Rackleff.

21 MR. RACKLEFF: Agenda item also.

22 MR. JONES: Well, I have called all of the
23 witness affirmation forms that I have. Is there anybody
24 else that would like to speak to the board today? Anybody

1 else? Going, going -- yes.

2 VOICE: I have -- I'd like to speak to the
3 item.

4 MR. JONES: Okay. All right. And we do have
5 someone else that would like to speak that Mr. Conine was
6 telling me about that we will also get a witness
7 affirmation form for them. Anybody else? Okey doke.
8 Okay. And you're filling out a witness affirmation form,
9 too? Thank you, sir. Would you like to speak now or at
10 the agenda item, sir?

11 MR. SMITH: Agenda item.

12 MR. JONES: At the agenda item. Great. Oh,
13 Mr. Bill Fisher?

14 MR. FISHER: At the agenda item.

15 MR. JONES: And Mr. Matt Harris.

16 MR. HARRIS: Same.

17 MR. JONES: Anybody else? All right. I think
18 we've got everybody then. Then I will close, then, public
19 comment.

20 We will then turn our attention to Item Number
21 1 on our Agenda. We do -- and that would be the Financial
22 Items, which is the Presentation, Discussion and Possible
23 Approval of Financial Items. Mr. Conine?

24 MR. CONINE: Thank you, Mr. Chairman. The

1 first item up is the discussion for TDHCA Budget for 2004.

2 Ms. Carrington?

3 MS. CARRINGTON: Thank you, Mr. Conine. I'm
4 going to ask Bill Dally, Bill, who is our Chief of Agency
5 Administration, and David Cervantes. David is the
6 Director of Financial Administration, to present Items 1
7 and 2. The Operating Budget for TDHCA is Item 1, and Item
8 2 is the Operating Budget for the Housing Finance Division
9 of TDHCA.

10 MR. DALLY: Good morning, Mr. Chairman, board
11 members, Ms. Carrington.

12 MR. JONES: Good morning.

13 MR. DALLY: Joining me today is David
14 Cervantes, our Director of Financial Administration. I'm
15 going to begin with an overview, and then turn it over to
16 David to do a view of the top-level budget schedules.

17 And I first wanted to acknowledge the efforts
18 of David Aldrich, David Cervantes, and all the directors
19 and managers of the agency, because this is a collective
20 effort. They bring in their requests during the summer,
21 and we review those and compile those.

22 I also went back, after we had our first draft,
23 and went back to some of the directors and managers and
24 asked them to look real hard at their budgets to see if we

1 could elicit some more cost-savings. And they were very
2 helpful in that area.

3 I also want to kind of set a background. This
4 operating budget is a derivative of the appropriations
5 that were just passed this last May. That appropriation
6 is also referred to as the bill pattern.

7 It comes out of the Conference Committee
8 between the House and Senate. It's got a date on it of, I
9 think, about May 24. And that general bill pattern had an
10 appropriation of \$157 million for the agency. This, then,
11 is a derivative of the operations for each of the
12 divisions.

13 And so what we've done is taken a detail of
14 each of the organizational divisions in the agency, and
15 then the expense objects. So what's left out between this
16 21 million and the other 157 million are some of the
17 Federal pass-through grants that go to our subrecipients.

18 Also within that bill pattern is Manufactured
19 Housing Division. And that will go as a separate budget
20 next week to their board. But our group, particularly the
21 HR payroll, information systems, audit, accounting,
22 Government relations, all provide support services for the
23 Manufactured Housing Division. And that is detailed in
24 this budget.

1 There were two drafts of this budget. We
2 presented you with the first draft at the last board
3 meeting. This is the second draft that's part of your
4 board package today. And it's dated August 5. The net
5 change in that budget was \$10,406 more.

6 However, we did make some adjustments and
7 changes on the methods of finance, chiefly, to -- there
8 was an increase to the Federal funds. And then we made a
9 few reductions in the appropriated receipts, our fee
10 revenue.

11 I do want to refer to a letter, the August 13
12 letter to you, a couple of pages in there. There is a
13 graph and a table. That second Attachment 2 is a
14 presentation. I just thought I'd bring you up to date on
15 where we were with the 2003 budget. This is the one that
16 if you'll recall that we've had a -- the 7 percent cut to
17 general revenue.

18 We've set that aside, and that's been taken
19 back by the Comptroller. So the 19.9 million was after
20 that 7 percent cut. We then went through and had a
21 reorganization about mid-year, and realigned some of the
22 budgets among the divisions.

23 And bottom line, we're projecting that we'll
24 spend about \$18.3 million. So that will leave a balance

1 of \$1.6 million in 2003. That then is available for us to
2 start as a beginning balance as we move forward under the
3 2004 budget.

4 That then can be combined with some of our
5 local revenues, and so that we're projecting that we'll
6 start with, in our local funds, a \$4.9 million beginning
7 balance. So that's the cash in the bank, Mr. Conine, that
8 we'll start with.

9 MR. CONINE: Good.

10 MR. DALLY: To that we've then made some
11 revenue projections, looking back historically, and then
12 in interviews with some of the division directors. We're
13 trying to look out ahead and see what our revenues will be
14 in the coming year. And our conservative estimate would
15 be about \$9 million. It could be as much as ten million.

16 But using the \$9 million figure, with a 4.9
17 beginning balance, would mean we'd have available funds of
18 about \$13.9 million. This is in our operating fees -- our
19 appropriated receipts.

20 If you subtract the \$11.2 million that we have
21 in appropriated receipt budget, that would leave us with
22 an ending balance of about \$2.7 million to begin the next
23 cycle for 2005.

24 I then want to call your attention to the

1 Attachment 1, the graph. And this will kind of lay out in
2 broad terms how the department's operating budget is
3 funded. You'll notice that the largest share is from the
4 department's appropriated receipts. That's the \$11.2
5 million, or 55 percent.

6 The next largest is the Federal funds, at 6.8
7 million, or 33 percent. General revenue is just under \$1
8 million, at 5 percent. Earned Federal funds are just
9 under \$1 million at 5 percent. And we have interagency
10 contracts, one with ORCA and one that will be a new
11 contract, with the Bond Review Board, at about a half a
12 million dollars, or 2 percent of this budget.

13 If you look down at the table, you can see some
14 of the changes between last year's budget and this year's
15 budget. In particular, there has been a reduction in
16 general revenue, but an increase in Federal funds.
17 Appropriated receipts have been reduced some.

18 Interagency contracts have gone up. And the
19 main difference there is we're making an estimate of about
20 \$400,000 for some of the fees that will go to the Bond
21 Review Board as part of the multifamily lottery that we
22 will then use for some of our market studies for the
23 impact of affordable housing on neighborhoods.

24 And then you'll see down at the bottom the

1 Manufactured Housing support to the department. And then
2 I want to call your attention there. There is a
3 correction that needs to be made in this final draft. If
4 you look at the organization chart, right behind the table
5 of contents, the top figure up there is to represent FTEs.

6 This chart, if you'll notice at the bottom, was
7 as of June. And so that 323 reflects what the department
8 is authorized to have, both in this department and in the
9 Manufactured Housing Division, of 323.

10 Going forward, though, beginning in September
11 1, our FTE capital will be 313. So that needs to be
12 adjusted. So there is work to be done in the area of the
13 Org chart and some of the FTEs as a result of this budget
14 and recent actions. So this is going to have to be worked
15 on before it's submitted.

16 At this time, I'm going to turn it over to
17 David to kind of walk through some of the top-level
18 schedules in this operating budget.

19 MR. CERVANTES: Thank you, Bill. Good morning,
20 Chairman Jones, members of the board, Ms. Carrington. My
21 focus this morning is to concentrate on the schedules that
22 appear in Tab 1(a)(1). And it's basically the pages 1
23 through 5. In terms of pages 1 through 5, you're going to
24 find an agency-wide budget.

1 You're going to find a budget comparison
2 between 2003 and '04. We have some information related to
3 full-time equivalents. And then we also have a couple of
4 schedules that are kind of adjoining schedules related to
5 our capital budget for our agency and our proposed budget.

6 So I would like to begin with page 1 of the
7 schedules and of the packet. And that is the agency-wide
8 operating budget, and our proposed budget. And just very
9 briefly, the format of the schedule obviously are -- is
10 aligned with the budget categories that were projected for
11 this year.

12 And as Bill alluded to in the graph, at the top
13 you'll find the methods of finance that we're going to use
14 to try to fund our budget. And then of course, to the far
15 right, you see the impact of the budget and the line items
16 in our total department proposal of \$21 million, a little
17 over \$21 million.

18 And I would like to take just a couple of
19 moments to highlight, I guess, at minimum, in terms of
20 amount, the items that stand out in terms of the main line
21 items. And of course, you can see at the top of the list
22 are the \$11.5 million that we have in salaries for the
23 organization. And right below it, you can see the
24 benefits that go along with the salaries that we're

1 proposing.

2 As you drop down a line item or two, we also
3 jump into the categories of travel. And our proposal has
4 about 544,000 in in-state travel, and a little over
5 100,000 scheduled for out-of-state.

6 The other significant items on here relate
7 to -- another item is professional fees. We have about
8 \$2.2 million projected in there. And I would like to note
9 that in this area we have a variety of efforts taking
10 place in here, ranging from -- as Bill mentioned a little
11 earlier, new initiatives like the item with the Bond
12 Review Board at \$410,000.

13 We also have a couple of audit engagements that
14 we will take on as part of our normal course this year.
15 We do have some outside general counsel that we engage in,
16 to the tune of about \$200,000.

17 And then we have some outsourcing for some
18 inspections and things of that nature, at about 600,000.
19 And those are the types of items that rest in this
20 particular line item, Professional Fee.

21 We then drop down, I guess, to the next main
22 item, and that's dealing with rentals and leases. And in
23 that line item, what you find most -- pretty much is the
24 building that we occupy for our organization. And we do

1 have -- there is some parking that goes along with that.
2 And also, we do have one field office that falls in there.

3 That's the majority of what you find. The
4 occupation of our building rent is about \$1.4 million of
5 that 1.7 that you see in that line item. So I think those
6 are the main points I wanted to make regarding the agency-
7 wide schedule.

8 The -- are there any questions related to this
9 particular schedule? If not, I'll move to page 2 --

10 MR. CONINE: David?

11 MR. CERVANTES: Oh, I'm sorry.

12 MR. CONINE: Could you certify for me, in this
13 letter -- pie chart letter here, you get the type of funds
14 that we get income off of?

15 MR. CERVANTES: Yes.

16 MR. CONINE: General revenue, and then
17 appropriated receipts. Can you define the difference
18 between general revenue and appropriated receipts for me?

19 MR. CERVANTES: And -- the appropriated
20 receipts?

21 MR. CONINE: Uh-huh.

22 MR. CERVANTES: The general revenue, of course,
23 is revenue that as we go through the legislative
24 process -- as we go through our legislative appropriation

1 requests, these are requests that we've put forth that we
2 would like the state to fund as a dedicated revenue source
3 coming from the General Fund of the State of Texas.

4 So what you find in that general revenue
5 component are our efforts to try to get some assistance
6 from the state to bring in a source, obviously known as
7 general revenue.

8 We then slide over into the appropriated
9 receipts category, and that kind of falls back in line
10 with, in our -- in this particular case, the appropriated
11 receipts revolve around the bond administration fees that
12 we generate from -- for the agency. Deals with some of
13 the applications fees that we're bringing in through our
14 tax credit components, and let me see --

15 MR. DALLY: Let me add something. These -- the
16 appropriated receipts are going to be the fees that are
17 set as part of our programs. So you, the board, through
18 the QAPs and the rules and the various fees, are setting
19 fees that support the Tax Credit Program and the
20 Multifamily Program and the Single Family Program.

21 And another result is those appropriated
22 receipts are now being used even more in some of the
23 support areas where general revenue once were supporting
24 in those areas. And so that's been a shift in this --

1 MR. CONINE: If we were to look at a five-year,
2 you know, historical time line on general revenue, has
3 that been progressively coming down over the last five
4 years? Our hit to the State Treasury?

5 MR. DALLY: Yes. I think it's been -- probably
6 better to state it, it was sort of modest and steady, and
7 then in the last year, and going into this next biennium,
8 it's dropped off some.

9 MR. CONINE: But if someone were to ask me
10 what -- out of the State Treasury how much general revenue
11 we take out of the State Treasury, other than what we earn
12 off of our activities, the answer is just under \$1
13 million?

14 MR. DALLY: That is correct.

15 MR. JONES: Okay. Thank you.

16 MR. CERVANTES: Okay. Other questions? Okay.
17 If not, I'll move on to page 2 of the packet. And this
18 particular schedule is a budget category comparison. And
19 what it does is it takes a revised 2003 budget at \$19.9
20 million, and obviously the fiscal year proposed budget at,
21 in this case, 20,576,000.

22 There is a slight difference in this schedule
23 in that we -- this schedule does not include the
24 Manufactured Housing support costs in there in the

1 comparison. But the net variance in this particular
2 schedule is about \$612,000.

3 And there have been shifts in the ranks of both
4 up and down, but obviously the ones that come to mind
5 obviously are in the areas of payroll-related costs, and
6 the professional fees areas.

7 Okay. And as it relates to payroll-related
8 costs, we have seen an increase in the percentage that's
9 driving the benefit costs. Last year we were looking at
10 22 percent. This year we're operating at a 24 percent
11 level to cover the benefits for the agency.

12 And as far as professional fees, we do have
13 some efforts in our educational and training areas that
14 also are accelerating the areas of professional fees.

15 And we also, of course, have the Bond Review
16 Board initiative that's out there. So I think that's the
17 main thrust of this particular schedule.

18 MR. DALLY: The only thing I would add on the
19 payroll-related costs and those health costs, this is the
20 state's piece. So the state is now -- and because our
21 funding is predominantly Federal, and appropriated
22 receipts, we actually settle up and they make an
23 assessment so that we're covering those costs for the
24 health costs, and this is showing that increase.

1 It's also, though, through this session, a lot
2 of that cost is being passed on to each of the employees,
3 too. They are paying higher copays, and their insurance
4 premiums are going up too in the coming year. So it's
5 been a split. But this is representing what our
6 department contributes to the state's portion of paying
7 for health costs.

8 MR. CERVANTES: Okay. Moving on to the third
9 page of the packet. This particular schedule is intended
10 to show the makeup of our full-time equivalents for our
11 agency, and it's broken down by division.

12 And at the bottom of this particular schedule,
13 you'll find that this particular proposal that we have out
14 here is showing that the Housing and Community Affairs
15 component has 231 full-time equivalents scheduled in this
16 particular operating budget.

17 There is an additional piece of information
18 related to our Manufactured Housing Division, noting that
19 we do have 61 full-time equivalents currently with the
20 Manufactured Housing Division, for a grand total of 292 as
21 an agency as a whole. Okay.

22 This particular schedule just notes the
23 constitution, the -- pretty much, the makeup of our full-
24 time equivalents for the agency at this time.

1 Okay. Moving on to -- as I mentioned earlier,
2 two schedules that I think kind of go hand in hand, which
3 are pages 4 and 5. We find two Capital Budget Schedules.

4 In this particular budget, we do have some capital budget
5 projects to the tune of \$578,000. Okay. And
6 categorically, they're sitting in the Professional Fees
7 line item and Capital Outlay.

8 The Capital Outlay line item pretty much has to
9 do with normal growth efforts of our agency, hardware,
10 software, the maintenance agreements that we have on our
11 software arrangements. And then as we move up into the
12 professional fees, we do have projects that we will be
13 undertaking this year.

14 And I would move on to page 5 at this time,
15 because on page 5 you will note there is a project name
16 and a description of these projects that we will be
17 undertaking. And you can see that -- you see the normal
18 growth there at the top. But you also see a variety of
19 projects underneath there, ranging from the PeopleSoft
20 Accounting package that we use for the agency, down to a
21 couple of energy assistance objectives that we are trying
22 to meet this year. But in the end, a synopsis of the
23 capital budget for our agency at this time.

24 MR. DALLY: I want to add here that this was a

1 reduced capital budget from our request that we made
2 during the legislative session. But during that process,
3 they went through and kind of quizzed us on, well, how low
4 can we go? How bare can we cut this.

5 And essentially, as you'll notice, the two
6 sources of funds for capital items are either Federal
7 funds or our appropriated receipts. The General
8 Revenue/Earned Federal funds portion were taken out.

9 And so in many instances, these things have
10 been cut down to bare bones. And as such, we as a
11 department are going to have to relook and say, Okay.
12 Well, we had a grand plan and we put a BOC [phonetic]
13 together. We will now need to relook and prioritize.

14 Given this set of funds and the amount that we
15 can have in outside help, what's the most critical and how
16 will we move? And we're in the middle of that process.

17 MR. CERVANTES: Okay. That concludes the
18 remarks that I had on pages 1 through 5 and our
19 presentation on the 2004 budget.

20 MR. JONES: Thank you.

21 MR. CERVANTES: Thank you, sir.

22 MR. JONES: Mr. Conine?

23 MR. CONINE: Any questions of -- for the board?
24 Have I got a motion to approve the budget?

1 MR. BOGANY: I move that we approve the budget.

2 MR. GONZALEZ: Second.

3 MR. CONINE: Motion --

4 MR. JONES: We have a motion that's been made
5 and seconded to approve the budget. Is there a discussion
6 on it? Hearing no discussion, I assume we're ready to
7 vote. All in favor of the motion, please say aye.

8 (A chorus of ayes.)

9 MR. JONES: All opposed to the motion, please
10 say nay?

11 (No response.)

12 MR. JONES: The motion carries. Thank you very
13 much. I appreciate it. Mr. Conine?

14 MR. CONINE: Now we'll move on Item 2, which is
15 the Operating Budget for the Housing Finance Division. I
16 assume you're going to keep it going? Okay.

17 MR. DALLY: Yes. It's under that tab. So it
18 will be this one-pager. This is a subset or a derivative
19 of this overall \$21 million budget. And this more
20 specifically shows the source and the use of funds from
21 our appropriated receipts.

22 You'll note it's the Bond Administration, the
23 Low Income Housing Tax Credits and Affordable Housing
24 Disposition Program fee, which includes the compliance

1 fees and our commitment fees, and origination fees.

2 And then you'll see across the top how those
3 fees are being used among the four divisions and in our
4 Capital Budget. And that's for a total of \$11,248,645.

5 MR. CONINE: Any questions? Mr. Chairman, I
6 move we approve the operating budget for Fiscal Year 2004
7 for the Housing Finance Division.

8 MR. BOGANY: Second.

9 MR. JONES: Seconded by Mr. Bogany. Further
10 discussion? Hearing none, I assume we're ready to vote.
11 All in favor of the motion, please say aye.

12 (A chorus of ayes.)

13 MR. JONES: All opposed, no?

14 (No response.)

15 MR. JONES: The motion carries.

16 MR. DALLY: Thank you.

17 MR. JONES: We'll turn then to multifamily
18 bonds, Mr. Conine.

19 MR. CONINE: Okay. First, we have the
20 proposal -- Proposed Issuance of Multifamily Mortgage
21 Revenue Bonds for the Ash Creek Apartments in Dallas,
22 Texas. Ms. Carrington?

23 MS. CARRINGTON: Thank you, Mr. Conine. Behind
24 Tab 1-B1 in your --

1 MR. JONES: Do we have any public comment on
2 that?

3 MS. CARRINGTON: I don't -- not on 1-B1.

4 MR. JONES: Okay. No public comment on B-1.
5 Thank you.

6 MS. CARRINGTON: 1-B1, Ash Creek Apartments, to
7 be located in Dallas. 280 units, 15 million in tax-exempt
8 bonds, 1,375,000 in taxable bonds. Location of this
9 property is behind Tab 7. It's in northeast Dallas. It
10 is north of Interstate 30 and inside of 635.

11 For underwriting purposes, the assumptions that
12 we used on the financing were 6.6 percent on the tax-
13 exempt bonds, and 8 percent on the taxable bonds. The
14 properties will consist of two and three-bedroom units.

15 The bonds are scheduled to be unrated, and
16 there is no credit enhancement that is proposed on the
17 transaction. We would go to the underwriting report,
18 which is behind Tab 5. Staff is recommending on the bond
19 side the 15 million in tax-exempt, 1.375 in taxable.

20 The Tax Credit portion of this transaction
21 would be an amount not to exceed \$948,673 for tax credits.
22 The transcript of the public hearing was behind Tab 9, for
23 your information. Staff has summarized for you the number
24 of people who attended the public hearing, the number of

1 people who were opposed, who supported, undecided, and
2 those that spoke. And we have responded to comments on
3 the opposition.

4 On the bond write-up, going back, remember we
5 will summarize or we do summarize for you -- and this is
6 behind Tab 3, the public comment, and also any
7 correspondence we have received on this particular
8 transaction from elected officials, both at the state
9 level and at the local level.

10 And staff is recommending both the issuance of
11 the tax-exempt bonds, and the allocation of the Low Income
12 Housing Tax Credits.

13 MR. CONINE: Any questions? Do I hear a
14 motion?

15 MR. BOGANY: So moved.

16 MR. CONINE: I'll --

17 MS. ANDERSON: Second.

18 MR. CONINE: Let's clarify the motion, that it
19 includes Resolution Number 03-68.

20 MR. JONES: Is that your motion, Mr. Bogany?

21 MR. BOGANY: Yes.

22 MR. JONES: And I think it's seconded by Ms.
23 Anderson?

24 MS. ANDERSON: Yes.

1 MR. JONES: Mayor, do you have a question?

2 MR. SALINAS: Did it have some public
3 opposition on it? Nobody in support?

4 MS. CARRINGTON: Yes, sir, they did. They did
5 have some public opposition.

6 MR. SALINAS: But they didn't have anybody in
7 support on your emails?

8 MS. CARRINGTON: There was some support at the
9 public hearing.

10 MR. SALINAS: There was?

11 MS. CARRINGTON: Yes, sir. There was. And the
12 developer is in the audience if you would like to ask some
13 questions, Mayor, of the developer.

14 MR. SALINAS: No. The people that would not
15 support it are not here today.

16 MR. JONES: Further questions, comments,
17 discussion? Hearing none, I assume we're ready to vote.
18 All in favor of the motion, please say aye.

19 (A chorus of ayes.)

20 MR. JONES: All opposed, nay.

21 (No response.)

22 MR. JONES: The motion carries. Thank you.
23 Mr. Conine?

24 MR. CONINE: Second is the Proposed Issuance of

1 Multifamily Mortgage Revenue Bonds for the Evergreen and
2 Mesquite, in Mesquite, Texas.

3 MR. JONES: Okay. And Mr. Tony Sisk would like
4 to speak on that. Mr. Sisk?

5 MR. SISK: Put this mike over here?

6 MR. JONES: That would be great, if you don't
7 mind. Thanks so much.

8 MR. SISK: Good morning. My name is Tony Sisk,
9 Churchill Residential, 2811 McKinney Avenue in Dallas. We
10 are the development managers for the proposed development.
11 And I just wanted to make a couple of comments that were
12 in the board file that maybe some information that did
13 not -- supporting information that might not have made its
14 way into the package.

15 But there were letters of opposition written
16 about the community. At the TEFRA hearing, we had a
17 number of people from a community in Garland, which is on
18 the other side of the Mesquite Golf Course. We believe
19 that most of the people thought that this was a family
20 community. And when we made a presentation about the
21 facts of this case, I believe that most people were
22 satisfied with the development.

23 There were some letters of opposition written
24 by some residents of the retirement community, the long-

1 term care retirement community across the street.

2 However, we believe that those were at the suggestion of
3 the executive director who called me about the property
4 the next day.

5 And we believe it's basically a competition
6 issue that he was concerned about, because these rental
7 rates are about 25 percent below their rental rates. And
8 it's a brand-new state-of-the-art community, and that
9 community is about 25 years old.

10 We did send the letters out to all of the
11 people that signed up at the TEFRA hearing, offering to
12 provide additional information should they desire that
13 information. We had that follow-up meeting the Monday
14 evening following the TEFRA hearing.

15 There were four people that showed up at the
16 church in the neighborhood. And we believe that they were
17 satisfied with the community after our explanations.

18 This development does have a non-profit CHDO
19 general partner, and is exempt from property taxes.
20 However, the partnership has assigned a pilot agreement to
21 pay 100 percent of the taxes to the City of Mesquite. The
22 City of Mesquite is very supportive of the community.

23 Members of the City Council were quoted in the
24 Dallas Morning News as being very supportive of this

1 proposed project, and then the city manager is working
2 hard to help us obtain a building permit in time to
3 construct building.

4 The -- one other issue I wanted to speak to is
5 that there were some points made in the underwriting on
6 this case about the rental rates in the community. But we
7 summarized the rental rates of all of the comparable
8 senior tax credit deals in the Northern Dallas suburbs.

9 MR. JONES: If you could, sir, conclude,
10 please. It's -- your time's up. Thank you.

11 MR. SISK: Yes. All right. Yes, I just wanted
12 to say that the average rental rate is substantially below
13 any of the senior deals in the northern suburbs, and
14 they're all full with a waiting list.

15 MR. JONES: Thank you, sir. I appreciate it.
16 Any questions?

17 MS. ANDERSON: I have a question.

18 MR. JONES: Yes, Ms. Anderson?

19 MS. ANDERSON: Your non-profit partner -- is
20 there anybody from there here with you today?

21 MR. SISK: They were at the Bond Review Board
22 working session two days ago. But the Director had recent
23 surgery, and so he could not come to this meeting.

24 MS. ANDERSON: I do have a question from the --

1 MR. SISK: Yes.

2 MS. ANDERSON: -- you know, that was raised
3 because of the underwriting report --

4 MR. SISK: Right.

5 MS. ANDERSON: -- about the large number of
6 three-bedroom units that you have proposed for the senior
7 development.

8 MR. SISK: Yes, I'd like to speak to that, if I
9 could. There are 183 -- it's a 200-unit community. 183
10 units that are \$647 a month. There's only 17 units that
11 are \$746 a month. If you look at the comparable senior
12 tax credit properties, which we have information on, the
13 minority of any of the unit rents in those communities are
14 below a minimum rent of \$647 a month.

15 Most are at or above, and there is -- all of
16 these communities are 100 percent leased, many with
17 waiting lists. And there is not a comparable senior tax
18 credit community in an eight-mile radius of the subject
19 site.

20 MR. CONINE: Is your market research not
21 showing a need for some one-bedrooms? I can't believe we
22 don't have low-income elderly folks living by themselves,
23 that don't want a little one-bedroom.

24 MR. SISK: Well, the market studies are showing

1 that there is demand for the larger-size units. And there
2 is some resistance for the smaller units that have been
3 built in size.

4 So I will say that they want the footage if
5 they can get it. And there's enough people out there that
6 can afford it.

7 MR. JONES: Additional questions? Thank you,
8 sir. Ms. Carrington?

9 MS. CARRINGTON: 1-B2 is the proposed
10 development, Evergreen@Mesquite, located in Mesquite. It
11 would be 200 units. The bond structure would be 8.8
12 million in tax-exempt financing, 2.2 million in also tax-
13 exempt financing, a Series A and a Series B.

14 Bonds would be unrated, with no credit
15 enhancement. And for underwriting purposes, staff used a
16 blended rate of 6.8 percent with an amortization period
17 for these particular bonds for 40 years. As has already
18 been noted, the proposed development would be -- would
19 consist of two and three-bedroom units.

20 Behind Tab 3, you have the Tax Credit
21 recommendation on this particular transaction. And what
22 staff is recommending is a tax credit allocation amount of
23 \$490,632. At the bottom of this first page on Tab 3,
24 there is a summary of the public comment from the public

1 hearing, and letters and emails. Also on the right, any
2 letters that we have received from either state or local
3 elected officials.

4 The underwriting report is on page 5. We are
5 recommending the bonds and the credit amount. One thing I
6 do want to point out to the board is that every time staff
7 makes these recommendations, there is always conditions on
8 the recommendations.

9 Some of them are fairly typical conditions.
10 Some are more specific to particular issues with
11 transactions. So just because staff recommends doesn't
12 mean that there aren't some conditions that are attached
13 to both the tax credit allocation and the bond allocation.

14 But those are in your underwriting report.

15 Tab 9 is the tab that includes the public
16 hearing and the summary of those who attended the public
17 hearing, those who were opposed, those who support it, and
18 those that spoke.

19 With that, staff is recommending both the
20 issuance of the bonds and allocation of the tax credits.

21 MR. CONINE: Move for approval of the
22 Evergreen@Mesquite Apartments for both the bonds and the
23 credits, Resolution Number 03-67.

24 MR. BOGANY: Second.

1 MR. JONES: Motion's been made and seconded.
2 Further discussion, questions or comments? Hearing none,
3 I assume we're ready to vote. All in favor of the motion,
4 please say aye.

5 (A chorus of ayes.)

6 MR. JONES: All opposed, nay?

7 (No response.)

8 MR. JONES: The motion carries. B3- I believe
9 you have some public comment for B3. Mr. Alfred Calloway.

10 MR. SCOTT: Can I go -- if I may, I may go
11 first?

12 MR. JONES: IF you want to.

13 MR. SCOTT: My name is Tom Scott. I am
14 Chairman of the Housing Authority of the City of Houston.
15 Mr. Calloway is also with the Housing Authority of the
16 City of Houston.

17 MR. JONES: Thank you.

18 MR. SCOTT: I'm a private developer. I've
19 developed 3,500 affordable housing units. That is all I
20 do besides my volunteer work at the Housing Authority.
21 I'm on the board of TAP [phonetic] and on the board of
22 some local schools.

23 I'm here today, obviously in support of the
24 HATCH Peninsula Apartments. And I want to thank both this

1 board for giving us the opportunity to talk to you, and
2 also to thank the residents of the neighborhood that came.

3 As you see, there are a number of them, and we see this
4 quite often. And I applaud your enthusiasm and your
5 activism.

6 There is no debate on their motion against
7 affordable housing as they perceive it. And their
8 testimony today is a terrific example of our past
9 failures. The pictures they showed you were indeed
10 Housing Authority projects built in the public housing
11 policies of the 1940s, the 1950s, and to this day.

12 This board in front of me, my board, the City
13 of Houston has to live with the legacy that that was
14 developed under. That was then. Today is today. And
15 fortunately we have several new programs, several better
16 programs to build affordable housing and not repeat the
17 pictures you saw.

18 The pictures you saw are currently under
19 renovation, and at the current funding level that we are
20 given by HUD, in the next ten to 12 years, we'll be
21 finished.

22 (Laughter.)

23 MR. SCOTT: This past year alone, HUD took away
24 \$800,000 of our operating subsidies. We need to redevelop

1 our strategies to continue to produce affordable housing.

2 I took over the Housing Authority chairmanship in 2000.
3 At that time, we reopened up our Housing Authority --
4 our -- you know, our Section 8 waiting list, and we had
5 20,000 requests in two weeks. We had to shut it back down
6 we were so overwhelmed.

7 We did an inspection of all of our Section 8
8 housing, and found that almost 25 percent of them have
9 defects of one kind or other. I'm not proud of those
10 records, but I am proud today that we've fixed almost all
11 of those. And at the same time, we've been under a major
12 development process to bring in new housing inventory to
13 the city.

14 In 2000, we sat down with city council, the
15 community department for housing, and the city officials
16 and developed a new comprehensive plan. It's responsive
17 both to the Legislature's plans; it's responsive to the
18 citizenship of Houston, and we are implementing that
19 program.

20 The City of Houston wants to develop over 5,000
21 affordable housing units a year. HATCH has agreed to
22 produce at least 1,000 of those. Peninsula Apartments is
23 part of that program. We've already developed three other
24 tax credit deals, and rehabbed hundreds of other units.

1 So I ask this board to favorably consider this
2 application, because it further continues our program. It
3 decentralizes affordable housing, outside of the inner
4 city. All those projects you saw were inner city
5 projects.

6 And as we go forward, you're going to see more
7 and more of these things. This is a program where we are
8 combining bonds, tax credits. The Housing Authority is
9 putting \$1 million of its own money, unrestricted money
10 untouched by HUD, because HUD doesn't allow us to do some
11 of these things. And I don't know if the board is aware
12 of that fact, but we have about \$7 million earmarked for
13 that --

14 MR. JONES: And your time is up, sir. If you
15 would conclude.

16 MR. SCOTT: That is the conclusion. But I
17 thank you for your time, and I thank you for your
18 favorable consideration.

19 MR. JONES: Any questions here by board
20 members? Mr. Scott, before you leave --

21 MS. ANDERSON: I wanted to hear the last --
22 would you tell me what that seven million that you were
23 about to --

24 MR. SCOTT: We have about \$7 million in

1 unrestricted funds. And over the next five years, we're
2 going to invest that into affordable housing. We're
3 putting \$1 million alone into this one project.

4 MS. ANDERSON: Okay. And if you could
5 summarize for me, the --

6 MR. SCOTT: On top of the bonds and on top of
7 the other spending.

8 MS. ANDERSON: The members of the development
9 community are going to develop this for you, and then
10 you're going to operate and manage the property? Or --

11 MR. SCOTT: We have been working -- three years
12 ago the Housing Authority went into this program to do
13 public/private participations in the development of this
14 thing.

15 We're relying on private developers, private
16 management companies. We've already privatized over half
17 the public housing units because we find they can do a
18 better job than ourselves.

19 MS. ANDERSON: So you will have an arrangement
20 with them, some sort of fee-basis for --

21 MR. SCOTT: That is correct.

22 MS. ANDERSON: Okay. And you are the owner?

23 MR. SCOTT: HATCH is the owner. That is
24 correct.

1 MS. ANDERSON: Okay. Thank you.

2 MR. JONES: Yes?

3 MR. BOGANY: What's in store that will be able
4 to enforce -- that the management -- because what I've
5 found is that the management is rarely aware that
6 apartment complexes break down. So what kind of agreement
7 have you put together that's going to increase -- you
8 know, keep the management where it needs to be?

9 You would turn it over to private, but is HATCH
10 going to be overseeing the management? What are you guys
11 going to be doing on the management side to make sure that
12 the management keeps things going in the right direction?

13 MR. SCOTT: HATCH does oversee the management.

14 As you can appreciate, this is also a privately-funded
15 program with -- under the Tax Credit Investor Program, and
16 the Bonds Program, which also have their own inspections
17 and our own inspections.

18 We have found that if we allow private
19 management to manage these properties, they're much
20 more -- they're able to much and more quickly respond to
21 resident issues, to fix things, because we have
22 procurement policies -- we have other things that just
23 slow us down.

24 MR. BOGANY: My other question I had was

1 that -- okay, so if we pass this project, you've gone on
2 doing, you know, doing it, and you've got your private
3 management. So if the citizens start seeing what they
4 think there is going to be flooding, or issues with crime
5 and all that, do they go to the private manager? Or do
6 they go back to the city? And does the city point them
7 back to the private? How is that going to work?

8 MR. SCOTT: Well, they always have the luxury
9 of coming to the Housing Authority and the City Council
10 with their complaint. Obviously we would like to see
11 complaints handled by the management company.

12 They serve at our discretion. They do not have
13 an exclusive management contract. They can be fired and
14 replaced, and we can bring in a more responsive management
15 company to make sure that those things don't happen.

16 In the event they do, they know where to come.
17 And we're also -- have -- we manage these other -- we've
18 privately managed these other tax credit projects, and we
19 are not going to have the level of complaints that you
20 might be concerned about.

21 MR. SALINAS: Do you have a waiting list? You
22 said you had a waiting list?

23 MR. SCOTT: Well, we had to close it down at
24 over 20,000.

1 MR. JONES: Ms. Anderson.

2 MS. ANDERSON: I have one more question for
3 you. You said you've been doing this privatization -- a
4 public/private partnership thing for, you know, a couple
5 of years. Have you finished any other developments --

6 MR. SCOTT: Yes.

7 MS. ANDERSON: -- that are in this kind of a
8 framework. And --

9 MR. SCOTT: Yes.

10 MS. ANDERSON: And did you make the members of
11 the community that are here today and that were at the
12 hearing aware of where those developments were so that
13 they could look at those developments?

14 MR. SCOTT: I'll let Neal Rackleff speak to
15 that. But I believe that we have, and it's -- frankly
16 very public knowledge out there, because we try to publish
17 that as best we can --

18 MS. ANDERSON: Okay.

19 MR. SCOTT: -- to show our successes as well as
20 our failures.

21 MS. ANDERSON: But you did let them know where
22 those same -- under the same business model as this
23 proposal? You did make those addresses available?

24 MR. RACKLEFF: Yes. And none of those were

1 depicted in the photographs that were cited in --

2 MR. SALINAS: Up -- understand that the City of
3 Houston will give you a city permit to build?

4 MR. SCOTT: Oh, yes.

5 MR. SALINAS: So apparently they approved the
6 project?

7 MR. SCOTT: Yes. Did the City of Houston
8 approve the project?

9 MR. SALINAS: Yes.

10 MR. SCOTT: We have -- we -- the City of
11 Houston -- the Housing Authority Board has approved the
12 project. We have not gone in front of city council for
13 approval. We do not need to do that.

14 MR. SALINAS: So they haven't given you a go-
15 ahead on the project? Or they do have the authority to
16 give you a building permit, or --

17 MR. SCOTT: I'm not sure I understand your
18 question. We have applied for the permit. We will
19 receive a permit.

20 MR. SALINAS: Do you think you will receive a
21 permit?

22 MR. SCOTT: There is no doubt.

23 MR. SALINAS: There is no doubt?

24 MR. SCOTT: No.

1 MR. SALINAS: That's pretty good. Zoning --
2 you don't have any zoning. Drainage -- you say you have
3 an okay from the drainage? I would think the City of
4 Houston has a drainage district, or somebody that controls
5 the drainage system?

6 MR. SCOTT: More than ever, sir, the City of
7 Houston is acutely aware of drainage issues and flooding
8 issues.

9 MR. SALINAS: But they would --

10 MR. SCOTT: And that's been addressed on this
11 property.

12 MR. SALINAS: They would go ahead and give you
13 a drainage permit?

14 MR. SCOTT: Yes.

15 MR. JONES: Anybody else? Thank you, Mr.
16 Scott. I was impressed with the tone of your remarks, and
17 I'd like to join you that I have been very impressed with
18 the community leaders that have spoken to us today. So I
19 would join you in saying that they have represented
20 themselves and their community well. Thank you, sir.

21 MR. SCOTT: Thank you very much.

22 MR. JONES: Thank you for the spirit. Yes,
23 sir? Who is next in order?

24 MR. CALLOWAY: Good morning, Mr. Chairman,

1 members of the board. My name is Al Calloway. I am chief
2 of staff of the Housing Authority of the City of Houston.

3 If I may, the building permit for this project would be
4 issued by the City of Houston to the developer.

5 The City Council of Houston does not control
6 what decisions the Board of Commissioners for the Housing
7 Authority make.

8 The drainage issue would be addressed by the
9 Harris County Flood Control District, which is controlled
10 by Commissioners Prewitt and the City of Houston, which
11 approves the retention plans that are built into the
12 development plan. So we expect fully that the building
13 permit will be forthcoming.

14 MR. SALINAS: If they don't give you a permit,
15 you will not build the project. Right?

16 MR. CALLOWAY: In that instance, we're no
17 different than any other developer.

18 MR. SALINAS: Yes.

19 MR. CALLOWAY: I'm here to speak in favor of
20 the Peninsula project. I'm a resident of the area, and
21 have represented the area in the past. And I cannot help
22 but be very proud of the way in which the residents have
23 addressed themselves this morning to you, and how well
24 organized they are.

1 However, there are some realities they do have
2 to face. The area is in need of new development. There
3 was a great deal of effort put into attempting to attract
4 development, and to facilitate development in the past.

5 Significant public investment has been made to
6 put in infrastructure that would in fact make the area
7 more attractive to development of all kinds. The public
8 investment has been to facilitate growth and development.

9 That investment has been made by both state, county,
10 civic and flood control district to make the area more
11 attractive.

12 However, as we talk about growth, we should
13 look at the fact that growth should include more than just
14 single-family housing. Growth should also include
15 affordable housing options. Good-quality, responsible
16 managed rental opportunities should be a part of that
17 growth as well.

18 It would seem that now we're beginning to
19 attract development. You see new families -- new single-
20 family development coming in. You see an upturn in the
21 retail opportunities. You see new interest being shown in
22 putting down development on vacant properties.

23 The population and the growth has been -- the
24 population area -- the population growth in the area has

1 been much slower than in other areas, but we expect that
2 to pick up as well, as is evidenced by the indication that
3 the schools in the area are, in fact, near -- at capacity.

4 There are plans, we know of, for additional
5 public investment there because we know that there are new
6 schools planned in the area to aid in that capacity issue.

7 This area of Houston has the lowest
8 concentration of multifamily apartments of any in the city
9 that I'm aware of. If this development goes forward, this
10 will only be the third multifamily development, I believe,
11 in the area. And it would not be as large as the one or
12 two that -- the one that already exists.

13 And there is no concentration of these being
14 next door to each other. There is great distance between
15 these properties.

16 MR. JONES: Sir, your time is up. If you could
17 conclude, please.

18 MR. CALLOWAY: We would like to propose that
19 the Housing Authority intends to be a good neighbor. The
20 properties you saw are in fact under major renovation.
21 Commissioner Scott -- Chairman Scott explained to you what
22 we work with in terms of our decreased HUD funding.

23 We are partners with what we think is a
24 quality, responsible developer who will manage a good

1 property, and give a good appearance. At this time, I'd
2 like to introduce Mr. Neal Rackleff, General Counsel of
3 the Housing Authority. And he will address some other
4 issues.

5 MR. JONES: If you would wait just a second,
6 because I think Mr. Bogany would like to ask you some
7 questions.

8 MR. BOGANY: Mr. Calloway, I have a question.
9 We talked about drainage. And I just happened to go --
10 drive by this proposed location yesterday. I didn't know
11 that that's where -- I didn't get out and read the sign,
12 but I saw a big sign out there. And I had a question.
13 Across the street is the retention pond, I guess the flood
14 control pond. And I thought that the residents made some
15 valid points.

16 And I would like to hear also from the
17 developer's side, because I kept seeing that sign's there.

18 They're going to build in that lake bed? Or where are
19 they going to put the project there? And so I now see
20 that it's across the street. So what's going to happen
21 when the water runs from those normal neighborhoods, and
22 then you've got this one?

23 I would truly would like to see where the
24 developer is going to put his retention ponds, and how

1 that's going to work, because I know the infrastructure is
2 there. I am familiar with the neighborhood, because I've
3 seen it over and over and I don't know why it keeps
4 happening. I'm a Madison graduate, so I'm familiar with
5 that area completely. And so -- and we continue to get
6 the projects.

7 I do -- I agree with you it is not a
8 concentration there. The location is there. But I have
9 some drainage issues.

10 MR. CALLOWAY: Sure.

11 MR. BOGANY: I need some comfortability with
12 the drainage issues, because I do see -- I can see that
13 being a problem.

14 MR. CALLOWAY: I fully understand, and I thank
15 you for the question. This area has suffered the same
16 blight and the same image as the Sagemont area suffered in
17 the past. Whenever water fell hard, you'd go to Sagemont
18 and you'd come to Hiram Clarke to see flooded
19 neighborhoods.

20 My understanding of how the Flood Control
21 District and Commissioner's Court manages flood waters is
22 that the county has put in place detention ponds in
23 various locations in that part of the city. There has
24 also been significant investment in the improvements of

1 Sims Bayou, which is the main drainage structure for that
2 area and other neighborhoods to the west.

3 However, I think the developers' site plan will
4 show you where -- on whose site the detention is. My
5 understanding also is that it depends on how parking lots
6 are designed, and I think also that even when the permit
7 is issued to the developer, the inspectors of those plans
8 have to see where detention is being planned for, or where
9 water is being -- runoff is going to be retained on the
10 property before being released into the main drainage
11 structure.

12 So the fact that the county has a detention
13 pond across the street serves more of the general area.
14 The developer's plan, I suppose, will show you where that
15 detention will take place on the property that will be
16 controlled by the developer.

17 MR. SALINAS: Let me ask you a question. You
18 said that the schools are up to capacity right now. And
19 that the -- you all need to, I guess, build new schools.
20 And I guess everybody, especially in South Texas, we've
21 got to built a school about every year, to provide the
22 schools for our kids.

23 I don't have any problems with the project, as
24 long as it's a project that's going to have -- is going to

1 bring in new tax dollars to the school district. How
2 would these new kids that you all will attract to this
3 project -- who will pay -- this project, I understand,
4 will not have a tax base for the school district or the
5 City of Houston, or the Flood Control District.

6 It would be tax-exempt from the school
7 district. Right? I mean, this -- I would think this is
8 why you all have a joint venture with the developer and
9 the Housing Authority. You are using the Housing
10 Authority to go ahead and exempt from paying taxes.

11 Now, we had a public hearing or a public
12 meeting in Houston some -- about a year ago. One of the
13 main concerns that we've had in Houston at the city
14 council meeting in Houston was almost everybody that was
15 there -- elected official, was opposed to our non-profit
16 CHDOs that we have in Houston. Am I correct? Is that
17 coming -- and that they wanted us to stop doing that.

18 Now, we have -- this situation now, and I don't
19 know how my board member friends here feel about that, but
20 I do have a concern when people in Houston that comes to
21 us, I mean, to our meeting in Houston and asks us and
22 pleads with us that we do away with these CHDOs and do
23 away with the non-profits simply because they're running
24 out of tax dollars. So how would you answer that?

1 MR. CALLOWAY: I would first ask respectfully
2 that we not be viewed, necessarily, as a CHDO, but as --

3 MR. SALINAS: As a non-profit?

4 MR. CALLOWAY: -- as a public entity taking
5 advantage of tools that had been put in place by both the
6 Federal Government, the state government, and to also
7 remember that in terms of tax-exemption, the taxing
8 entities have to vote to participate in that.

9 I'm fully and well aware of the difficulty that
10 school districts in particular have with the issuance of
11 tax-exempt bonds or developments of this type coming into
12 their districts. It is not an issue that we are
13 unfamiliar with in Houston.

14 However, you look at the long-range good of it,
15 it happens that the school district that this property
16 will be located in just completed a major bond issue where
17 schools that needed to be renovated, expanded, or new
18 schools needed to be constructed, were done on the bond
19 issue that amounted to about \$600 million over the
20 previous seven years.

21 A second bond issue approximating \$800 million
22 has been approved just recently, and already they're
23 looking at the needs for expansion. The district does a
24 good job with keeping up with the demographics and the

1 growth in this area.

2 This is a growth area. Where we're talking
3 about there are currently four elementary schools south of
4 Oram, which would be options for the students of -- who
5 live in this property to attend, and a fifth is being
6 proposed. If in fact there is a need for a new school,
7 this will not preempt that.

8 But we're no different than other properties
9 that go into school districts. For a time, we would be
10 the same burden on the school district as anybody else.
11 However, we would not be making it any worse, because in
12 my judgement, what you gain, although you put new students
13 in a school, we're not talking about a development that's
14 large enough to put that much drain on four elementary
15 schools in the immediate area, and others that are north
16 of it.

17 We're talking about a situation where I believe
18 the school districts will have the capacity to respond if
19 a new school is needed in the next five to ten years.

20 MR. SALINAS: That was my question. And my
21 concern was in the area of Houston, the last time we met,
22 I think we approve developers all over the state that pay
23 their own taxes as far as our -- the tax credit programs.
24 I mean, we do it in south Texas, and we're very careful

1 that we do not -- that we not allow anybody that is not
2 going to pay their fair taxes to the school district,
3 especially where I come from.

4 It's a very burdening thing that we have to
5 build a school almost every year in our school districts,
6 especially close to the border. So I can understand some
7 of the citizens in Houston, where they would be burdened
8 with the growing pains.

9 MR. CALLOWAY: We are simply taking advantage,
10 Mr. Chairman, of the opportunities that we are forced to
11 look at now as a result of reduced Federal funding. In a
12 couple of our developments we are a part of -- with HISD
13 in delivering services to students. I point to an
14 example, the McKinney/Ellis project, we were a partner
15 with TSU and HISD and other instances where the school
16 districts or the local schools worked very closely with
17 our residents.

18 MR. JONES: Thank you, sir.

19 MR. CALLOWAY: Yes, sir.

20 MR. JONES: I appreciate your comments. If we
21 could, I've had a request, and the Chair, unless there is
22 an objection, would like to take a ten-minute break, and
23 then we'll start up with Mr. Rackleff. Thank you.

24 (Whereupon, a short recess was taken.)

1 MR. JONES: Mr. Rackleff? Yes. And Delores,
2 for time-keeping purposes, would you please note that
3 Steve Ford, John Ford and Sally Gaskin, I believe, are all
4 yielding their time to Mr. Rackleff.

5 MR. RACKLEFF: Good morning. I appreciate
6 their yielding their time. I don't anticipate using it
7 all. It's a pleasure to address you this morning. I want
8 to reiterate the tremendous amount of respect that the
9 Housing Authority of the City of Houston holds for the
10 community in which this development will reside.

11 I'm General Counsel of the Housing Authority.
12 And Mr. Calloway, who preceded me, was somewhat modest in
13 his introduction. Prior to being chief of staff of the
14 Housing Authority, he served for six years as the district
15 councilman representing the area in which this development
16 resides. He also served as Mayor pro-tem, and after his
17 term limits, has just completed his tenure at City Hall.
18 We were fortunate enough to have him join us at the
19 Housing Authority.

20 We have made a very strong and concerted effort
21 to work with the residents of the community. I think
22 we've developed a good dialogue. We tried very hard to
23 listen carefully to the concerns that they have. And I
24 want to address some of those specific concerns today.

1 The last effort -- we had made the dialogue
2 with the community -- was initiated on August 6, when our
3 executive director asked for key leaders of the community
4 to meet with us. They declined that invitation.

5 However, I will say I think our relationship is
6 intact, because one of the residents today offered to give
7 me a ride home on the bus after this meeting. And I want
8 to address the comments regarding tax exemptions first.
9 The City of Houston is very -- the Housing Authority of
10 the City of Houston is very different from a CHDO.

11 We're not just a non-profit. We are actually a
12 Governmental entity. We were created in 1938. We have
13 been tax exempt. All of our property has been since that
14 time, and we have not had any consternation over that
15 whatsoever.

16 The developments that we're undertaking now is
17 very much consistent with the City of Houston's
18 comprehensive plan. It was contemplated by it. I would
19 also note that in the House Committee on Urban Affairs
20 report to the Legislature, there were a couple of salient
21 points made.

22 One, that the state should actively seek to
23 assist and complement the efforts of local communities and
24 public housing authorities in the provision of decent,

1 safe, and sanitary housing. It was also indicated that
2 the TDHCA should continue to focus on the development of
3 affordable family-oriented rental property, and should
4 work with THA to increase housing opportunities for very
5 low, low, and extremely low-income families.

6 Regarding flooding, data from our engineers
7 indicates that this simply will not be a problem. The
8 detention standards that we have implemented exceed the
9 City of Houston's standards by 240 percent. And we are at
10 130 percent of Harris County requirements.

11 There was some discussion earlier about the 72-
12 acre detention facility nearby being across the street.
13 It's actually adjacent to our property, and we are only
14 building on 15 acres of a 31-acre site. So if, in the
15 unlikely event that it becomes necessary to provide more
16 detention, we certainly have the room to do so, and have
17 no problems in working to that end.

18 Additionally, we've heard some testimony
19 regarding the impact that we would have on the schools.
20 Data that was actually cited by the opposition and the
21 materials that they forwarded to you actually indicates
22 that the elementary school and middle school serving this
23 development do in fact have capacity to accommodate the
24 students that the Houston Independent School District

1 projects will be added to this development.

2 Now, we -- our historical experience actually
3 indicates that we will have less of an impact on the
4 schools than what the HISD demographer has projected we
5 would have. And while the HISD demographer did indicate
6 initially that there would be an overcapacity issue
7 regarding the high school, this is a high school with a
8 capacity of 2,090 students, and she projected that we
9 would add 49 students to it, later correspondence from her
10 indicated, and I quote, "At this time, Madison High School
11 does appear to have capacity to handle an increased number
12 of high school students."

13 Part of that is due to the fact that there is a
14 choice enrollment system in the Houston Independent School
15 District. So students can choose to go to schools outside
16 of their attendance zone if there is room there. And
17 apparently, at the high school, at this point, the HISD
18 demographer indicated that approximately 500 students
19 there now have come from other attendance zones.

20 The additional 49 students she projects that we
21 would add to the system would really be -- would have
22 priority in attending that high school over those coming
23 from outside the zone.

24 Additionally, the data cited by the opposition

1 indicated that the 49 students that we would add would
2 come completely from outside of the district. However, in
3 looking at the development that our developer partner has
4 done that is most similar demographically to this
5 particular development, we only had in that instance 3
6 percent of students come from outside the district.

7 So what we believe will happen is that students
8 are going to be moving within the district, by and large.

9 That there is capacity, as indicated by HISD's
10 demographer. And in the event, which we think is unlikely
11 that there ever is a capacity issue, we are presently
12 working closely with the Houston Independent School
13 District to -- we've looked at pre-K programs at our site,
14 and we'll take whatever steps are appropriate to address
15 any overcapacity issue, should that ever arise.

16 In conclusion, in an effort to be good
17 neighbors, we will continue to work with residents of the
18 community, both those who support and oppose our
19 development. We will provide them, as we have in the
20 past, with good solid factual information, and address
21 their concerns, whether those concerns be borne of emotion
22 or substance.

23 We're committed to providing a very high
24 quality product. In fact, the developments that we're

1 talking about doing now are very different from the public
2 housing examples that were cited earlier for you.

3 And in fact, residents of the community did
4 visit some of the Tax Credit developments that this
5 developer partner has undertaken. And some of the
6 comments I got back were, quote, They looked pretty good.

7 In the document that they cited and provided
8 for you, they did indicate that those properties were well
9 maintained. And we at the Housing Authority of the City
10 of Houston are committed to our mission of providing good,
11 quality, affordable housing, and to being a good neighbor
12 in this community.

13 We appreciate very much the opportunity to make
14 our case before you, and respectfully request that you
15 approve our application.

16 MR. JONES: Thank you, sir. Questions? Thank
17 you, sir. Before we close public comment on this
18 particular matter, Mrs. Harris?

19 MS. HARRIS: Yes.

20 MR. JONES: If you would, could you come up? I
21 have a couple of questions for you, if you don't mind.
22 And please have a seat. Delores, would you help her with
23 the microphone?

24 Ms. Harris, if you could for me, address the

1 drainage concerns once again. I was just curious to hear
2 your perspective on that. And then I know a lot of other
3 issues have been brought up, and if you have a perspective
4 on those, I'd also appreciate that.

5 MS. HARRIS: Okay. The channel -- if we show
6 you how the channel is flowing.

7 MR. JONES: If you could -- could someone help
8 her with that microphone? Yes --

9 MS. FORETICH: I think you also have this in
10 your packet.

11 MS. HARRIS: The water enters this channel from
12 Post Oak Road, and it travels all around here. And when
13 it rains, everything then comes from Sims Bayou. When this
14 channel fills up all the way, this is what activates it.
15 It's capacity. So when this fills up, then it starts
16 spilling over into what's called their basin.

17 And this is what happened with Allison. It
18 spilled over -- see, they have a lot of land besides this
19 over here. And it also spilled over, went into the
20 streets, Sims Bayou flooded, and the houses flooded.
21 And that's why we're concerned, because this property that
22 they have is adjacent to the area over here. And nobody
23 can predict what it's going to be.

24 And they haven't finished -- they haven't even

1 started the study on what they're going to do on this
2 drainage fee they're going to charge us. They haven't
3 even told us what it's going to cost. It just says 350 a
4 month forever. It's like a sewer fund.

5 So this is what we're concerned about, if this
6 channel that runs through here. Then on the other side of
7 the apartment project there is another drainage easement.

8 It's another seepage drain. And water comes from all
9 over for that. So they're really kind of in between a lot
10 of drainage problems. And I just really feel that it will
11 be a problem in time.

12 MR. JONES: Thank you.

13 MS. HARRIS: The other thing is that if they're
14 only going to develop 15 acres with 280 apartment units on
15 it, then are they going to come back with the other 15
16 acres and put another 280 units? We have to think about
17 that. I mean, that's going to really be a serious impact.

18 It's a misconception that we have no affordable
19 housing in our community. About a third of our -- a
20 fourth of our homes are low-income leased out to Housing
21 Authority for Section 8. But that's what we like. We
22 like that look of affordable homes -- affordable housing,
23 but it looks in a setting that there is single-family
24 homes.

1 We have a lot of our homes that are rented out.

2 We have four apartment complexes. And we have a major
3 development that was going in, and the city saw that it
4 wasn't going to work where they put in 100 homes -- low-
5 income homes that looked like single-family homes. So we
6 do cater to that market. So for them to say that we
7 don't, I think it's a misconception.

8 As far as the school, who is better to say if
9 the school is overcrowded or not? You have your
10 documentation from the superintendent from that area. I
11 worked for HISD. I am not working now because I had to
12 retire. Those schools -- 35 -- 36 kids in a classroom?
13 Do you hear me? I'm telling you what I know for a fact.
14 So this is what I'm hearing and what I know for a fact is
15 different.

16 Twenty-two -- 24 kids. It's hard for -- to
17 teach that many kids in the classroom. And we are dealing
18 with 900 and some single-family homes coming into our
19 area. We have to account for those kids. And they are
20 contributing to our tax base. Okay? So this is where we
21 are.

22 I mean, economic development -- hard pressed to
23 get economic development where there is a lot of
24 apartments. Right now Fondren Southwest, tearing down --

1 razing apartments as fast as they become vacant, because
2 that community was destroyed, and that was an elite part
3 of the City of Houston. Apartments have destroyed them.

4 One apartment alone -- and you have it in your
5 documentation -- 1,400 calls. A child is laying in the
6 hospital right now, almost -- paralyzed because of all the
7 crime and the shooting, and the child laying in the bed
8 asleep one night, shot. These are the things we fear.
9 And that's what we don't want.

10 We've been able, and we've fought -- we've been
11 before you before, our area -- trying to keep out these
12 apartments because if anybody would really admit, unless
13 you can get the upscale apartments like \$1,000 a month or
14 something -- \$800 a month, you cannot get the type of
15 housing in our area. They're just not going to come in
16 and build them.

17 But they'll come in and build them with the tax
18 credit monies, and don't want to put no tax base in there.
19 I think it's unfair to us. Thank you for hearing us.

20 MR. JONES: Thank you, ma'am. Just out of
21 curiosity, what did you do for the Houston Independent
22 School District?

23 MS. HARRIS: I was a parent/community liaison.

24 MR. JONES: Thank you.

1 MS. HARRIS: Parent/community representative
2 for HISD.

3 MR. JONES: I bet you were good at it.

4 (Laughter. Applause.)

5 MR. JONES: Mr. Bogany -- I think Mr. Bogany
6 had a --

7 MR. BOGANY: No.

8 MR. JONES: Okay. I'm sorry. All right.
9 Okay. I think that's the end of public comment on this
10 particular --

11 MR. BOGANY: I have one for the developer.

12 MR. JONES: Okay. Okay. Excuse me. There is
13 a question for the developer. Mr. Bogany?

14 MR. BOGANY: What are the rents stated to be,
15 and I'll -- I know in Houston right now, the -- a condo
16 would cost you 850 or so to rent. Housing right now --
17 median price for housing, single family, is running about
18 \$1,300. And it just depends on the area and what the
19 house is. But this is the numbers that run through the
20 multiple listing statistics.

21 So what are the projection of what the rents
22 will be? And is this a mixed community? When I say mixed
23 use, as far as prices? You could be -- somebody -- an
24 entry-level policeman coming into this apartment complex

1 and renting a unit also. And how many are going to be low
2 to moderate, and how many are going to be stated income --
3 regular income? Can you give me some idea?

4 MR. RACKLEFF: Yes. 100 percent of the units
5 will be at 50 percent AMI rents.

6 MR. BOGANY: Okay. And what are those?

7 MR. RACKLEFF: The actual rents -- the gross
8 rents for a one-bedroom are 558, a two-bedroom, \$670, and
9 a three-bedroom is \$775.

10 MR. BOGANY: Okay. Thank you.

11 MR. RACKLEFF: You're welcome.

12 MR. JONES: Thank you, sir. Further questions?

13 With that, then, I will close public comment. I think
14 everybody that has wanted to speak with regard to this
15 particular agenda item has now spoken, and we will close
16 public comment on the agenda item and ask the pleasure of
17 the board.

18 MR. CONINE: Is she going to do the
19 presentation?

20 MR. JONES: Yes. I'm sorry.

21 MS. CARRINGTON: Yes, sir. I want to thank
22 you. 1-B3, Peninsula Apartments, 280 units proposed.
23 Tax-exempt bonds not to exceed \$12 million, taxable bonds
24 not to exceed 600,000. Bonds would be credit enhanced by

1 Fannie Mae. For underwriting purposes, staff used 5.802
2 for both tax-exempt and the taxable bonds. It would be --
3 it would consist of one, two and three-bedrooms.

4 As you have heard, the general partner in the
5 transaction is a subsidiary of the City of Houston Housing
6 Authority. Tab 3 is the Tax Credit recommended amount.
7 Staff is recommending \$679,386 in tax credits.

8 On the second page of the tax credit
9 recommendation, you will notice that there are seven
10 conditions to commitment on the issuance of the tax
11 credits, or the allocation of tax credits on this
12 transaction.

13 Behind Tab 5 is the underwriting report, where
14 you have the amount of tax credits recommended, and also
15 on the second page of this, additional financing that has
16 been allocated or proposed to be allocated for this
17 transaction. Housing Trust Fund award was made last month
18 for \$525,000, and again, conditions 1 through 6 on this
19 particular transaction to the underwriting conditions.

20 Tab 9 is the public hearing transcript, the
21 number of people who attended, the number of people who
22 were opposed, the number of people who supported, and the
23 summary of what that support and opposition was.

24 MR. JONES: Thank you. Now we'll turn to the

1 board.

2 MR. BOGANY: I have one more question.

3 MR. JONES: Certainly. Please.

4 MR. BOGANY: This is to the developer. I
5 noticed in the information I have here you have garages on
6 those. Are those being charged extra to have garages?

7 MR. RACKLEFF: No.

8 MR. BOGANY: That's just part of the project.
9 Okay. Thank you.

10 MR. SALINAS: The drainage -- is that a ten-
11 year flood? The capacity of the basin is the ten-year
12 rain? A hundred-year rain? If you get ten inches in the
13 area, what happens to you? Ten-year rain?

14 MR. FORD: No, it's out of the Flood Plain.

15 MR. SALINAS: It's out of the Flood Plain?

16 MR. FORD: Correct.

17 MR. SALINAS: Have they connected that drainage
18 from all the way down to 288 -- what is the dedication of
19 the district? How long will it take for you all to
20 complete that project?

21 MR. JONES: Mr. Rackleff, do you want to
22 respond to that?

23 MR. RACKLEFF: I --

24 MR. SALINAS: You have a pond in the area for

1 this project.

2 MR. RACKLEFF: Uh-huh.

3 MR. SALINAS: Well, what's the capacity of the
4 detention area. I mean, if the drain is ten inches, are
5 you up to capacity? Or is the drainage pipe five inches?

6 A hundred-year rain is -- it's a hurricane or -- a ten-
7 inch rain is a ten-year rain. If it rains ten inches, are
8 you out of range?

9 MR. RACKLEFF: If it rains ten inches over what
10 period of time are you referring to?

11 MR. SALINAS: I mean, five hours. Three hours?
12 We had a bunch of rain the other day.

13 MR. RACKLEFF: Not being a civil engineer, I'm
14 not qualified to address that specifically. What I can
15 tell you is that the City of Houston has standards to make
16 sure that we develop in a safe manner, and in a manner
17 that mitigates any possibilities of development housing
18 flooding. And we are at 240 percent of the detention
19 capacity that they require. Again, we're at 130 percent
20 of the detention capacity required by Harris County.

21 I'd say also that some of the concerns that
22 I've heard expressed about the Allison flood are, you
23 know, really, really unrealistic. The Allison flood was
24 kind of the exponential example of the perfect storm in

1 Houston.

2 And again, I'm not a civil engineer, but I was
3 involved in a previous job, and looking at an area in the
4 Greenspoint part of town that was heavily impacted by
5 Allison. And all of the civil engineers that I spoke to
6 at the Harris County Flood Control District told us that,
7 no, there was really nothing they could do to avoid some
8 flooding in Houston with the flood of -- with rain of that
9 magnitude over that short a period of time.

10 MR. SALINAS: When your detention area gets up
11 to capacity, where does the water go? I mean, there are
12 detention areas that you -- the detention areas that you
13 do pipes going somewhere else, where you get to a certain
14 area of rain to a detention spot. Where does it go after
15 it's full? I mean, do you have a way out for the water
16 after a certain amount of rain? Or it goes into the
17 homes?

18 MR. RACKLEFF: The developer may be able to
19 speak to that issue. I mean, our detention capacity pond
20 is put there by -- required by governmental entities who
21 have civil engineers determine what the likelihood of
22 flooding is. And of course, if any detention pond exceeds
23 capacity, it's going to spill out beyond the banks of that
24 detention pond.

1 MR. SALINAS: Well, there's a way to do a lot
2 of these things. You have a subdivision and you have
3 detention areas, whether they're behind the lots or
4 behind -- or on a detention area. But then you have to
5 have a way out for that water in case it rains in excess
6 of ten inches. Where does the water go? Does it go into
7 the streets? Or does it go into the homes? Or does it go
8 where?

9 MR. RACKLEFF: Into storm sewers.

10 MR. CALLOWAY: Mr. Chairman, may I help?

11 MR. JONES: Yes, please. Please do.

12 MR. SALINAS: Storm sewers -- where does it go?

13 MR. CALLOWAY: Thank you. My understanding of
14 flood control management and drainage management -- when
15 detention is designed and built, it is designed for
16 certain rainfalls in mind. You mention a hundred-year
17 rainfall. A hundred-year rainfall does not necessarily
18 mean ten inches.

19 MR. SALINAS: All right. It means a lot more
20 than that.

21 MR. CALLOWAY: It means a certain number of
22 inches over a certain period of time. Hours -- more than
23 likely how many hours -- how many inches fall within an
24 hour. Ten inches of rain on this part of the city, or any

1 part of Houston would probably have us all in motorboats.

2 We'd be in rowboats up and down the freeway and streets.

3 Detention, however, is aimed at catching water,
4 holding it momentarily before releasing it into the major
5 structure which carries this water off.

6 MR. SALINAS: My question is, what is the major
7 structure? Where does it go?

8 MR. CALLOWAY: The major structure that the
9 storm sewers and the detention ponds in that area
10 eventually empty into is Sims Bayou. Sims Bayou --

11 MR. SALINAS: Do you have a storm sewer that
12 goes to the bayou?

13 MR. CALLOWAY: There are a number of storm
14 sewers in the area that drain various neighborhoods that
15 go into Sims Bayou.

16 MR. SALINAS: Right.

17 MR. CALLOWAY: Will this project in particular
18 have a storm sewer that goes into the bayou? I doubt it.

19 MR. SALINAS: Yo don't have it. Or do you have
20 it?

21 MR. CALLOWAY: It will go into --

22 MR. FORD: It all goes to Sims.

23 MR. CALLOWAY: It will go into an artery that
24 carries the water to Sims.

1 MR. SALINAS: Well, that's what I was asking
2 you. You have a detention area. You get it full of
3 water, and then where does it go from there? Do you have
4 to have a 24-inch or a 36-inch going into a storm sewer
5 that's going into somewhere, the bayou. You cannot expect
6 that water to go into a neighborhood.

7 MR. CALLOWAY: It goes from the pond --

8 MR. SALINAS: You know, somebody's got to tell
9 us -- you know, I have a lady here that has a pad that's
10 going all over the room telling us that you don't have a
11 way to put the water. And somebody's got to tell us where
12 the water is going to, and if it's got a destination. You
13 know?

14 MR. CALLOWAY: It should go from the detention
15 pond.

16 MR. SALINAS: Well, you should have a drawing
17 of that design, so these board members can see that. We
18 don't have anything -- we don't have a study here that
19 you'll probably have a -- some relief in ten to 12 years
20 from now.

21 MR. CALLOWAY: Does the developer want to
22 reply?

23 MR. SALINAS: You know, I would like to see
24 where you have a detention, where you have an outfall to a

1 bayou where it goes into the -- you've got a ten-year, my
2 understanding, just then it gets into so much water into
3 that detention area that you have a pipe or a drain going
4 into the bayou. Now, do you have that kind of relief? Or
5 do you have that kind of design for this project?

6 MR. CALLOWAY: Yes.

7 MR. SALINAS: It's a beautiful project, but I
8 don't see any more lines going into a bayou. I mean, does
9 it go into the homes, or does it go into a bayou? How far
10 is the bayou from this project?

11 MR. FORD: The water will eventually go into
12 Sims Bayou, not into the homes.

13 MR. SALINAS: Do you have a design for the
14 bayou?

15 MR. JONES: I think -- excuse me, excuse me.
16 Excuse me. Just a second. Mr. Ford, I think this is
17 probably something you could address.

18 MR. FORD: The water will go into our
19 detention. The detention is designed for the acreage and
20 the amount of impermeable cover we have on the site, as
21 does any new development.

22 The problem with the flooding in this area, to
23 a large extent, was there were no detention ponds there
24 when they built the homes back 25 and 30 years ago. The

1 requirements we have are much more stringent now.

2 We have enormous capacity. Now, can I handle
3 an Allison over me of 28 inches? No.

4 MR. SALINAS: I'm asking to give us a design.
5 You're not really giving me --

6 MR. FORD: The design is --

7 MR. SALINAS: You've got to have a design going
8 to a certain place.

9 MR. FORD: And we did. And it's submitted to
10 the City of Houston for permitting right now.

11 MR. SALINAS: Right. You should -- well, the
12 question is here that we are concerned, because some
13 people here are concerned that we're not seeing a design.

14 You know, I am a mayor of a city, and before --

15 MR. FORD: This is the first I've heard anybody
16 ask for the design.

17 MR. SALINAS: -- I will approve anything that
18 has all those apartments, I want to see where that water
19 is going to after the detention.

20 MR. FORD: After it leaves the detention --

21 MR. SALINAS: I want to make sure that it's not
22 going to the apartments.

23 MR. FORD: Now, there is a regional detention
24 directly next door to us. It's 72 acres. Okay.

1 MR. SALINAS: You still don't understand me.
2 Do you have an outlet that goes into the bayou?

3 MR. FORD: Yes, it goes --

4 MR. SALINAS: Do they have a storm sewer that
5 goes into the bayou?

6 MR. FORD: Yes, we do.

7 MR. RACKLEFF: Yes, we do.

8 MR. SALINAS: Okay. Then what is so wrong with
9 the opposition to this?

10 MR. FORD: Nothing. I just had not been asked
11 to show that plan.

12 MR. SALINAS: What's wrong with giving it to
13 these people here that are here from Houston?

14 MR. RACKLEFF: We are happy to share that
15 information.

16 MR. SALINAS: Well, I think you should have,
17 because I mean, their concern -- and I think the lady just
18 came over here with a cardboard showing us that they don't
19 have a way out to the water. Somehow you need to give
20 these people some explanations of where the water is going
21 to. And there -- and I believe in detention ponds.

22 But after the detention pond is full, where
23 does it go? I want to see where that line is going to
24 that's going to the storm sewer and is going to the bayou.

1 Then after the bayou, well, let the Flooding District
2 decide. And you need to show it to whoever is --

3 MR. FORD: This street has just been completed
4 within the last six months.

5 MR. SALINAS: Yes. Does it have a storm sewer?

6 MR. FORD: It has a storm sewer in it.

7 MR. SALINAS: Okay.

8 MR. FORD: This detention has been put in in
9 the last two years, and there has been no flood since this
10 detention has been put in place. This is 72 acres. Our
11 detention will be right here on the back of the site
12 adjacent --

13 MR. SALINAS: Okay.

14 MR. FORD: -- and we'll have excess capacity.
15 When that excess capacity has been reached, and it has to
16 leave my detention, it will flow into the regional
17 detention, and this bayou that empties Fort Bend right
18 through here that goes right in -- this is Sims, is the
19 route that the water will take.

20 MR. SALINAS: Where is the storm sewer?

21 MR. FORD: Well, the storm sewer is actually in
22 the street. And the storm sewer has an overflow. When it
23 backs up, this is the dam right here, and --

24 MR. SALINAS: At what? At 36 or --

1 MR. FORD: From our property into it? No, we
2 would not be allowed but about a 12-inch, probably, line
3 into --

4 MR. SALINAS: The storm --

5 MR. FORD: -- because we have to detain it.
6 we'll have 24 and 36-inch lines inside our property to
7 take the water to our detention, but they -- we have to
8 slow the flow of water into the regional --

9 MR. SALINAS: Yes. I understand. You've got
10 to choke it. But you have a plan where it's going to go
11 to the storm.

12 MR. FORD: Absolutely. And --

13 MR. SALINAS: Well, I think this is what these
14 people are looking for.

15 MR. FORD: I understand that. They just
16 didn't -- they didn't request that we -- we have a
17 complete flood plan, a complete site plan, and a complete
18 contingency plan.

19 MR. SALINAS: Yes. They would love to hear
20 from you and see that project, because it's got to have a
21 way out.

22 MR. CONINE: Mr. Ford, thank you. With the two
23 letters in the package that I just received from Lawton
24 Brown Consulting Engineers addressed the mayor's problem.

1 They both seemed to be dealing with the design of the
2 project from a civil engineer.

3 And both seemed to indicate that the design
4 will exceed all of the requirements that Harris County
5 Flood Control District might have, or the City of Houston
6 might have. Are those two letters representative of the
7 design you have for the storm drain?

8 MR. FORD: That is correct.

9 MR. CONINE: Okay. Did you see those, Mayor,
10 in this packet?

11 MR. SALINAS: Yes. I've looked at it, but the
12 problem is that you have a timetable from that --

13 MR. FORD: That timetable is for the -- the
14 Sims Bayou project is a project to open Sims Bayou
15 virtually to the Gulf of Mexico.

16 MR. SALINAS: Yes.

17 MR. FORD: It starts -- it's starting on the
18 Gulf side, and it's now as far as 288. When that project
19 is finished, it should relieve flooding for any reasonable
20 future, because it's going to triple the capacity of Sims
21 Bayou, if you're looking at the long-term plan.

22 MR. SALINAS: You're looking at 12 years.

23 MR. FORD: Correct. Our capacity, though,
24 anticipates that not being done. The city is requiring us

1 to have capacity based on the current drainage out of Sims
2 Bayou, not a 12 -- not what happens in 12 years.

3 MR. SALINAS: So my concern was that the
4 drainage that you have from your detention goes all the
5 way to your storm sewer when it gets to a certain
6 capacity.

7 MR. FORD: Yes.

8 MR. SALINAS: Okay.

9 MR. JONES: Thank you, Mr. Ford. Thank you,
10 Mr. Rackleff. Further questions? Hearing none, what's
11 the pleasure of the board?

12 MR. CONINE: Mr. Chairman, I'll go ahead and
13 get the motion on the table. You know, this -- obviously
14 we appreciate all the public comment that we've had here.

15 But this particular project seems to combine a lot of the
16 elements that we look for.

17 You've got a public/private partnership. You
18 have bond monies and tax credits being used again with
19 other funds with another layer of financing from the
20 public housing authority. And I just believe it meets a
21 lot of the criteria we look for in these projects. So I
22 move for approval of the Peninsula Apartments in Houston,
23 Texas, Resolution Number 03-69.

24 MR. JONES: We have a motion. Do we have a

1 second?

2 MS. ANDERSON: Second.

3 MR. JONES: We have a motion that's been made
4 and seconded by Ms. Anderson. Further discussions,
5 questions, comments, statements?

6 Yes, ma'am, Ms. Anderson?

7 MS. ANDERSON: I have a comment, and this is
8 probably really weird, but I also would like to amend
9 my -- Mr. Conine's motion.

10 MR. JONES: You certainly may.

11 MS. ANDERSON: I agree with Mr. Conine's
12 statements about the partnership and about the
13 multiple ability to use local funds for -- you know, to
14 strengthen the ability of this project to move forward.

15 I would add that the state is putting in, in
16 addition to the tax credits, which we, you know, approve,
17 and the tax-exempt bonds, the request has been made that
18 this deal include \$525,000 in Housing Trust Fund monies,
19 and \$325,000 in SECO monies. So that's another \$850,000
20 from the state funds that this agency administers, you
21 know, to support this program -- this development, on top
22 of the normal tax credits and tax-exempt bonds.

23 That said, you know, it's -- the subject of
24 taxes has been raised here today. And it is no, you know,

1 secret to anybody that municipalities around the state, as
2 well as the state level in general, you know, have been
3 trying to address very severe funding and budget shortfall
4 kinds of situations.

5 And so I really think that as a good neighbor,
6 that I know you all want to be, that this development
7 should be asked to pay to make some investment in the
8 school system in the area that you will occupy.

9 So I would propose for the board's
10 consideration to amend the approval motion by requiring
11 that in the land-use restriction agreement, that this
12 development have to have an agreement with the Houston
13 ISD, or the state -- and I would leave it to the Bond
14 Review Board to determine their -- at least state their
15 preference, to pay that portion of school taxes that the
16 state would have -- the incremental portion of school
17 taxes that the State General Revenue Fund is going to have
18 to pay to this development because, you know, under
19 current conditions, it's -- the Housing Authority is not,
20 you know, a taxable entity.

21 So that portion -- and I think it's somewhere
22 in the neighborhood of 25 or 30 percent of the total for
23 the normal school taxes, that this development would make
24 a commitment in the land-use restriction agreement to pay

1 those taxes, because the City of Houston can certainly
2 make a decision, you know, that there is a public benefit
3 in Houston to having this project there, you know.

4 And I think, in fact, a very dramatic public
5 benefit, based on what I've seen of this very attractive
6 development. But I think the taxpayers of Texas, you
7 know, are in a very tough situation, and so I would ask --
8 I propose that amendment.

9 MR. JONES: Mr. Conine, do you accept that
10 amendment?

11 MR. CONINE: Well, I'd like to ask staff --
12 underwriting staff, you know. These things are generally
13 underwritten fairly tight, and when you layer in another
14 expense level, it could get the ratios out of whack. So I
15 guess I'd like to hear from staff relative to Ms.
16 Anderson's proposal.

17 MS. CARRINGTON: And Mr. Conine, as the
18 appropriate staff is coming up, and it appears the
19 appropriate staff is Jim Anderson. Ms. Anderson is
20 correct in -- on the underwriting -- multifamily
21 underwriting analysis on page 2, that there was a Housing
22 Trust Fund awards of \$525,000 that was approved last
23 month.

24 When this underwriting report was written, it

1 was also "Recommend approval of the Housing Trust Fund
2 SECO award not to exceed \$325,000." So as the transaction
3 was underwritten, it did include an assumption of the
4 325,000 in SECO funds.

5 However, on the SECO recommendations that are
6 going to the board today a little bit later, this
7 transaction, even though it was underwritten with the SECO
8 funds, is not being recommended for an award of SECO.

9 Basically, we ran out of available SECO funds
10 before we were able to -- they didn't score high enough.

11 MS. ANDERSON: And I would note, in the
12 underwriting report it reads, "Moreover, should the SECO
13 funds not be awarded, the transaction would still be
14 viable through the deferral of additional development
15 fee."

16 MR. ANDERSON: Jim Anderson, Real Estate
17 Analysis Division. As currently underwritten, there
18 doesn't seem to be much room for payment of taxes from
19 this development.

20 We are currently at a -- at 1.08 DCR on the
21 TDHCA analysis. And we are already forecasting, probably,
22 mandatory redemption of the bonds at conversion to
23 permanent. So we just don't foresee that there is room.

24 MS. ANDERSON: So based on that revised

1 underwriting, then it doesn't even have the minimum DCR
2 that you --

3 MR. ANDERSON: If you --

4 MS. ANDERSON: -- normally have to make it a
5 financially feasible deal?

6 MR. ANDERSON: Yes, ma'am. That's right.

7 MS. ANDERSON: I withdraw my second. Can I do
8 that?

9 MS. CARRINGTON: I think you can.

10 MR. JONES: I think you can, unless somebody
11 says you can't. I believe you can. I think --

12 MR. GONZALEZ: I'll second.

13 MR. JONES: Okay. We have a second by Mr.
14 Gonzalez.

15 MR. CONINE: Can we have either a developer or
16 a developer's representative to speak to Ms. Anderson's
17 proposal?

18 We've heard what staff thinks. I'd like to
19 hear what the developer thinks. Is there any sort of
20 other things that maybe we're not aware of that --

21 MR. JONES: The one thing that I would say, in
22 light of the fact that I know we're all trying to work
23 with and be successful at the Bond Review Board, her
24 suggestion might really help us, you know, because you

1 know, assuming -- and I'm not assuming anything. I'm not
2 assuming how this board would vote.

3 But hypothetically, if the board voted to
4 approve, her suggestion might improve our situation as we
5 become partners from this point forward before the Bond
6 Review Board. But that's just something for thought.

7 MR. CONINE: Now, Ms. Anderson, you said 25 to
8 30 percent. Is that --

9 MS. ANDERSON: That's about what I think the --

10 MR. CONINE: So if the taxes were \$100,000 a
11 year --

12 MS. ANDERSON: It would be 25 -- that's --

13 MR. CONINE: -- they'd be paying 25,000, you'd
14 have to amortize that monthly. That's -- what her
15 perceptions of state law is, where the State General
16 Revenue Fund has to redeem, if you will, to the local
17 school district some loss of revenue.

18 So I know that's going to be tough to figure
19 out, but you're a pretty creative kind of guy.

20 MR. FORD: Let me say this. We were at the
21 Bond Review Board working meeting on, I guess, Tuesday.
22 And the controller's office report was that because the
23 PHA is a governmental entity, the property is not
24 rendered, it is not on the tax rolls, and therefore, does

1 not require any rebate from the State of Texas General
2 Revenue.

3 Now, we were just -- there was another deal
4 before you today that was a CHDO deal, where they had a
5 pilot program, and there was a lot of discussion. When
6 the discussion came up to the PHA, they said, it's like a
7 void on the map. There is no rendering. There is no
8 assessment, and therefore, there is no reimbursement by
9 the State of Texas General Revenue to the school district
10 for this property.

11 I was looking for Elizabeth Rippy to support,
12 because she was in the meeting, but the discussion took
13 five minutes.

14 MR. CONINE: Here she comes.

15 MR. FORD: She could maybe address this better
16 than I.

17 MR. JONES: This is interesting.

18 MR. CONINE: Well, we all learn something every
19 day. And I'm learning something right now.

20 MS. RIPPY: I'm Elizabeth Rippy --

21 MR. JONES: We might make this part of a
22 seminar sometime.

23 MS. RIPPY: -- with Vinson and Elkins bond
24 counsel. And Steve is correct. There was a property tax

1 expert from the Comptroller's Office in attendance at the
2 Bond Review Board meeting. And I'm not an expert on
3 property taxes. I'm just repeating what we heard at the
4 meeting.

5 But I believe the way that the comptroller
6 looks at any government-owned property is basically it's
7 not considered as valued in determining the total property
8 value for an area. They basically ignore it completely,
9 all government-owned property from any calculations.

10 So their kind of conclusion was that this would
11 not have an effect on general revenues for the State of
12 Texas and any obligation of the state to make a payment.

13 MR. CONINE: So a demarcation between a public
14 housing authority and a CHDO, basically.

15 MS. RIPPY: It's treated completely differently
16 as far as their calculations go.

17 MR. CONINE: Okay. Fine.

18 MS. RIPPY: That was in accordance with their
19 representative.

20 MR. JONES: Thank you, Elizabeth.

21 MR. CONINE: Good to know.

22 MR. JONES: That was exciting.

23 MR. CONINE: I wouldn't say it was exciting to
24 know; I just said it was good to know.

1 MR. JONES: No, I think it was exciting for
2 Elizabeth. I love to see lawyers put on the spot. Okay.

3 MR. CONINE: Me, too.

4 MR. JONES: We have a motion that's been made
5 and seconded. Further questions, comments, discussions?
6 I am sorry, ma'am. The time for public comment has
7 come -- I apologize. I'm sorry. I cannot do that. Once
8 the board starts debating an issue, further public comment
9 is not allowed, and we do have a rule in that regard. I
10 apologize.

11 Further questions, comments, discussion? Are
12 we ready to vote? I assume by your silence, we are. All
13 in favor of the motion, please say aye.

14 (A chorus of ayes.)

15 MR. JONES: All opposed to the motions, please
16 say nay?

17 MR. SALINAS: Nay.

18 MR. JONES: The motion carries. I only heard
19 one nay. Is that correct? The motion carries, then.

20 We will then move to Item 2. Ms. Carrington?

21 MS. CARRINGTON: Thank you, Mr. Chairman. May
22 I tell the board now that you go to Volume 2? It's the
23 second book.

24 (Pause.)

1 MS. CARRINGTON: The next three items for the
2 board's consideration are amendments to three Tax Credit
3 transactions with tax credits that have previously been
4 allocated.

5 The first one is Aransas Pass Retirement
6 Center, located in Aransas Pass. In this particular
7 transaction, the interior corridors were eliminated in
8 this transaction, and what the developer proposed to do
9 with the square footage that was to be included in those
10 interior corridors was to enlarge the porches, patios,
11 breezeways, enlarge the clubhouse, and upgrade vinyl
12 siding to cement board siding.

13 Staff has determined that the proposed changes
14 would not have negatively impacted the points received by
15 the applicant. This is a 2002 allocation of tax credits.

16 It is a retirement center. It is 76 units.

17 And staff has determined that proposed changes
18 would not have -- also would not have impacted the credits
19 that were allocated to this transaction. And staff is
20 recommending, since this is considered a material
21 change -- that's why the board is being asked to consider
22 this. And staff is recommending that the configuration --
23 the design of the development be amended as proposed by
24 the developer.

1 MR. CONINE: Move for approval.

2 MR. JONES: Just one second. Before we do
3 that, we have public comment from one individual, Mr.
4 Smith -- Rowan Smith.

5 MR. SMITH: It's on another issue.

6 MR. JONES: On another issue. All right.
7 Okay. Excuse me. We then will move on, then. I had a
8 motion.

9 MR. BOGANY: Second.

10 MR. JONES: Okay. The motion is made by Mr.
11 Conine. It's been seconded by Mr. Bogany for approval of
12 the staff's recommendation. Further discussion?

13 Hearing none, I assume we're ready to vote.
14 All in favor of the motion, please say aye.

15 (A chorus of ayes.)

16 MR. JONES: All opposed, nay?

17 (No response.)

18 MR. JONES: The motion carries. We move to
19 Item 2 (b) .

20 MS. CARRINGTON: The second material --

21 MR. JONES: Mr. Smith, do you care to speak to
22 2 (b) ?

23 MR. SMITH: No, not at this point.

24 MS. ANDERSON: His is number 3, Padre de Vida.

1 MR. JONES: His is -- oh, I'm sorry. Okay.
2 Well, we had you down for 2(a). I apologize.

3 MS. ANDERSON: 2(a) has three different deals.
4 And he is -- I think this would be a good time for this.

5 MR. JONES: Oh, I see. Okay. Thank you. Why
6 don't we go ahead and let you speak now, if you don't
7 mind.

8 MR. SMITH: I'll pass. I don't have
9 anything --

10 MR. JONES: Okay. Lead us on, Edwina.

11 MS. CARRINGTON: King's Crossing Apartments --
12 a 2002 allocation of tax credits. What the developer is
13 requesting is a reduction in the size of the parcel from
14 9.978 acres to 8.081 acres. This was a reduction of 19
15 percent. Staff feels that this was a material change. We
16 are bringing it back to you for your consideration.

17 What the developer is going to do with that
18 other land is actually turn it into single-family housing.

19 It does not reduce the number of units that were to be
20 produced with this particular development. It will reduce
21 the developer fee, and would have no effect on the amount
22 of credits that were allocated. And so staff is
23 recommending that this material change to this application
24 be approved.

1 MR. BOGANY: So moved.

2 MR. CONINE: Second.

3 MR. JONES: Motion has been made and seconded
4 to approve. Further discussion? Hearing none, I assume
5 we're ready to vote. All in favor of the motion, say aye.

6 (A chorus of ayes.)

7 MR. JONES: All opposed, say nay?

8 (No response.)

9 MR. JONES: The motion carries. Ms.
10 Carrington?

11 MS. CARRINGTON: The third one is Padre de
12 Vida. And this particular transaction is located in
13 McAllen. It is a rather unique set of circumstances in
14 that it was a forward commitment by the board last year.
15 It was a 2002 application. It was 2003 allocation of
16 credits.

17 Last year, when Mr. Smith applied, his
18 development was located in a qualified census tract. This
19 year, with the changes in the qualified census tract, it
20 no longer is in a QCT.

21 You will remember that developments in QCTs do
22 get a boost on the amount of credits. And so what the
23 developer has done in this case is they are -- it was
24 mixed income when the board approved it last year. So

1 there were tax credit units and market rate units. And it
2 was an 80 percent/20 percent transaction.

3 So what the developer is proposing is that
4 instead of having 20 percent of the units be market rate,
5 100 percent of the units be considered tax credit units.
6 That would increase his applicable fraction. And he is
7 also increasing expenditures to be able to get the basis
8 up to what it was when the forward commitment was approved
9 by the board.

10 And staff is recommending the approval of this
11 material change in this application.

12 MR. SALINAS: So moved.

13 MR. BOGANY: Second.

14 MR. JONES: We have a motion by the mayor,
15 seconded by Mr. Bogany. Further comments, questions,
16 discussion? Hearing none, I assume we're ready to vote.
17 All in favor of the motion, please say aye.

18 (A chorus of ayes.)

19 MR. JONES: All opposed, say nay?

20 (No response.)

21 MR. JONES: The motion carries. Item 2(b).

22 MS. CARRINGTON: Thank you, Mr. Chairman. The
23 next five items --

24 MR. JONES: Excuse me. With regard to Item

1 2(b), we do have some public comment. Mr. Fluetsch?

2 MR. FLUETSCH: I don't have any comments. I'll
3 be available if there's questions on the Travis Park item.

4 MR. JONES: Thank you, sir. Mr. Bill Fisher?

5 MR. FISHER: Thank you, Mr. Chairman. I am
6 here on behalf of the developer of Rose Court at
7 Thorntree. I just wanted to speak briefly to complete the
8 record on that project regarding public support. Since
9 you're not the issuer, you don't have access to the TEFRA
10 and other information.

11 We've held two public meetings because it's the
12 Dallas Housing Finance Corporation at issuance. We had
13 about 14 folks from the neighborhood at the first meeting,
14 including three of the presidents of the homeowners'
15 groups that were on the councilman's list for this
16 particular area.

17 Everyone at that meeting spoke on the record in
18 favor of the development. We had our TEFRA hearing
19 approximately a week later. We had the President of the
20 CDC, Pleasant Grove, Pleasant Woods CDC, the South Dallas
21 Land Use Study, and United Homeowners of Oak Cliff, Ms.
22 Norman's group, who is very active in this particular
23 area, all of whom spoke on the record.

24 I brought with me today some things that were

1 missing from the record that I would like to be included,
2 which are letters of support from the city councilman,
3 from the state representative in the -- who used to be a
4 state representative, Jesse Jones, who is also one of the
5 sponsors of the One-Mile Limit Rule in favor of the
6 developments, State Representative Terri Hodge, and State
7 Representative Yvonne Davis, who is now the new state
8 representative for this area.

9 The market study indicates that the economic
10 energy in our area -- it comes from a very large neighbor,
11 which is the hospital -- the Charleton Methodist Hospital.

12 And I'm pleased to tell the board that we have a letter
13 of support from Charleton Methodist as well. And I'd just
14 like to make sure that was on the record. Thank you.

15 MR. JONES: Thank you, sir. Mr. Manley. How
16 are you today? Come on up.

17 MR. MANLEY: Fine. Thank you, sir.

18 MR. JONES: Good to see you.

19 MR. MANLEY: Nice to see you all again. My
20 name is Larry Paul Manley. I'm here to speak on behalf of
21 Item 03-415, which is Southwest Pines Apartments in Tyler.

22 I am representing the owner and developer of
23 this property. And we only have one issue to address.
24 First of all, we thank staff for its recommendation. And

1 we generally are in agreement with the staff's
2 underwriting comments, with one significant exception.

3 We have a handout for you with a one-page memo
4 that covers it. You may have it in front of you. Where
5 we differ is in an item -- our first impression, as we
6 understand in talking to underwriting staff.

7 And it has to do with the underwriting
8 guideline rules on treating construction period interest.

9 The underwriting guideline says that for underwriting
10 purposes, that only one full year of interest is used for
11 construction period calculations.

12 And we recognize that that makes a great deal
13 of sense in the 9 percent transaction, where you use a lot
14 of equity in the front stage, and then you draw down your
15 construction line as you progress.

16 And we see that approximately 12 months
17 outstanding interest over an 18-month construction period
18 makes sense. In a 4 percent transaction, however, it's a
19 different world, because you have to issue your bonds the
20 day you close, and you draw down all the interest that
21 day.

22 And so you have real interest costs beginning
23 day one until you finish your construction. And it has a
24 major impact on the amount of construction period

1 interest.

2 And in our case, when you flow that through,
3 we're asking for what amounts to an increase of 14,000 and
4 change in tax credits annually. It has a \$300,000 impact
5 on our eligible basis, based on the numbers in
6 underwriting. And it has a significant impact on our GAPP
7 financing.

8 So for all those reasons in the memo -- in the
9 one-page memo with the backup that you have in front of
10 you, we would like to request that you consider increasing
11 the recommendation of staff at 936,000 to a total of
12 950,381. And I'd be happy to answer any questions you
13 might have.

14 MR. JONES: Questions? Thank you, sir. I
15 appreciate it. Matt Harris?

16 MR. HARRIS: No comment at this time, but
17 available for any questions.

18 MR. JONES: Les Kilday?

19 MR. KILDAY: Chairman Jones, the board, Ms.
20 Carrington, thank you for giving me the time to talk. I'm
21 here -- my name is Les Kilday. I'm here to represent the
22 ownership entity for North Forest Trails Apartments, TDHCA
23 Number 03-417.

24 I am here asking that the board -- and I think

1 you should have a letter that I addressed to Chairman
2 Jones and copied all of you on it, asking -- requesting
3 that the tax credits be increased from 458,554, which is
4 the current number on the agenda, to 486,876.

5 Let me give you some of the circumstances
6 behind that. Back in June we were asked which board
7 meeting we would like to be considered under. We asked
8 the June board meeting -- or asked for the August board
9 meeting, and for various reasons that we had.

10 But we asked for that meeting. Back in
11 August -- on August 3, which is a Sunday, we were given
12 information from underwriting asking questions, and some
13 clarification on a few of the items in underwriting.

14 We were asked in that to -- there were five
15 items we were asked to give our response by three days --
16 a normal three-day response by that Wednesday -- next
17 Wednesday.

18 On Monday afternoon, we were called by
19 underwriting asking to add a sixth item, and that sixth
20 item was to increase the applicable rate applied to the --
21 to the eligible amount, from 3.4 percent to 3.61 percent.

22 Underwriting asked us to do that.

23 I said, Yes, we would, absolutely. And we will
24 get the information to you by Wednesday, the deadline

1 you've given me. Tuesday afternoon, we got a call from
2 underwriting asking us to move our item back to the
3 September board meeting.

4 We responded with voicing our concerns as to
5 why we would rather stay on the August board date. We
6 didn't know -- the bond rules hadn't been -- the emergency
7 bond rules hadn't been approved yet. We didn't know the
8 Senate Bill 264 was going to be affected at all by this.

9 And we have -- there is a number of dominoes
10 that fall after the TDHCA approves the tax credits. The
11 issuer has to approve it. There is a subcommittee that
12 the City of Houston has to approve, and the city council
13 has to approve it.

14 So we recommended that we stay on the August
15 board book. Then the response I got, late in the
16 afternoon on Tuesday was, We understand your concern, and
17 we know you gave -- we know we gave you a three-day
18 deadline, but for the August Board Book, you're going to
19 have to have your information in today. This was late
20 Tuesday on the second business day.

21 I responded with, you know, we're just not
22 going to be able to do that. There were some items that
23 needed signatures, and the owners -- the ownership -- the
24 members were out of town. I couldn't do that.

1 I responded verbally. I mean, I responded in
2 email, my comments on all the items, but said the
3 documentation wouldn't be there until the next morning.
4 We did turn the information back in on the next morning,
5 Wednesday.

6 So we are requesting that those tax credit
7 amounts be increased, really based on the recommendation
8 by the underwriting group, where we feel it's a reasonable
9 request based on the circumstances. And we would ask your
10 approval of that. I'll field any questions if you want to
11 ask any.

12 MR. JONES: Thank you, sir. Any questions?
13 R.R. Kilday.

14 MR. R.R. KILDAY: Thank you very much, Mr.
15 Jones, excuse me, board members, Ms. Carrington. I would
16 only add, and we'll try to be very brief, to what Les
17 said. That we really need these additional credits. This
18 is a priority-one deal, 0-Priority 1, which is 50 percent
19 of median. And so there is a definite need there.

20 We were only complying -- trying to comply with
21 staff wishes and desires, of course, which we would
22 anyway. As far as moving the meeting from August to
23 September, we've always done anything we could, bent over
24 backward to do whatever the board and the staff wanted us

1 to do.

2 In this case, as Les said, it was almost -- you
3 know, it was very -- this was a bond deal. There is a lot
4 involved. We were afraid that there may be a problem. So
5 we requested to stay in August. So I hope that was okay.

6 One other thing, the underwriting report shows
7 that we could have actually added \$800,000 more to our
8 construction costs, according to Marshall Swift, which
9 would have enabled us to apply for over \$500,000 worth of
10 credits.

11 And we didn't do that, because we aren't
12 greedy. And we felt like that would work. And so that's
13 a point I would like to make there. That we weren't
14 reaching any farther than possible.

15 Also, since I know this counts, even though
16 it's a 4 percent deal, as we discussed with one of the
17 staff members, it's not a finite thing. So we're hopeful
18 that that little increase wouldn't be too much of a
19 problem for you all. So we're asking you to help us
20 there, if you would. Thank you very much. Any questions?

21 MR. JONES: Thank you, sir.

22 MR. SALINAS: Do you all want to give them the
23 increase?

24 MR. JONES: Excuse me? Mr. Bogany?

1 MR. BOGANY: I have a question of Ms.
2 Carrington.

3 MR. JONES: Sure.

4 MR. BOGANY: Ms. Carrington, in increasing the
5 amount, do we have any tax credits to increase with? What
6 is staff recommending?

7 MS. CARRINGTON: Since this is a tax-exempt
8 bond, and 4 percent credit transaction, it -- the 4
9 percent credits do not come out of the cap. So yes, the
10 answer would be yes, there are available credits to
11 increase the credit amount.

12 MR. BOGANY: Okay. What is staff recommending?
13 Or is all four of these staff is recommending?

14 MR. JONES: And I probably have not given her
15 an opportunity to make her presentation as such, so you're
16 doing a good job of making sure she does that. So let us
17 know.

18 MS. CARRINGTON: Thank you, Mr. Chairman.

19 MR. JONES: No, you should thank Mr. Bogany.

20 MS. CARRINGTON: In the past, you all have
21 taken transactions with local issuers as a group. I would
22 suggest that we take these one at a time so that staff can
23 address the issues that have been raised in the
24 transactions.

1 MR. JONES: That would be great. Please do.

2 MS. CARRINGTON: The first one is Rose Court at
3 Thorntree, located in Dallas. The Dallas Housing Finance
4 Corporation is the issuer on this particular transaction.
5 And staff is recommending a credit allocation amount of
6 \$1,111,276.

7 MR. JONES: We have staff recommendation. What
8 is the pleasure of the board.

9 MR. BOGANY: So moved.

10 MR. JONES: We have a motion to approve staff's
11 recommendation. Do we have a second?

12 MR. GONZALEZ: Second.

13 MR. JONES: Seconded by Mr. Gonzalez. The
14 motion was made by Mr. Bogany. Further questions,
15 comments, discussion? Hearing none, I assume we're ready
16 to vote. All in favor of the motion, please say aye.

17 (A chorus of ayes.)

18 MR. JONES: All opposed, nay?

19 (No response.)

20 MR. JONES: The motion carries.

21 MS. CARRINGTON: The second transaction for
22 your consideration is Development Number 03-409, Travis
23 Park Apartments. This is the only one of the five that's
24 an acquisition rehab transaction. The other four are all

1 new construction. This is an older property that has a
2 current housing assistance payment contract on it for all
3 197 units.

4 So this is a preservation transaction that
5 would be financed with tax-exempt bonds and credits, and
6 the Austin Housing Finance Corporation is the issuer on
7 these bonds. The credit amount that's being recommended
8 is \$383,918.

9 MR. BOGANY: I move that we accept staff's on
10 Travis Park Apartments, staff's recommendation.

11 MR. GONZALEZ: Second.

12 MR. JONES: We have a motion by Mr. Bogany,
13 seconded by Mr. Gonzalez. Further questions, comments,
14 discussion? Hearing none, I assume we're ready to vote.
15 All in favor of the motion, please say aye.

16 (A chorus of ayes.)

17 MR. JONES: All opposed, nay?

18 (No response.)

19 MR. JONES: The motion carries.

20 MS. CARRINGTON: The third transaction for your
21 consideration is Development Number 03-415, Southwest
22 Pines Apartments in Tyler, with the East Texas Housing
23 Finance Corporation as the issuer. And the staff-
24 recommended credit allocation is \$936,294.

1 And this was the one that Mr. Manley spoke to
2 and addressed the treatment of the department's
3 construction interest in underwriting. And I would like
4 to ask Lisa -- is this Lisa or Jim who would like to come
5 up and address this issue? They're fighting for who can
6 come -- who wants to come to the mike. I can tell. Jim,
7 do you want to come give her some backup?

8 MS. VECCHIETTI: Hi, I'm Lisa Vecchietti with
9 the Real Estate Analysis Group. I'm sorry. Okay. As far
10 as the interest expense goes, I feel a little
11 uncomfortable with granting Mr. Manley's request because
12 we haven't done this in the past for other 4 percent
13 deals.

14 It is in our underwriting rules that we will
15 only use or consider one year fully drawn interest expense
16 for all transactions that we underwrite. Again, our draft
17 rules are up for comment, and I think it's a great comment
18 for 2004. But again, I think it would be unfair to change
19 the rules for one deal.

20 MR. JONES: He indicated it was an instant of
21 first impression. That it had never come up before. Now,
22 that would be contrary to the statement that you just made
23 to us. Am I missing something?

24 MS. VECCHIETTI: About what?

1 MS. CARRINGTON: No, it would not be contrary
2 to the statement.

3 MR. JONES: It wouldn't?

4 MS. CARRINGTON: No, sir. This is the first
5 time we have been asked to consider something longer than
6 12 months, of construction interest on a 4 percent
7 transaction.

8 MS. VECCHIETTI: Well, the rules are --

9 MR. JONES: I thought she just said that would
10 be unfair, because for everybody else we've been --

11 MS. ANDERSON: The way the rules say.

12 MR. JONES: The way the -- okay.

13 MS. CARRINGTON: Which is 12 months.

14 MR. JONES: Which means that we have had the
15 similar situation come up and enforced our rules the way
16 we thought they were. Correct?

17 MS. ANDERSON: Nobody's ever asked us to do
18 that.

19 MR. JONES: Nobody -- okay, what you're telling
20 me is nobody has ever asked this before. But the same
21 situation has been here before without the asking?

22 MS. ANDERSON: Everyone, I guess, theoretically
23 could ask.

24 MS. CARRINGTON: I think the treatment on any

1 bond transaction is as Mr. Manley has explained it, in
2 that the bonds are issued basically on day one, and you're
3 going to fully draw construction interest.

4 MR. JONES: Okay. Well, let me just make sure
5 I understand it. With regard to all the other ones that
6 we've done, if we were to do this for Mr. Manley, they'd
7 all be disappointed they didn't ask. Right?

8 MS. VECCHIETTI: Yes.

9 MR. JONES: Okay. Thank you. I understand the
10 situation now.

11 MS. CARRINGTON: It took three of us to answer
12 that for you.

13 MR. JONES: I know. I told you earlier I was
14 obtuse. But Kent got on me about that.

15 MR. CONINE: Lisa, isn't it true that at the
16 tail end of the project, that they had expended more
17 construction interest so they can come apply and get more
18 credits at that time for the cost certification?

19 MS. VECCHIETTI: That is correct. That cost
20 certification of 4 percent.

21 MR. CONINE: Okay.

22 MS. VECCHIETTI: Tax credit deals can come in
23 and request additional tax credits.

24 MR. JONES: Further questions, comments,

1 discussion?

2 MS. ANDERSON: I move approval of the credits
3 at the staff recommended amount.

4 MR. JONES: We have a motion by Ms. Anderson.
5 Is there a second?

6 MR. BOGANY: Second.

7 MR. JONES: Motion's been made. It's been
8 seconded by Mr. Bogany. Further discussion, questions,
9 comments? I assume we're ready to vote. All in favor of
10 the motion, please say aye.

11 (A chorus of ayes.)

12 MR. JONES: All opposed to the motion, say nay?

13 (No response.)

14 MR. JONES: The motion carries. Ms.
15 Carrington.

16 MS. CARRINGTON: Thank you. Development Number
17 four, Development Number 03-416, Glenwood Apartments in
18 Amarillo, Panhandle Regional Housing Finance Corporation
19 as the Issuer on this transaction. The recommended credit
20 amount is \$422,708.

21 MR. JONES: What's the board's pleasure.

22 MR. CONINE: Move for approval?

23 MR. JONES: We have a motion for approval. Is
24 there a second?

1 MR. BOGANY: Second.

2 MR. JONES: The motion's been made and
3 seconded. Further questions, comments, discussion?
4 Hearing none, I assume we're ready to vote. All in favor
5 of the motion, please say aye.

6 (A chorus of ayes.)

7 MR. JONES: All opposed, nay?

8 (No response.)

9 MR. JONES: The motion carries. Ms.
10 Carrington?

11 MS. CARRINGTON: The final transaction for your
12 consideration, Development Number 03-417, North Forest
13 Trails Apartments in Houston. The staff recommended
14 credit amount on this transaction is \$458,554. And this
15 was the second development that you did hear discussion
16 on. And it revolved around what was the applicable
17 percentage that staff used to underwrite this transaction.

18 And we underwrote it at 3.4 --

19 MR. CONINE: Could we get some comments on the
20 timeline dialogue that --

21 MS. CARRINGTON: Yes, we can.

22 MR. JONES: -- both Mr. Kildays laid out?

23 MS. CARRINGTON: Yes.

24 MR. JONES: Should that be --

1 MR. ANDERSON: Yes.

2 MR. JONES: Oh, you won the fight this time.

3 MR. ANDERSON: Jim Anderson from Real Estate
4 Analysis. I have to apologize. I was actually on leave
5 that week, so I wasn't here. But my understanding is that
6 it's gone down pretty much as Mr. Kilday's laid out here,
7 sir.

8 MS. CARRINGTON: That we had asked them that we
9 had redone -- they were eligible for underwriting at 3.61
10 percent. But because of timing issues, that did not get
11 reflected in the board materials?

12 MR. ANDERSON: That is correct.

13 MR. CONINE: So if staff were to make it
14 current, if you were looking at it -- forget about the
15 cutoff date to get it in the board book seven days ahead.
16 We're now here in a public forum, and we can in essence do
17 what we need to do to make it right.

18 MR. ANDERSON: This amounts to an amended
19 request.

20 MR. CONINE: So would staff be supportive of
21 their amended request at this point?

22 MS. CARRINGTON: Yes, we would.

23 MR. ANDERSON: Yes.

24 MR. CONINE: Okay. And could -- I didn't write

1 down the numbers you used. Could you refresh my memory
2 the numbers you used?

3 MS. CARRINGTON: Yes, sir. It would be -- the
4 percentage that we did underwrite it at, but didn't get in
5 the book, was 3.61 percent. And that would be reflective
6 of the credit amount of \$486,876.

7 MR. CONINE: Thank you.

8 MR. JONES: Mr. Conine, would you like to make
9 a motion?

10 MR. CONINE: Move for approval of the North
11 Forest Trails at the increased amount of \$486,876.

12 MR. BOGANY: Second.

13 MR. JONES: Motion's been made by Mr. Conine
14 and seconded by Mr. Bogany. Further questions, comments,
15 discussion? Hearing none, I assume we're ready to vote.
16 All in favor of the motion, please say aye.

17 (A chorus of ayes.)

18 MR. JONES: All opposed, nay?

19 (No response.)

20 MR. JONES: The motion carries. We then turn,
21 Ms. Carrington, to Item 3(a) on our agenda.

22 MS. CARRINGTON: Thank you, Mr. Chairman. The
23 items that you have before you under Tab 3 are the
24 methodology for our Regional Allocation Formula, our

1 Affordable Housing Needs Score, the Qualified Allocation
2 Plan, the HOME Rules, the Trust Fund Rules, the Emergency
3 Multifamily Bond Rules, and the Real Estate Analysis
4 Rules.

5 What the department will be doing this year for
6 the first time ever is having a series of consolidated
7 public hearings around the state. There will be 13 public
8 hearings, and those start on September 29 and go to
9 October 10.

10 Contrary to what you all have seen in your
11 board book, for those of you all who read it word for
12 word, we flipped September and October, so the hearings
13 are scheduled for beginning the 29th of September and
14 going to October 10. And we realize we were at least
15 consistent. We had the wrong month and -- in every one of
16 them. So somebody copied off of the first one.

17 We are -- the department is really very excited
18 about handling all of these rules in consolidated public
19 hearings in each of the state service regions. We feel
20 that this is a great benefit to the public, rather than
21 asking them to come to multiple public hearings when we
22 have a rule out for consideration, what we're saying is
23 come to one public hearing in your region, and be able to
24 discuss all of these rules the department is proposing,

1 along with our Regional Allocation Formula and our State
2 Low Income Housing Plan and Annual Report, and our
3 Consolidated Plan.

4 The Housing Center had -- did me a list of what
5 all will be considered at each one of the public hearings,
6 and we have eleven items that are on the agenda of each of
7 these 13 public hearings around the state.

8 We have also invited the Texas State Affordable
9 Housing Corporation to join us in these public hearings
10 around the state. TSAHC has a requirement to publish some
11 rules for their multifamily program.

12 They also are required by statute to include a
13 plan in assessing housing needs around the state that we
14 must then incorporate in our State Low Income Housing
15 Plan. So we have invited the Texas State Affordable
16 Housing Corporation to join us in these public hearings
17 around the state.

18 With that, I would -- unless the board has any
19 questions.

20 MR. CONINE: Do we have a list of cities and
21 dates and so forth for all that?

22 MS. CARRINGTON: Yes, sir. We certainly do.

23 MR. CONINE: And the board can get those?

24 MS. CARRINGTON: The board can get those. I

1 went on our website, I guess, yesterday and they weren't
2 up yet. And I was assured they would be up by today. So
3 I don't know if anybody's been on the website --

4 MS. SARAH ANDERSON: I said Monday.

5 MS. CARRINGTON: Oh, Sarah, well, I didn't talk
6 to you. It was somebody who gave me a more aggressive
7 deadline.

8 MS. SARAH ANDERSON: By Monday.

9 MS. CARRINGTON: I won't give you the dates,
10 but I will give you all the cities. Longview, Dallas,
11 Wichita Falls, Lubbock, San Angelo, El Paso, Austin, San
12 Antonio, Harlingen, Corpus, Waco, Lufkin and Houston. So
13 it's a road trip for many of the staff, as you can
14 imagine.

15 And we are looking forward to see how well this
16 works. We think it certainly will facilitate the public
17 comment process for the public.

18 As I was reviewing the rules over the last
19 several days, the thing that struck me about what the
20 department has done as it relates to all of these rules
21 and proposed rules is the amount of public comment that we
22 have solicited as we have prepared these rules.

23 We've called them different things. We've
24 called them public forums. We've called them roundtables.

1 We've called them working groups. But they all basically
2 achieved the same things for the department, and that is,
3 we go out and talk to the public.

4 We invite the public in, and we ask them to
5 help us and give us feedback and input, how we best draw
6 revised rules, and how we best administer our programs.

7 Each of the rules that you will be looking at
8 today has gone through some kind of very, very extensive
9 public input process. We probably -- the most
10 comprehensive, I would say, being the Low Income Housing
11 Tax Credit Rules, the QAP rules, which that working group
12 started in February of last year -- of this year, and
13 ended their report -- presented their report to us in June
14 of this year.

15 Does the board have any questions? Any more
16 questions? Okay. The first two items, for your
17 information this morning, you're not going to be required
18 to act on this today, because the methodology for the
19 Regional Allocation Formula and the methodology for the
20 Affordable Housing Needs Score will be part of the State
21 Low Income Housing Plan that will be going out for public
22 comment, and will be part of those consolidated public
23 hearings.

24 But what we did want to do was go ahead and

1 present to you all the methodology for these two very
2 important indicators for us, and they are also -- the
3 Regional Allocation Formula and the Needs Score are also
4 very significant factors in the Low Income Housing Tax
5 Credit funding. And so since we're going out with the
6 draft QAP the middle of September, we wanted to bring this
7 to the board.

8 I will remind the board that you all will
9 approve the State Low Income Housing Plan and Annual
10 Report in December of this year. Is that right, Sarah?
11 And that it actually will take effect in September of -- I
12 mean, I'm sorry, in February of next year.

13 With that introduction, I would like to point
14 out on the Regional Allocation Formula, on the Needs
15 Indicators, you will notice that there are five of them.

16 For those of you that committed this to memory
17 from last year, there were only four. And what has
18 happened, due to Census data, the two that basically are
19 new that you haven't seen before, are Incomplete Kitchen
20 and Incomplete Plumbing. And the way that had been
21 characterized in the past was substandard housing. And
22 now it's been broken out -- it's being broken out into two
23 indicators rather than one.

24 We have a lot of data on how we have calculated

1 this, and what this means to the funding in our programs.

2 You all will remember that we are required by
3 legislation, Senate Bill 1112, which was passed in 1999,
4 to allocate our funds on a regional basis.

5 And so this is the formula that we use to
6 determine how much will be allocated into those 13 state
7 service regions around the country -- around the state.

8 With that, I'm going to ask someone from the
9 Center for Housing Research Publications and
10 Communications to come up in case you all have some
11 questions.

12 MS. SARAH ANDERSON: Sarah Anderson, Director
13 of the Housing Center. And I'll answer any questions that
14 you have on this item.

15 MS. CARRINGTON: Maybe you want to talk about
16 urban, exurban --

17 MS. SARAH ANDERSON: This year, one of the most
18 significant changes to the formula came through
19 legislation, Senate Bill 264, which required in addition
20 to doing regional allocation, that we had to break up
21 within each region urban/exurban and rural.

22 According to our general counsel, that
23 constitutes two categories, with urban/exurban being one
24 category, and rural being another. So in essence, the

1 funding now is being split up into 26 categories as
2 opposed to 13.

3 There is going to be an interim committee study
4 done by the Legislature, number one, to determine what
5 exurban means, because there is no prevailing accepted
6 definition of exurban. It seems to be a moving target,
7 whereas it could be anything from a ten-minute drive from
8 an urban center, to something that has a characteristic
9 that is no longer urban, yet not quite rural.

10 So the Legislature is going to study what
11 exurban means and give us a definition, and perhaps
12 propose next time around whether or not we should break
13 these categories up into three, with an urban, exurban and
14 rural -- three separate categories per region. But for
15 right now we're just going for two.

16 MR. CONINE: What happened to suburban?

17 MS. SARAH ANDERSON: Good question.

18 MS. CARRINGTON: Didn't make it into the
19 legislation.

20 MS. SARAH ANDERSON: Yes, it didn't have a good
21 lobby.

22 MR. JONES: Beth?

23 MS. ANDERSON: Yes, I have a comment for
24 staff's consideration. And that is, I'm actually glad to

1 see, you know, incomplete kitchen/incomplete -- well, I'm
2 not glad to see that we have housing like that in Texas,
3 but I'm glad to see those categories broken out.

4 I think it's more vivid than just sort of a
5 general phrase of substandard housing. It's very clear
6 what we're trying to address with those things.

7 And I -- on reflection -- and I will tell you,
8 I've thought about this definition of overcrowding as
9 we've -- this is my third time to look at this this year,
10 just now, and I would like to ask staff to -- rather than
11 giving overcrowding, you know, more than five times the
12 weight of an incomplete kitchen and incomplete plumbing,
13 I'd like to see you all go back and look at that and
14 equalize that weighting.

15 I mean, the poverty weighting is the heaviest,
16 and the cost burden is next. I mean, those both make
17 sense to me. But you know, I just know that probably a
18 lot of people in this room shared a room with a sibling
19 when they were growing up. And they were probably more
20 willing to do that --

21 MR. CONINE: I still do.

22 MS. ANDERSON: With a sibling?

23 MR. CONINE: It gets crowded in there every now
24 and then.

1 MR. JONES: I do notice -- I can testify that
2 he hasn't grown up.

3 MS. ANDERSON: So I really think that --

4 MR. JONES: But I'm dying to get him to list
5 all those he does share a room with.

6 MS. ANDERSON: That the kitchen and plumbing
7 ought to be given additional weight relative to
8 overcrowding, and maybe you just kind of level them out or
9 something. I'd ask you to take a look and consider that,
10 please.

11 MR. CONINE: Can you speak to the overcrowding
12 standard? Not the weighting, but the standard of one per
13 room? And how was that derived? And can it be adjusted?

14 MS. SARAH ANDERSON: That's part of the HUD
15 Census designation, which is more than one person per
16 room. And that's just part of the Census designation.
17 It's not something that we've made up.

18 MR. CONINE: It comes from HUD, huh?

19 MS. SARAH ANDERSON: Uh-huh.

20 MR. CONINE: Okay.

21 MS. ANDERSON: So essentially every time we do
22 a deal that has three bedrooms in it, and some of those
23 have two kids in a -- you know, in a bunk beds, or
24 something, bedroom, we're exacerbating overcrowding, kind

1 of?

2 MS. SARAH ANDERSON: I'm not sure I want to
3 speak to that one.

4 MS. ANDERSON: I'll accept that answer.

5 MR. CONINE: What's the procedure for staff to
6 relook at the weighting percentages, Ms. Carrington?

7 MS. SARAH ANDERSON: Right. And it is per
8 room, by the way. It's not per bedroom. It's more than
9 one person per room. So you're speaking --

10 Is Steve --

11 MR. SCHOTTMAN: Yes?

12 MS. SARAH ANDERSON: -- back there?

13 MR. SCHOTTMAN: It's just a -- make enough
14 difference if you had it -- let's say, six rooms. Okay.

15 MR. CONINE: State your name.

16 MR. SCHOTTMAN: Sure. Steve Schottman, also
17 with the Housing Center. The Census definition of that
18 item is persons per room, more than one person per room.
19 So if you had a six-room house, including every bedroom,
20 bath, everything else, and you know, the ratio is two,
21 that would be you'd actually have 12 people trying to fit
22 into three bedrooms, as opposed to saying you've got, you
23 know, two persons to each bedroom for six people total.
24 So it's per room as opposed to per bathroom -- I mean,

1 bedroom. Sorry.

2 MS. SARAH ANDERSON: Which might take you back
3 to the Frat. Back to college --

4 MR. CONINE: Okay. Back to the --

5 MS. ANDERSON: You know, I think if you just
6 equalized, I mean, I think not having a refrigerator, not
7 having running water or a bathroom would be -- they're
8 pretty serious deficiencies in housing.

9 MS. CARRINGTON: And our draft can reflect a
10 different weighting on that. May I ask what the board
11 would like to see if the overcrowding percentage, which is
12 now 15 percent, is reduced, where would the board be
13 interested in having that percentage we reduce it by go
14 to?

15 MR. JONES: I'd just say I echo Ms. Anderson's
16 comments. I mean, I would agree with her.

17 MS. ANDERSON: Just level it out on those --

18 MR. JONES: Yes.

19 MS. ANDERSON: -- last -- so you raise the
20 other two from 2.5, scoop them up, bring overcrowding
21 down. You kind of level it out.

22 MS. SARAH ANDERSON: Between the 20 points,
23 just from --

24 MS. CARRINGTON: And Mr. Conine, to answer your

1 question, you know, what staff will do is as the draft
2 goes out, it will reflect the board's wishes in that area.

3 I would like to point out, for those of you all
4 that have particular areas of interest, when you look at
5 page 3 of seven, the first percentage on that page for the
6 HOME Program is the amount that -- those are the
7 percentages in each of the major metropolitan areas of the
8 region.

9 So as a for instance, the region that has
10 Lubbock as the main MSA in that region -- the amount of
11 HOME funds that would be available for the Lubbock area
12 would be 5 percent of our total. The amount of Housing
13 Trust Fund and Low Income Housing Tax Credits would also
14 be 5 percent of the amount.

15 So it is those percentages that the department
16 uses on the funds that are required to be allocated
17 regionally. Those are the percentages. So that's how
18 it's determined how much money goes into those 13 state
19 service regions.

20 Also the Housing Center -- we've outlined for
21 you on page 4 of seven, the changes to the Regional
22 Allocation Formula since this was approved last year. We
23 have already mentioned the rural and the urban/exurban
24 areas.

1 We heard a lot of comments about the value that
2 we were providing to, or the amount we were counting
3 against an area because of tax-exempt bond financing. And
4 so that has been reduced, I think, from the full amount of
5 the bond issuance to actually 20 percent of that bond loan
6 amount. And Sarah, is there anything else that is worth
7 noting in the changes from last year?

8 MS. SARAH ANDERSON: No. I think generally
9 you've covered everything. The one thing that I would
10 point out is that for the HOME Program, that because of
11 limitations on funding from legislation, where 95 percent
12 of the money has to go to non-participating jurisdictions,
13 we're seeing sort of a unique situation, that for the
14 breakdown between urban/exurban and rural, and non-PJ, we
15 are finding that in some of the regions, there are going
16 to be some almost mini entitlement areas created, where
17 you have -- there may be only one city in the region that
18 is larger than 20,000, but is not a participating
19 jurisdiction.

20 And we're seeing there are two regions that
21 have only one city that would be eligible for that
22 funding. And I think in three other regions you have
23 where only two cities are eligible for the urban/exurban
24 funding, and likewise.

1 So the -- I think we're sort of a -- something
2 we didn't perceive coming down, and we'll be -- it will
3 certainly help us in one way in marketing our programs,
4 where we know how much money is going to specific areas.
5 But also it brings up some interesting policy issues that
6 we'll be dealing with in the next year.

7 MR. JONES: Any other questions? Thank you.

8 MS. CARRINGTON: And then the next component is
9 the Affordable Housing Needs Score, which is not mandated
10 by legislation. However, it does allow the department to
11 help us identify specific need or areas of specific need
12 within our 13-state service regions.

13 Again, this methodology that we've laid out for
14 you is a significant part of the Low Income Housing Tax
15 Credit scoring criteria that's outlined in the Qualified
16 Allocation Plan, and again, will also be included in the
17 State Low Income Housing Plan, which will be going out for
18 public comment and for board approval in December.

19 And on the second page of your memo, we have
20 the summary of the significant proposed changes in the
21 Affordable Housing Needs Score since last year.

22 MS. SARAH ANDERSON: And I'm assuming, Ms.
23 Anderson, that you would like us to even out those factors
24 that you pointed out earlier?

1 MS. ANDERSON: I would say that. Yes. Thank
2 you. Clairvoyant of you.

3 MS. SARAH ANDERSON: Save you time. Does
4 anybody else have any questions?

5 MS. ANDERSON: I have a question about this
6 last bullet on this page -- this back page.

7 MS. SARAH ANDERSON: Uh-huh.

8 MS. ANDERSON: Maybe -- we apparently used to
9 give a scoring bonus for communities that had not received
10 an award, so that helped us push awards out?

11 MS. SARAH ANDERSON: Yes. We -- last year we
12 adopted a five-point bonus if they had not received
13 funding from us in the last three years. Because of
14 changes in legislation with adjusted concentration issues
15 having to do with the one-mile radius and the number of --
16 and a couple of other issues, we felt that perhaps it was
17 a scoring issue, as opposed to something that should be --
18 if the board is interested in geographic distribution, and
19 given a bonus to an area that had not received funding,
20 that perhaps shouldn't be hidden within a needs score --

21 MS. ANDERSON: Right.

22 MS. SARAH ANDERSON: -- but should be its own
23 category. So we went back to this thing purely based on
24 need.

1 MS. ANDERSON: You know, places like Willis
2 come to mind. Okay. So that's -- I didn't mean to --

3 MS. SARAH ANDERSON: Just thinking, perhaps it
4 was an unfair slipping it in under this.

5 MS. ANDERSON: Okay.

6 MR. JONES: Other questions, comments? All
7 right. We have then concluded Item 3(a) on our agenda.
8 It appears to me that this might be a good time to go to
9 lunch.

10 MS. CARRINGTON: We don't want to do a QAP on
11 an empty stomach.

12 MS. ANDERSON: Brooke doesn't.

13 MR. JONES: The question is, do we want to do a
14 QAP, period? But anyway, that wasn't -- let's not get
15 into that.

16 MS. ANDERSON: Yes.

17 MS. CARRINGTON: The answer is yes, Mr. Jones.
18 We do.

19 MR. JONES: We might be going home real quick
20 if we didn't do that. Okay. Well, let's take a lunch
21 break, and we'll meet back here around one o'clock.
22 Thanks, Beth.

23 (Whereupon, at 11:55 a.m., the hearing was
24 adjourned, to reconvene this same day, Thursday, August

1 14, 2003, at 1:10 p.m.)

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

(1:10 p.m.)

1
2
3 MR. JONES: I believe, Ms. Carrington, that we
4 are on Item --

5 MS. CARRINGTON: 3(b)(1).

6 MR. JONES: -- 3(b)(1). The paper up here
7 continues to swamp me.

8 MS. CARRINGTON: Thank you, Mr. Chairman.
9 3(b)(1) is Consideration of the Qualified Allocation Plan
10 for the Low Income Housing Tax Credit Program for 2004.

11 The first thing is, that we are changing the
12 name of the program. And we are dropping the term Low,
13 and we are calling it the Housing -- what are we calling
14 it -- we're calling it the Housing Tax Credit Program.
15 Thank you.

16 (Applause.)

17 MS. CARRINGTON: This is something actually
18 that Mr. Bogany asked us about probably about a year and a
19 half, two years ago. Can't we drop that word? And we
20 were too far in the process for the '03 QAP to be able to
21 do that. But it certainly is something that we can
22 incorporate in the '04 QAP.

23 We spent a lot of time talking about the
24 working group, and the working group's recommendation on

1 the QAP. What you have in front of you today for your
2 consideration for approval is a draft.

3 We'll incorporate the working group's comments.

4 It also incorporates all the requirements of Senate Bill
5 264 and 1664. There have been some changes since the
6 draft was put on the website. And I would like to go
7 through those. And I will go through them section by
8 section, and page by page, so that we can get those on the
9 record, so that the draft that is published as a result of
10 this meeting does include those changes/recommendations.

11 I don't think that we would consider -- staff
12 doesn't consider any of these substantial, but we do -- we
13 are recommending that these changes do get incorporated in
14 a draft QAP for today.

15 On page 8, Section 50.3, Item 68, your document
16 shows the definition of related party as a referral to the
17 definition in 2306. And I objected to this. I wanted it
18 written in the QAP so that we weren't requiring developers
19 to then pull out a copy of 2306 and get that definition by
20 reference. So that will go back in.

21 Page 13, Section 50.6, Item E, we are
22 recommending removing the cap of 76 units for developments
23 qualifying in the Rural Regional Allocation. Developments
24 in the rural regions exceeding 76 units will qualify for

1 the rural regional allocation if the market study supports
2 it. And when we get to that, if you all would like to
3 discuss that and discuss staff's rationale, we certainly
4 will.

5 Page 20, Section 50.9(f)(4)(c). We're
6 clarifying that applicants adhere to international
7 building code, or other locally-adopted codes.

8 Page 20, Section 50.9(f)(4)(b) --

9 MR. CONINE: Woah, woah --

10 MS. ANDERSON: Okay. Would you just repeat
11 that?

12 MS. CARRINGTON: F.

13 MS. ANDERSON: F?

14 MS. CARRINGTON: (4)(b), about two-thirds of
15 the way down the page.

16 MS. ANDERSON: Is that right?

17 MS. CARRINGTON: A certification -- excluded
18 USDA deals from the threshold of having a dishwasher and
19 disposal, because in the original financing with USDA,
20 they don't permit dishwashers and disposals.

21 MR. CONINE: Really?

22 MS. CARRINGTON: You may want to discuss that
23 when we get to it. Page 39, Section 50.9(g)(13) --

24 MS. ANDERSON: What page? I'm sorry.

1 MS. CARRINGTON: Page 39.

2 MS. ANDERSON: Thank you.

3 MS. CARRINGTON: Uh-huh. Change the --
4 recommending changing the required contract term for
5 leveraging points from ten years to five years, since most
6 project-based Section 8 and USDA rental systems contracts
7 are now five-year -- they're done in five-year increments
8 with HUD and with USDA.

9 Page 49, Section 50.16(a), Clarify the deadline
10 for submitting cost certifications and the timing for
11 subsequent department review of cost certifications.

12 MR. CONINE: What does that mean?

13 MS. CARRINGTON: Do you want to address it now,
14 Brooke, or do you want to just -- if we can answer it now,
15 I think it would be good, if we just go ahead and answer
16 it now.

17 MR. CONINE: While I've got my finger on the
18 page. Yes. I'll forget to come back to it.

19 MS. BOSTON: The two things that we changed --
20 one is that we had, in the draft that was in your original
21 board book, it showed that we were proposing that cost
22 certs could be turned in in June, after the placement
23 service date.

24 However, because we're only able to reallocate

1 the credits up to 180 days, that actually basically
2 negated any opportunity for us to do that, which wasn't
3 what we intended at all. We were just trying to give
4 people time to get their accountant to get the whole thing
5 together. So we moved it to April.

6 The other item is that the language related to
7 how we handled the cost certs when they come in-house --
8 we're proposing that once it's received in-house, we'll do
9 a review then, a certain number of days. I think we came
10 up with 60. Then once all your documentation is in in
11 response to that review, we'll make sure we get your 8609s
12 out in 90 days.

13 But what's been happening a lot is we have said
14 90 days originally, and there was a problem that people
15 would say, Yes, 90 days. Where are my 8609s, that they
16 haven't given us all the backup materials.

17 So the clock is ticking from a point -- from
18 not a good point.

19 MR. CONINE: So you go 60 and 90 now?

20 MS. BOSTON: Well, right. Sixty would be -- we
21 make sure we do your initial review. And if you had
22 everything in there, then you'd be fine. But if you
23 didn't have everything in there, then from the day that we
24 receive everything and it's considered a full complete

1 package, then we'd have 90 days.

2 I don't think it will take that long on most of
3 these. But some folks turn stuff in, and are missing so
4 much stuff, that really you can't even start getting
5 everything set and placing -- actually getting the
6 building ID numbers set up in the system and everything
7 until everything is in. And so if it takes them eight
8 months to get everything in to us, we kind of can't start
9 until then.

10 MR. CONINE: Really? They turn in incomplete
11 stuff all the time?

12 MS. BOSTON: We have been.

13 MS. CARRINGTON: We have seen some that are not
14 complete. Yes.

15 MR. CONINE: You know, a lot of those final
16 syndicator payments are -- come due on the 8609, so you
17 think that would be a motivating force.

18 MS. BOSTON: Well, actually just in the last
19 few QAPs we did add that deficiency notices on cost cert
20 materials are being CC'd to the syndicators. And so we
21 have started doing that now.

22 In the past, the syndicators didn't even
23 necessarily know. So that we're hoping that will also
24 light a fire.

1 MR. CONINE: Yes. Well, I'm going to flip it
2 around on you. Since your 60 and 90-day time frame would,
3 quote, delay the payment -- the final payment from the
4 syndicators, is there any way staff could tighten that up?

5 MS. BOSTON: Yes. It may be better if Tom
6 wants to speak to this. This is being done in the Real
7 Estate Analysis Division now. So I was speaking to you
8 from the perspective of having integrated it into the
9 rule. But in terms of actually how fast they can turn
10 stuff around --

11 MR. CONINE: Oh, Tom's here. Hi, Tom. Good to
12 see you.

13 MR. GOURIS: Good to see you, too, Mr. Conine.
14 Tom Gouris, Director of Real Estate Analysis.

15 MR. CONINE: Great to have you out today.

16 MR. GOURIS: Thank you.

17 MR. CONINE: We missed you earlier this
18 morning.

19 MR. GOURIS: I heard.

20 MS. CARRINGTON: But his staff did a fine job.

21 MR. CONINE: Yes, a couple of your peers or
22 cohorts. Go ahead.

23 MR. GOURIS: I think the concern is if there
24 are pieces that are missing and we have to go back and ask

1 for those pieces, we want to prioritize the folks that
2 have gotten their work -- gotten all the information to us
3 first, because, you know, they're ready to go forward.

4 If we have to keep going back and forth -- and
5 90 days is a long time period. But they typically come in
6 a kind of a crunch period of time. And so we want to give
7 our folks the flexibility or ability to commit to
8 something we thought we could deliver on.

9 That's why, you know, within 60 days, we're
10 going to have the opportunity to review it once, make sure
11 they've got all their information. If they don't, we send
12 out a letter to the syndicator. And once they return --
13 respond with that information, we're going to prioritize
14 it, but not to the extent that the folks that got all
15 their information to us right the first time do.

16 MR. CONINE: So is the 60-day time frame
17 critical, or the 90-day time frame critical? Which one is
18 more critical to you?

19 MR. GOURIS: Both are really --

20 MR. CONINE: Do people -- if there is a
21 omission from the package, and it seems obvious that you
22 could send them a letter saying, Look, this and this and
23 this is missing, so the clock's still running?

24 MR. GOURIS: Yes. I mean, if we're going to

1 have to move one up, I would rather move the initial time
2 frame up, if they've responded in 45 days or something.

3 But --

4 MR. CONINE: Yes.

5 MR. GOURIS: You know --

6 MR. CONINE: Would that be all right with you?
7 Forty-five days?

8 MR. GOURIS: That would be fine.

9 MR. CONINE: Could I ask that we amend that to
10 45 days in the draft?

11 MR. JONES: You could ask.

12 MR. CONINE: I could ask.

13 MS. BOSTON: That will be done.

14 MS. CARRINGTON: And you shall receive it.

15 MR. CONINE: Really?

16 MS. CARRINGTON: Yes, sir.

17 MR. CONINE: She brought it up. I didn't bring
18 it up.

19 MS. CARRINGTON: The last change that we are
20 recommending is on page 62. Relates to charging of
21 inspection fees. This is in Section 50.21(h). And the
22 way it reads right now is, "Inspection fees in excess of
23 \$750 will be charged." And we're saying may be charged.

24 Then I would like to call the board's attention

1 to pages 1 and 2 of the memo in front of the draft
2 Qualified Allocation Plan.

3 We made various changes to this document based
4 on our work session with the board members two weeks ago
5 now. And I can go down through there -- through these with
6 you, or --

7 MR. CONINE: Do we have public comment?

8 MS. CARRINGTON: -- we cannot.

9 MR. CONINE: Do we have any public comment, Mr.
10 Chairman, on this item?

11 MS. GRONECK: None.

12 MR. CONINE: None.

13 MR. JONES: Delores, our secretary, says we had
14 none.

15 MR. CONINE: Okay.

16 MR. JONES: She's lied to us before, but I
17 don't have any evidence she's doing it to us at this time.

18 MS. CARRINGTON: As you all know, the public
19 has commented a lot. And many of --

20 MR. CONINE: Yes. I know. I didn't know if
21 there was any more or not.

22 MS. CARRINGTON: And we certainly, I know, will
23 have some substantive comments through the public comment
24 period over the next month or so.

1 MR. JONES: I'll say this. We've had public
2 comment.

3 MR. CONINE: Yes.

4 MS. CARRINGTON: Yes, indeed. We did
5 incorporate all of the recommendations that were made by
6 the board at the work session, and those are outlined for
7 you in pages 1 and 2, and I'd be happy to go through them
8 briefly, or if Mr. Bogany --

9 MR. BOGANY: Yes. I had one question. I have
10 two questions. I don't know if they're going to be
11 addressed. The ex parte communications side -- you know,
12 we can't talk to the developers. And I'm just
13 concerned -- my concern, but just a thought, is how a
14 homeowner who can call me and talk to me, and give me all
15 sorts of data, and I've got to come in at this board and
16 make a decision. And the only data that I've seen is from
17 that homeowner or that neighborhood advocate.

18 And so I was just wondering if there's any way
19 that, you know, that if I can't get information from the
20 developer and talk to him if I have a question about what
21 I've read or something to satisfy, why am I able to get
22 information from the public?

23 My second question has to do with that if a
24 neighborhood advocacy group can bring me a market study,

1 and use whatever information they want to use, but the
2 developer who comes here has their own rules that -- we
3 have given them rules that they have to follow, why can't
4 that neighborhood group follow the same rules on their --
5 given the same rules, and so say if you're going to do a
6 market study, these are the rules you need to follow to
7 present to the board?

8 MS. CARRINGTON: On the first question, the
9 reason the board is prohibited from having ex parte
10 communication is because it's in the legislation.

11 MR. BOGANY: Uh-huh.

12 MS. CARRINGTON: 2306, Section something,
13 prohibits a board member from having discussions with a
14 variety of folks related to an application in a setting
15 other than a board setting or a public meeting, or some
16 kind of public forum.

17 MR. BOGANY: Do I have to take comment from the
18 public and in my own personal --

19 MR. JONES: I'll jump in there. You do not.

20 MR. BOGANY: Okay.

21 MR. JONES: And in fact, I -- the way I handle
22 that is -- and this is just me. But I tell public members
23 that if they want to ask general questions about how we
24 handle these things, what kind of testimony you can give,

1 you know, that kind of thing, then I'll answer
2 generalities.

3 MR. BOGANY: Okay.

4 MR. JONES: I will not discuss with them, nor
5 will I allow them to discuss with me specific projects or
6 specific problems, discuss any projects.

7 MR. BOGANY: Okay.

8 MR. JONES: But I think that's up to board
9 members, don't you think, Edwina? But I do think the
10 legislation is clear with the regular developers.

11 MR. BOGANY: Okay.

12 MS. CARRINGTON: And on your comment, Mr.
13 Bogany, about market studies, one of the changes or the
14 tightening up of the requirements in 264, which was our
15 Sunset Legislation -- one of the things that legislation
16 does is attempt to identify the various items that people
17 can discuss at public hearings. And it certainly allows
18 for other or additional market studies to be presented.

19 Although what we are saying in our QAP is that
20 if there is additional information that's to be presented,
21 there are some deadlines for that information to be
22 presented so that you don't walk into a board meeting, or
23 the day before a board meeting, have someone deliver a
24 market study to you and use that as countering

1 information.

2 So what we have done in here is attempt --
3 well, we haven't attempted, we have -- we've put some time
4 frames -- we've put some time limits, and said if it is to
5 be considered by the board -- the information is to be
6 considered by the board in making their decision, then
7 we're requesting -- obviously, we can't prevent the public
8 from bringing anything they want to us on the day of the
9 meeting. But we are outlining that it's very difficult
10 for us to be able to consider that information if we don't
11 have it in in time.

12 MR. BOGANY: Okay.

13 MS. CARRINGTON: With that, I think probably
14 I'd like to ask Brooke to come up and answer any of the
15 questions or issues that you all have with this draft QAP.
16 You might --

17 MR. JONES: Good to see you, Brooke.

18 MS. BOSTON: Likewise.

19 MS. CARRINGTON: She has her chart in here that
20 she and I both like a lot. And this is the chart that
21 will give you the reference of where the requirements came
22 from that are in the QAP, whether it was a working group
23 recommendation, whether it was in 2306 by statute, and any
24 notes related to that.

1 MR. JONES: Brooke, is asking -- answering our
2 questions as much fun as going to the dentist?

3 MS. BOSTON: I like the board meetings. I like
4 answering questions.

5 MS. CARRINGTON: She likes this very much. She
6 and I sat down on Tuesday and we went through all of my
7 questions.

8 MR. BOGANY: Are we looking at the scoring
9 breakdowns? Is that what --

10 MS. CARRINGTON: We're looking -- yes, anything
11 that you --

12 MR. JONES: The whole field -- anything you
13 want to.

14 MR. BOGANY: The neighborhood input -- so I
15 guess it's always been 24 points available for
16 neighborhood input. So how would that reflect? So say I
17 have a public hearing. I've got 20 people get up and say
18 I'm for it. And I've got 30 get up or 40 get up and say
19 I'm against it. So how do you determine what points are
20 going to be given on that deal?

21 MS. BOSTON: First, just to clarify. The 24-
22 point spread that it's up to positive-12 or down to
23 negative-12. So obviously if one bill got all the
24 positive and the other bill got all the negative, it is

1 technically a 24-point difference. But just to clarify,
2 someone can't earn 24 positive points.

3 The second part of your question -- the
4 information -- we've been real clear in the QAP. It has
5 to come in in a letter. It needs to be from a
6 neighborhood organization that's on record. And so
7 definitely input we would take from individuals at a
8 public hearing would be summarized for the board.

9 It would not, though, count for these points
10 unless it -- you know, one of them would also need to have
11 turned in a letter on behalf of the neighborhood
12 organization and meet the scoring requirements for the
13 neighborhood organization.

14 MR. BOGANY: So what's considered neighborhood
15 input on this? I mean, I'm lost to determine how -- where
16 does the neighborhood input comes in, does it -- is it
17 quantitative? Is there some number, or what?

18 MR. WITTMAYER: This is a new legislative
19 requirement. Chris Wittmayer, the department's general
20 counsel. And we've struggled with how best to score the
21 input from neighborhood organizations, and after a lot of
22 discussion and input, we concluded that it was very
23 important that we evaluate the basis of the input.

24 So we decided the best way to do that was to

1 have the EARAC consider each letter that comes in from the
2 qualifying neighborhood organization, evaluate the
3 evidence that is presented in support of the input for and
4 against the proposal, and then we'll kind of learn as we
5 go along and evaluate each of these letters, whether
6 they're appropriate for positive or negative points, and
7 how many points.

8 MR. BOGANY: So it's going to be subjective?

9 MR. WITTMAYER: It will be somewhat subjective,
10 if necessarily by the nature of the input.

11 MR. BOGANY: Okay.

12 MS. CARRINGTON: And Mr. Bogany, you had also
13 asked what is a neighborhood organization.

14 MR. BOGANY: Yes, I'm sorry. What is a
15 neighborhood organization?

16 MR. WITTMAYER: We have attempted a brief
17 definition of neighborhood organizations. I think what's
18 central to the definition is that it is an organization of
19 some type that is pursuing or has a purpose of pursuing
20 some aspect of the general welfare of the neighborhood.

21 Certainly, I think, that civic groups we're
22 familiar with in the Houston area would be such a
23 neighborhood organization. Homeowner associations would
24 be neighborhood organizations.

1 Other organizations, and of course, again,
2 we'll have to evaluate these on a case-by-case basis as
3 they're presented, but some organizations that comes to
4 mind that may not be neighborhood organizations would be
5 like, perhaps the high school band booster club, football
6 booster club.

7 Other clubs that may not have a geographic
8 boundaries associated with them are probably not
9 neighborhood organizations. But here again, we'll have to
10 evaluate these on a case-by-case basis as they come in.

11 MS. CARRINGTON: I think it's also important to
12 say that the way the legislation reads, it says, "A
13 neighborhood organization on record with either the county
14 or the state." And the only support or opposition that we
15 can consider for points are those organizations that are
16 within the boundaries of the proposed development.

17 MR. BOGANY: Okay.

18 MR. JONES: Questions?

19 MR. CONINE: On the ineligible building types,
20 where we focused our attention to the number of units of
21 ones, twos and threes that would be applicable in a
22 project. I've rethought that a little bit.

23 MS. BOSTON: Yes.

24 MR. CONINE: And I think maybe this does an

1 unintended consequence the way it's written, before I say
2 anything else. But I've seen projects where you have, you
3 know, one building is all one bedrooms, and another
4 building is all two-bedrooms. Yet, when you put it all
5 together, it works out fine.

6 Does this technically eliminate the ability to
7 do that? To have a building that would be all ones and a
8 building that's all twos, the way it's written?

9 MS. BOSTON: No.

10 MR. CONINE: You're sure?

11 MS. BOSTON: The -- because it's not building-
12 specific. You're talking about G. Right? The one that
13 you had had us add in response to the work group?

14 MR. CONINE: Yes. Where it says, "These
15 buildings or facilities," and if a building -- say you had
16 a ten-building project of 250 units, would a building that
17 would consist of all ones, or a building out of the ten
18 that consists of all twos be ineligible based on this
19 definition?

20 MS. BOSTON: I guess I don't see --

21 MR. CONINE: Or am I missing something?

22 MS. BOSTON: Well, and maybe I'm missing
23 something. Where do you see -- I see. I see. Okay. Up
24 at the introduction of the whole thing.

1 MR. CONINE: Yes.

2 MS. BOSTON: No, because the language under G
3 is just specific to the development, I think we'd be fine.

4 But for clarification, I think we could take out the
5 words "or facilities" in the intro, and it would still
6 capture everything. Or we can just say the developments
7 which have, and then each of the items would depend on
8 whether it was development or building.

9 MR. CONINE: Right. Okay. Well, if you're
10 comfortable with the language, I just didn't want --

11 MS. BOSTON: I wouldn't have been making them
12 ineligible in our staff review. I hadn't read it that
13 way. But for clarification --

14 MR. CONINE: The other fear I have, you know,
15 after some thought, is that we end up with a project
16 that's 20 percent ones, 40 percent twos, and 40 percent
17 threes, which I still have -- am very uncomfortable with
18 from a marketing perspective.

19 And I'm not so sure that -- if we shouldn't go
20 back to some of our original thoughts, where we would put
21 ceilings on ones, ceilings on twos, and ceilings on
22 threes, so that we allow the flexibility, if you will,
23 under certain parameters that would, you know, hopefully
24 fit most marketplaces within the State of Texas.

1 I for one -- we had a lot of two and three-
2 bedroom projects come through this morning, which I don't
3 believe that a market analyst that -- I'd love to have an
4 opportunity to sit down and go face to face with and have
5 them tell me that there is not a need for one-bedroom
6 units in any market in this state.

7 So in order to get a better geographic
8 dispersion of ones, twos and threes, do you think that
9 maybe capping each of those types, rather than having the
10 40 percent numbers for each would be a little better way
11 of doing it?

12 I'm not going to throw any numbers out right
13 now, because this is the stuff for comment. But correct
14 me if I'm wrong, but the bond guys are kind of using this
15 as a guideline to go by in putting their bond allocations
16 together. And I don't want it to end up with something in
17 November when we get this back that may be different than
18 what they turned in at the -- in October or whenever it
19 is -- September.

20 MS. BOSTON: Right.

21 MR. CONINE: So that's why I'm bringing it up
22 now. If I were to suggest 60 percent as a one-bedroom cap
23 and 40 percent, maybe 50 percent as a two-bedroom cap, and
24 30 percent as a three-bedroom cap, and I -- as a just an

1 idea, what would you think about that, just to put you on
2 the spot?

3 MS. BOSTON: Like I said, this thing could go
4 out for comment that way. I guess because we see such a
5 diversity, I'm kind of not 100 percent comfortable
6 commenting for the development community in saying if that
7 sounds good or not.

8 I have heard critique of the 40 percent that's
9 in here.

10 MR. CONINE: Right.

11 MS. BOSTON: I mean, I think --

12 MR. CONINE: And I'll be glad to, you know,
13 argue that with someone, but --

14 MS. BOSTON: Certainly.

15 MR. CONINE: -- I just -- again, to alleviate
16 this wild example that I put in front of you, the
17 20/40/40, which would be -- it seems to be it would be
18 hard-pressed to justify in most cases.

19 Is it better to leave it alone, would you say?

20 Or -- and just let the public comment on it, and handle
21 it when it comes back? Or is better to change it now
22 because of the anticipation of the bond guys?

23 MS. BOSTON: I mean, I do think having a cap
24 on --

1 MR. CONINE: Here comes the General Counsel.

2 MS. BOSTON: -- each bedroom type, as opposed
3 to having it on -- I mean, instead of just saying 40 on
4 all types --

5 MR. CONINE: Right.

6 MS. BOSTON: -- I mean, it does give people
7 more flexibility. And so that -- to me, that's a good
8 thing, because instead of saying --

9 MR. CONINE: Well, we're trying to make it less
10 flexible, because right now we have all twos and threes
11 coming through. So we are trying to corral things just a
12 little bit here.

13 MS. BOSTON: It's making it more flexible than
14 telling everyone that you can only have 40 of each.

15 MR. CONINE: Right.

16 MS. BOSTON: This is a compromise between what
17 we have now, which is nothing on the -- versus what you
18 had in the draft that was in the board book.

19 MR. CONINE: Right.

20 MR. WITTMAYER: So for purposes of proposing a
21 rule, I would suggest or recommend that the more
22 restrictive position would be the better for the proposal,
23 and then if we wanted to loosen it up -- so if you wanted
24 to go with 60/40/50/30, that might be the way to propose

1 it initially.

2 MR. CONINE: Ms. Carrington, you've got some
3 experience in this area. What would your thoughts be?

4 MS. CARRINGTON: Maximum flexibility, to design
5 to what the market conditions are.

6 MR. CONINE: Okay. I'll leave it like it is.

7 MS. BOSTON: You want to leave it in -- just
8 the 40 percent as drafted?

9 MR. CONINE: Yes.

10 MS. BOSTON: Okay.

11 MR. JONES: Brooke, have you seen the comments
12 in Representative Paxton's letter?

13 MS. BOSTON: I don't think so.

14 MS. ANDERSON: I have some questions about
15 that.

16 MR. JONES: Okay. I was going to invite her to
17 address that. But if you haven't seen them, would it be
18 okay if I gave it to her and let her --

19 MR. CONINE: Well, this is in a different
20 context. This is in the bond rules. Right?

21 MS. ANDERSON: Yes.

22 MR. CONINE: As opposed to --

23 MS. ANDERSON: Well, he's making comments
24 about --

1 MR. JONES: Well, this is Low Income Housing
2 Tax Credits.

3 MS. ANDERSON: Well, it's not -- no, it's on
4 the bond rules.

5 MR. CONINE: Yes.

6 MS. ANDERSON: But there is a question that
7 touches both programs.

8 MR. CONINE: Yes.

9 MS. ANDERSON: And so I wanted to ask Chris.
10 He cites Section 2306.359(c), which is the section that
11 mandates the level of community support for the
12 application.

13 He expresses a belief that, you know -- I mean,
14 if I'm reading his intent right, that he thinks the
15 letters ought to be scored, and that -- or the 4 percent
16 on program as well as for the 9 percent tax credits.

17 And I'm just wondering what kind of discussion
18 going along as these rules have been in development in
19 since May, when this bill was passed, what kind of
20 discussions you've had as staff.

21 And you may have a point of perspective, and
22 Brooke, too, on that, about whether or not to treat both 9
23 and 4 percent similarly or differently, and why.

24 MR. WITTMAYER: Under the legislation, we're

1 only required to score the input from neighborhood
2 organizations on the 9 percents, and not on the 4
3 percents.

4 MS. ANDERSON: And that's because it was
5 embedded in the language of the bill in the middle of a
6 section that was all about 9 percents, or --

7 MR. WITTMAYER: Because it refers to the
8 scoring for 9 percents and not for 4 percents.

9 MS. BOSTON: They wrote two different sections:
10 One says how you're going to score a bond deal --

11 MS. ANDERSON: Okay.

12 MS. BOSTON: -- and one says, Here's how you're
13 going to score 9 percent credit.

14 MS. ANDERSON: Okay. And the thing about level
15 of community support was not in -- was not a criteria in
16 the 4 percent -- in the bond deal thing?

17 MR. WITTMAYER: No. No. Community support is
18 in the 4 percent, but it's specifically for 9 percents
19 score input for the neighborhood organizations.

20 MS. ANDERSON: Okay.

21 MR. WITTMAYER: I think what this email, if I
22 understand it correctly, seems to be saying, we'll take
23 the neighborhood organization concept from the 9 percents
24 and use that to be the community support which is required

1 for the 4 percents.

2 What we have done instead is kept the
3 neighborhood organization scoring in the 9 percent side,
4 and used for community support scoring on the bond side,
5 input from elected representatives --

6 MS. ANDERSON: Elected representatives --

7 MR. WITTMAYER: -- yes, or appointed -- school
8 superintendent appointed person. One concern we had was
9 about the representativeness of the input that we get.
10 And that's a concern that we have on the input from
11 neighborhood organizations. And we avoid that question by
12 accepting and scoring input from the various officials
13 that we are proposing in the bond rule for the 4 percent.

14 MS. ANDERSON: And you address it in the 9
15 percent program by specifying how the letter -- what all
16 the letter has to have to in it, how many members you
17 have, how you arrived at your decision.

18 MR. WITTMAYER: Right.

19 MS. ANDERSON: So I mean, there would be a
20 way -- you address the concern in one program. Is there
21 another reason that that same approach to addressing the
22 concern would not work in the 4 percents? I'm just trying
23 to understand the staff's policy thinking.

24 MR. WITTMAYER: These -- until this input for

1 scoring from neighborhood organizations came to us in this
2 new legislation, our scoring processes on the 9 percents
3 was pretty much a highly objective process. You either
4 had a dishwasher or you didn't. You had a garage or you
5 didn't.

6 Now, we're kind of getting into subjective
7 areas that I think staff is somewhat uncomfortable with.
8 We're going to implement it to the best of our ability.
9 We're going to make it work. But we are concerned with
10 the subjective nature of it.

11 We decided that the best way to make that
12 analysis would be in the EARAC, and we're going to take
13 these letters as they come in, and score them to the best
14 of our ability. And they kind of see the 9 percent
15 requirement is our first effort in this. And we'd like to
16 get some experience on that side before we would perhaps
17 move over into the bond side.

18 Also, we have a shorter period to implement it
19 and score it on the bond side. And in fact, we're looking
20 at proposing our preapplication deadline of September 2,
21 so this is a very fast-moving trend.

22 MS. ANDERSON: Okay. Thanks.

23 MR. CONINE: On the topic of notification,
24 neighborhood notification, is there any signage stuff in

1 the QAP, or is that just the bond?

2 MS. BOSTON: There is signage stuff. Right now
3 it's proposed that you would post the sign with your full
4 application, or you can -- it's similar to the bond rule
5 where there is an alternative. You could also notify
6 residents within 1,000 feet, I think. Is it 1,000 feet,
7 Chris?

8 MR. WITTMAYER: 1,000 feet.

9 MS. BOSTON: So you then have the alternative
10 of doing one of those two.

11 MR. CONINE: Okay. I'm going to -- I was going
12 to bring that up on the bond side of it, but since it's in
13 the QAP, I'll go ahead and do it now.

14 I think it would be prudent for us to match the
15 number of foot distance that notification has to go to
16 with the municipality's notification distance relative to
17 zoning changes. And in lieu of the fact that if there is
18 no municipality, if you're out in the country trying to do
19 one of these things, then the 1,000 feet would kick in at
20 that point.

21 But I don't want to get us as a board in the
22 business of telling the City of Tyler how many feet need
23 to be notified. I think if we matched up with the city's
24 notification policy, it would, you know, show a

1 partnershiping effort on our part to begin with. And it
2 would also be what the local community is used to.

3 So would you guys have a problem with amending
4 the language here to match that?

5 MS. BOSTON: Well, and then if it's a community
6 that doesn't have zoning it would be the 1,000 feet as
7 well?

8 MR. CONINE: Yes. Right.

9 MS. BOSTON: Okay. So no zoning --

10 MR. CONINE: If there isn't any notification --
11 you know, Houston may have some sort of notification for
12 other things other than zoning. If -- I was just saying,
13 if they have a general notification policy --

14 MS. BOSTON: Uh-huh. Sure.

15 MR. CONINE: -- let's follow with whatever they
16 use. If they don't, then let's go 1,000 feet.

17 MS. BOSTON: That's easy. It's just as easy
18 for us to administer.

19 MR. CONINE: Does that sound all right,
20 Counsel?

21 MR. WITTMAYER: We could certainly do that as a
22 policy decision for the board. I do recall during our
23 public input meetings that there was expression from one
24 or two neighborhood representatives that the requirements

1 of the local municipalities were subminimal as to hardly
2 reach across the street in terms of providing
3 notification.

4 MR. CONINE: Well, they have ways to change
5 that. You know, they can go down to city hall and make
6 sure they can change that. I just want to make sure we
7 follow step with whatever the cities currently have
8 adopted to be -- whatever they think is best for their
9 particular city, rather than us telling them what to do.

10 MS. BOSTON: Okay.

11 MR. JONES: Mr. Bogany?

12 MR. BOGANY: I have a small question. The last
13 meeting we had several people saying that they never
14 received notice or never saw any notice. And somebody
15 said we posted in this newspaper. Somebody said we posted
16 in this newspaper, and they said, Well, I don't read that
17 newspaper.

18 Is there anything in the QAP that determines
19 that if we're going to post this in the local paper, which
20 way you've -- what do you go about -- how do you go about
21 choosing that particular paper to do that?

22 MS. BOSTON: Right. We tell them in a
23 metropolitan area, they have to go with the metropolitan
24 newspaper. If they're in a community that's considered a

1 bedroom or smaller subcommunity that also has a newspaper,
2 they have to do both.

3 MR. BOGANY: Okay.

4 MS. BOSTON: So for instance, here in Austin,
5 if it's Pflugerville -- I don't know even if Pflugerville
6 has a paper, but --

7 MR. CONINE: What if it's exurban?

8 MS. BOSTON: You'd have to be --

9 MR. CONINE: What if they're exurban?

10 MS. BOSTON: It shouldn't matter. The
11 community either has a paper or it doesn't.

12 MS. ANDERSON: Do you have a paper out in
13 Frisco?

14 MR. CONINE: Yes, we have the Star, or
15 something like that. We do.

16 MS. BOSTON: In that case, it would be in both.

17 MR. CONINE: Both the Morning News and in that
18 one?

19 MS. BOSTON: Uh-huh.

20 MR. JONES: Is there one in Dallas?

21 MR. CONINE: Yes.

22 MS. ANDERSON: Is there a paper in Dallas
23 anymore?

24 MS. CARRINGTON: Thoughts differ.

1 MR. CONINE: easy.

2 MR. BOGANY: So that's how it would --

3 MS. BOSTON: Correct. And actually that came
4 about a couple of years back because a smaller community
5 wasn't notified. The developer had only run it in the
6 larger metropolitan area. And so we made sure we put that
7 in to cover that.

8 MR. BOGANY: Okay. And the last question, and
9 I'll be through on it, as to the exurban deal, would you
10 explain to the board how we're going to handle the exurban
11 areas, and how hopefully we'll get more credits into some
12 of those areas that have been denied?

13 MS. BOSTON: Yes. Are you talking about the
14 allocation distribution? Or are you talking about the
15 points that we put in?

16 MR. BOGANY: The -- both.

17 MS. BOSTON: Okay. The way that the allocation
18 distribution, as Sarah Anderson mentioned earlier, is that
19 within each region it's divided into rural allocations and
20 urban/exurban allocations. Two different pots.

21 Basically, to fit in the rural, you'd have to
22 meet our definition of rural, which is -- continues to be
23 defined as it has been for the past several years for the
24 Tax Credit Program. If you don't meet that definition,

1 you fall under urban/exurban. So within that pool, there
2 is nothing specifically that would drive to urban/versus
3 exurban.

4 The way we're capturing that issue is we have
5 added ten points. So if you are in a development that
6 doesn't meet the rural definition, but is less than
7 100,000 in population, you would get ten points. And in
8 followup to a conversation you and I have had, we had done
9 some research of the past two years.

10 We sorted out the exurban communities, tried to
11 identify how many points they would have needed to become
12 competitive with the people in that region who did get an
13 award, and it looks like ten was about the right number.
14 And as you know, we originally have had it as five, and
15 that wasn't going to be enough to have made the
16 difference. So --

17 MS. ANDERSON: Can I take my -- take a turn?

18 MR. CONINE: You may.

19 MR. JONES: Yes, ma'am.

20 MS. ANDERSON: When we were talking about the
21 Affordable Housing Needs Score a little bit ago, and Sarah
22 Anderson made the comment about how they -- the move from
23 the Affordable Housing Needs Score, the extra points for
24 not having an award in the last three years, because that

1 just really wasn't where that thing should be -- is there
2 any -- are there any -- there are no points like that that
3 I remember in a QAP, are there?

4 MS. BOSTON: We did add this year points for a
5 development located in a Census tract where there are no
6 other existing tax credits.

7 MS. ANDERSON: And that was -- well, that would
8 have had the same practical effect, I guess?

9 MS. BOSTON: Right. So that's five points.

10 MS. ANDERSON: Right. Okay. Great. And then
11 I'm on page 3 of 64. I just am reading some language
12 about demolition of existing units, which was blah, blah,
13 blah, and it gives an exception for HOPE VI, will be
14 qualified as an at-risk development.

15 So that it will be at-risk if we tear it down
16 to the dirt if it's getting HOPE VI funding. But
17 otherwise, any development that exists, we're supposed to
18 tear it down to the dirt like the San Antonio one last
19 month will not qualify as at-risk?

20 MS. BOSTON: Right.

21 MS. ANDERSON: Okay. Thank you. Somebody else
22 can go.

23 MR. BOGANY: Brooke, we had a couple of
24 meetings ago we had a group in Austin that wanted to

1 change the land, because the property was sitting on it,
2 and they had to go in and change the land because they
3 found out some of it was in the flood area.

4 Is there anything in the QAP to kind of help us
5 if we come across that situation again?

6 MS. BOSTON: We did add a little bit of
7 language in the amendment category, just specifying that
8 the department does deem a site change of -- and let me
9 double-check. I want to say that we used ten percent or
10 more, to be material. It still would need to -- they
11 still can ask, and it would still come through the
12 department.

13 We would define it as being material, and then
14 it would come to the board. I don't think we want to
15 preclude anybody's opportunity to make site changes. It's
16 pretty common for people that need to make a change for an
17 easement or for dedicated parkland, or whatever the case.

18 I don't think we want to keep that from
19 happening. I think in those cases it's a pretty minimal
20 amount, you know, an acre at most. That was a pretty
21 unique circumstance, and we did put the change into the
22 amendment language to make sure that one with that extreme
23 an amount of acreage change would definitely have to come
24 before you all.

1 MR. BOGANY: Okay. One last question. Are
2 we -- did we eliminate the carryovers, where we'd --
3 forward commitments in this QAP?

4 MS. BOSTON: No. The board -- it's still
5 written where the board has the discretion to do them, if
6 they want, which is the way it's written this year.

7 MR. BOGANY: Uh-huh.

8 MS. BOSTON: You're not obligated in any way to
9 do forward commitment.

10 MR. BOGANY: Okay. Like in the past we were
11 obligated to do one. Probably still are.

12 MS. BOSTON: You've never been obligated. The
13 language, just up until last year had said that the board
14 could do 15 percent, which is kind of -- I think the
15 public could come to believe after several years of that
16 happening that 15 percent would be allocated. And so they
17 kind of felt like it would take place.

18 MR. BOGANY: So in this --

19 MS. BOSTON: So by having taken out the 15
20 percent --

21 MR. BOGANY: You did take it out?

22 MS. BOSTON: Yes, we took it out last year.

23 MR. BOGANY: Okay. So no one can expect a
24 forward commitment. If they didn't get tax credits, they

1 may not get any at all?

2 MS. BOSTON: Yes. They can -- you know, I have
3 no doubt they'll petition to you, but correct. There is
4 no obligation or -- there is not a number that they can
5 say, Well, we really thought we'd get close to this
6 amount, or anything like that.

7 MR. BOGANY: So if we give a forward
8 commitment, will there be a rule in there saying that they
9 are going to have to live by the rules of the next QAP?

10 MS. BOSTON: The forward commitment would say
11 that, yes, in the actual commitment notice with them.

12 MS. ANDERSON: I have a question.

13 MR. JONES: Yes, ma'am?

14 MS. ANDERSON: There is a section on the
15 Qualified Market Analysts where I notice there is some
16 changes in the language. And one change is we've inserted
17 the word performance, when we're discussing the
18 individual's performance, experience and educational
19 background. This is for your, you know, certification of
20 these people.

21 Is the definition of performance somewhere else
22 in here? Or is that -- or is the detail behind this
23 intent in Tom's rules?

24 MS. BOSTON: Yes.

1 MS. ANDERSON: Okay. I'll go there then. Oh,
2 let's talk about -- just as I'm now on page 13, you
3 earlier -- Ms. Carrington was talking about the changed
4 lifting of rural cap above 76 units.

5 MS. BOSTON: Uh-huh.

6 MS. ANDERSON: Can you just help me understand
7 why? I mean, I know we think we may have more money going
8 to rural areas. I would argue that doesn't necessarily
9 mean we want larger -- but help me understand that --

10 MS. BOSTON: Okay. Before, the language had
11 said if they go over 76 units and the market study
12 supports that, then they're considered general set-aside.
13 However, because -- well, for two reasons essentially.

14 One is because we're talking about a rural
15 allocation, if they really are in that rural area, I think
16 the department wants to be able to credit it for that 30
17 percent that we're shooting for statewide.

18 Also, because we generally tend to only have
19 about applications that could support about the 15 percent
20 amount, this is a way to let us better reach the 30
21 percent that we've been striving for. I definitely -- I
22 see the other side of it. But it's just out for public
23 comment.

24 MS. ANDERSON: Yes. I guess my concern is we

1 have so much trouble believing market studies from time to
2 time, to have to have all this be relying on if the market
3 study supports it --

4 MS. BOSTON: Right.

5 MS. ANDERSON: -- you know, that doesn't give
6 you too much to hang your hat on.

7 MS. BOSTON: Tom's saying that the reference to
8 if the market study allows it has always been in there.
9 The difference is if you exceeded 76, and the market study
10 allowed it, you could still be in the rural area, you
11 would just be qualified as general --

12 MS. ANDERSON: Okay.

13 MS. BOSTON: -- and in this case --

14 MS. ANDERSON: Now, you're really just moving
15 the setaside over to --

16 MS. BOSTON: Exactly.

17 MS. ANDERSON: Okay.

18 MS. BOSTON: Do you want me to change it?

19 MS. ANDERSON: No, that's okay.

20 MS. CARRINGTON: I'd like to ask, as you're all
21 thinking about your next question, I would like to point
22 the board to pages 42 and 43. This is something that we
23 feel like you all have been asking for for the last year
24 or so. Someone mentioned the word just a few minutes ago,

1 discretion.

2 And what you will see beginning at the bottom
3 of page 42, and going to the top of page 43, Board
4 Decisions; Waiting List; Forward Commitments on Board
5 Decisions.

6 There is a list, it goes A through R. And it
7 says, "The board in its discretion, may evaluate, consider
8 and apply any one of the following discretionary factors."

9 And so we have articulated a list of items for you all
10 that as you look at considering the transactions and
11 making decisions, we would consider these your all's
12 discretionary factors.

13 MR. CONINE: Make the chairman happy.

14 MR. JONES: Can we make it so we can all have
15 discretion but Conine?

16 MS. CARRINGTON: We could actually put that in
17 R, "Other good cause as determined by the Board, with the
18 exception of the Vice Chair."

19 MR. JONES: Go ahead and make that change.

20 MS. ANDERSON: Since you drew me right there,
21 Item G, which reads, "the housing needs," which is one of
22 our discretionary factors, "housing needs of the community
23 in which the development will be located, and needs of the
24 area, region and state."

1 I'm wondering if we might insert in front of
2 the word "area," the word "community."

3 MS. BOSTON: We most definitely can.

4 MS. ANDERSON: I'm just trying to address --
5 area sort of sounds this big. Community is a little
6 smaller. So we go community, area, region, state.

7 MS. BOSTON: Right.

8 MR. BOGANY: I'd like to move that we move this
9 to publication, the QAP.

10 MR. JONES: For publication -- right action.
11 Ms. Carrington?

12 MS. CARRINGTON: Correct.

13 MR. JONES: Okay.

14 MS. CARRINGTON: Yes.

15 MR. JONES: So the motion has been made that it
16 be approved for publication. Is there a second?

17 MR. GONZALEZ: Second.

18 MR. JONES: It's been seconded.

19 MR. GONZALEZ: I'm saying that to get
20 discussion.

21 MR. JONES: Mr. Gonzalez. It's been seconded
22 to get the discussion going. I think there is still
23 further comments and questions. Mr. Conine?

24 MR. CONINE: I'm still struggling with the 40

1 percent, and I think Ms. Carrington may be right. In the
2 spirit of more flexibility -- you know, what -- another
3 type of --

4 MS. CARRINGTON: Right?

5 MR. CONINE: -- circumstance that may bring
6 itself to bear here is a -- let's just call it an urban
7 Tax Credit deal, where you're in the middle of
8 singlesville. And the case, again, the way it's stated,
9 you can't get, you know, more than 40 percent one-
10 bedrooms, when the market study may allow for 60 percent,
11 or at least to that point. So --

12 And on the three-bedroom side, I still have
13 trouble finding an area of the state, in my mind, that 30
14 percent would be too little for.

15 So I'd like -- I think I'm going to go back to
16 my original assumption, and to circulate it for public
17 comment, having the 60 percent one-bedroom cap in there,
18 50 percent two-bedroom cap, 30-percent three-bedroom cap.

19 And let's see what they say coming back.

20 MS. BOSTON: Okay.

21 MR. CONINE: If the maker of the motion will
22 accept that as part of his own --

23 MR. BOGANY: I'll accept that amendment.

24 MR. JONES: And the second accepts it too?

1 MR. GONZALEZ: Yes.

2 MR. JONES: Yes. Great. All right. Further
3 questions, comments?

4 MS. ANDERSON: Yes.

5 MR. JONES: Ms. Anderson?

6 MS. ANDERSON: I have a question about why
7 we're taking out the dishwasher and disposal? Is it
8 because originally when the USDA things were originally
9 built they don't have to have them, so it's expensive to
10 put them in? Is it a financial issue?

11 MS. BOSTON: They're actually required to
12 remove it. If they put it in for us, USDA will require
13 them to remove them. And well, that's -- one of the
14 developers, immediately, as soon as he saw it, he said,
15 Woah, you can't make us do this. It's just -- he said
16 that they make them remove them upon construction. So --

17 MR. CONINE: Would you give me the information
18 on that, and let me go see the Department of Agriculture
19 on that? That is absolutely absurd.

20 MS. ANDERSON: That may be something you want
21 to do at the national level, Mr. Conine.

22 MS. BOSTON: Yes. I mean it is absurd.

23 MS. ANDERSON: I will get it for you. You
24 know, I -- because I -- you know, I get concerned about

1 those deals, because -- and we've had this conversation,
2 because they score so low anyway. I mean, they get their
3 nose above threshold in the 9 percent round, so they get
4 to compete. And then we fund them, and they score --

5 MS. CARRINGTON: Fifty.

6 MS. ANDERSON: No. We funded one that scored
7 25.

8 MS. CARRINGTON: Oh. That's not -- and I'm
9 sure it's wonderful, but -- and did we ever come up with
10 any way to address that?

11 MR. CONINE: Don't wash the dishes.

12 MS. BOSTON: You know, we have evaluated that.
13 And I think we talked about that even a little bit with
14 our joint board meeting with ORCA. And I kind of hate to
15 say it this way, but I think that they aren't going for
16 the points because they're in -- they tend to be in a
17 setaside that is uncompetitive.

18 MS. ANDERSON: So they know they're going to
19 get it.

20 MS. BOSTON: Right. I mean, we have had rural
21 deals, including rural USDA deals, who were the highest-
22 scoring deals in their region two years ago. You all may
23 remember -- I can't remember the city. I know Joe Chaney
24 was the developer.

1 And he blew the metro deals out of the water.
2 So it can be done. I think they just choose not to
3 because they don't need to to get their deals.

4 MS. ANDERSON: Well, that might say something
5 about that setaside.

6 MS. BOSTON: I hope that doesn't sound harsh.

7 MS. CARRINGTON: She's a little harsher than I
8 would be. There are some points, when you look at our
9 scoring, at least in the past, that the rural deals can't
10 get. They're not -- they -- we gave points for larger
11 bedrooms --

12 MS. ANDERSON: And we had that good chart when
13 we met with ORCA --

14 MS. CARRINGTON: -- QCTs and that kind of
15 thing, so.

16 MS. ANDERSON: But 25 points?

17 MS. CARRINGTON: Is very low.

18 MS. ANDERSON: You know, so all right. I may
19 fall on my sword on that next year.

20 And did we -- do -- how have we handled the
21 issue of where we would like to have local funding, and
22 we're willing to give points for, you know, local funding,
23 but we want to know that it's for a real dollar amount.
24 Is that dealt with?

1 MS. BOSTON: Yes. We have firmed that up all
2 around. We are requiring -- well, first of all for
3 points, we are requiring a specific amount for a certain
4 range -- like, you know, a certain range of dollars for a
5 set number of points, and it's graded -- you know, it's
6 graded so you can get it in different range.

7 MS. ANDERSON: Right. Right. More dollars,
8 more points. Okay.

9 MS. BOSTON: And then additionally, we're
10 requiring that ten days before the June board meeting, we
11 either have the commitment in hand for the funds, or they
12 tell us if they don't have it, and then we're going to go
13 back and evaluate. If -- let's say without the --

14 Well, first of all, we want to make sure it's
15 still feasible.

16 MS. ANDERSON: Uh-huh.

17 MS. BOSTON: If it's still financially feasible
18 without the funds, then we're going to take the points
19 out, and if for some reason, depending on what setaside or
20 region they're in, if they're competitive, they would
21 still stay in our recommendation just the same. Obviously
22 it could take them out of the running.

23 MS. ANDERSON: Okay.

24 MS. BOSTON: So --

1 MS. ANDERSON: The preapplication conference?

2 MS. BOSTON: I thought I --

3 MS. ANDERSON: I'm sorry?

4 MS. BOSTON: I thought I took it out.

5 MS. ANDERSON: Well, I don't know. We -- I'm
6 just sort of following up with you on some of the things
7 that were on my list that we discussed, the notion about
8 being optional and not mandatory?

9 MS. BOSTON: I took it out entirely, only
10 because if it's an optional thing, then we will probably
11 market it, but it wouldn't be in the QAP as a rule.

12 MS. ANDERSON: Okay. I'm with you. Good. On
13 that section on extensions, which I don't know if this has
14 kind of been renumbered, there was an issue about --
15 something about the visibility that the board would have
16 and who has requested extensions and who has not. And you
17 know, we have a very competitive climate, particularly,
18 you know, in the 9 percent program. So how did that
19 extensions language end up?

20 MS. BOSTON: The working group had originally
21 just -- three --

22 MS. ANDERSON: Right.

23 MS. BOSTON: The working group had originally
24 recommended that all extension requests have an automatic

1 30-day approval.

2 MS. ANDERSON: Okay. That is what it was.

3 MS. BOSTON: And then only after that would it
4 come -- would it really be decided on for the merit of the
5 extension or cuts. And you had asked that we took it out,
6 and we did.

7 MS. ANDERSON: Okay. Thank you.

8 MS. BOSTON: Okay.

9 MR. JONES: Further questions, comments,
10 discussion? Hearing none, we have a motion on the floor.

11 It's been seconded. I assume we're ready to vote. All
12 in favor of the motion, please say aye.

13 (A chorus of ayes.)

14 MR. JONES: All opposed, nay?

15 (No response.)

16 MR. JONES: The motion carries. Ms.
17 Carrington?

18 MR. CONINE: Thank you, Brooke.

19 MS. BOSTON: You're welcome.

20 MS. ANDERSON: Thank you, Brooke.

21 MS. CARRINGTON: Item 3(a)(2) [sic] are the
22 HOME Investment Program Partnership Rules. And with both
23 the HOME Rules on Item Number 2, and the Trust Fund Rules
24 on Item Number 3, I'd like to look to my general counsel

1 for some guidance here.

2 The -- since the rules have been put in your
3 board book and posted on the website, there have been some
4 minor modifications and changes, maybe words stricken that
5 should have been stricken, and we caught them after they
6 were put up.

7 I am prepared to briefly hit each one of those
8 for the record. I guess, Chris, I'm looking for your
9 guidance as to how we can best handle this expeditiously.

10 MR. JONES: I don't think we need to briefly
11 hit anything for the record unless the board wants us to.
12 Why don't we just open it up for questions?

13 MS. CARRINGTON: Okay.

14 MR. JONES: And let people direct our attention
15 where they haven't. I mean, that would be my suggestion.

16 MS. CARRINGTON: As I do present the item, the
17 HOME rules were last revised in their entirety at the
18 board meeting on March 29, 1998. These are the rules that
19 govern both the Single Family activities with our HOME
20 Program, and also our multifamily activities with the HOME
21 Program.

22 And what we have done with the Qualified
23 Allocation Plan with the HOME rules and the Trust Fund
24 rules, and to the extent possible, with our Multifamily

1 Bond rules, and also with our underwriting real estate
2 analysis guidelines, is that we are using terminology that
3 is consistent through all of the programs.

4 So as we have definition of applicant,
5 definition of related party, those definitions are all the
6 same definitions throughout all of the programs. As we
7 have added a definition to the HOME Program for
8 administrative deficiency, that tracks what we do in the
9 Tax Credit Program.

10 We've also put in the same kind of time lines
11 on there for curing deficiencies. And one thing that I
12 would hope the board would cheer about is that on all of
13 these rules, what you will find is that our application
14 deadline is at five o'clock on whatever the day is that
15 those applications are due into the agency.

16 So there is no more postmark discussion or
17 overnight discussion. It is having those applications in
18 our agency at close of business on that particular day.
19 We believe that this consistency throughout our rules
20 certainly facilitates the utilization of our programs for
21 the public.

22 For those who look to layer funding and
23 hopefully makes it less complicated and complex for them
24 as they attempt to utilize TDHCA's programs.

1 So with that, I would like to present to you
2 the amended and revised HOME Investment Partnership
3 Program rules.

4 MR. CONINE: Move for approval.

5 MR. BOGANY: Second.

6 MS. ANDERSON: Second.

7 MR. JONES: We have a motion that they be
8 approved. It's been seconded. Further questions,
9 comments, discussion?

10 MS. ANDERSON: I would just ask Ms. Carrington
11 if there is -- you know, if there is -- from your
12 perspective, is this mostly sort of an update, and applaud
13 you and the staff for the consistency of definition, and
14 you know, terms across programs, et cetera, any
15 substantive changes that -- other than those kinds of
16 things that -- you just want to make sure we know about?

17 MS. CARRINGTON: I think adding some of the
18 threshold criteria in the multifamily rules -- there are
19 also thresholds that are in the Tax Credit Program,
20 addresses the level of the quality of the housing that we
21 are working to achieve with the funding of all of our
22 programs.

23 Some of our HOME awards in the multifamily area
24 can be as much as one million. I think it's actually up

1 to 1.2 million, if I remember correctly -- 1.5, Eric is
2 telling me.

3 Okay. In that case, there are some instances,
4 certainly, where we are the first-lien lender, and we are
5 the first-lien lender with HOME funds. And so our concern
6 is to have good-quality housing developed as a result of
7 that.

8 One of the other requirements that has been
9 incorporated in all of our rules is the requirement that
10 was put in 2306 for developments to have a physical needs
11 assessment at the end of your ten, and also the funding of
12 a reserve account if it wasn't otherwise required by a
13 first-lien lender. And so you see all -- you see that
14 requirement throughout also.

15 Flood Plain requirements, ineligible building
16 types -- so much of what you see in the QAP as it
17 addresses the type of housing threshold and quality, you
18 see in the other programs also.

19 MS. ANDERSON: Thank you.

20 MR. CONINE: Ms. Carrington, what month do you
21 anticipate us seeing these back again?

22 MS. CARRINGTON: They -- these rules are a part
23 of the Consolidated Public Hearing Process. So the last
24 date on that is the 10th of October. I would imagine we

1 will be bringing the HOME rules and the Trust Fund Rules
2 to the board in November.

3 MR. CONINE: Okay. Thank you.

4 MS. CARRINGTON: When the board will also be
5 looking at the QAP.

6 MR. CONINE: Okay. Thank you.

7 MS. CARRINGTON: And Brooke has something she
8 needs to say.

9 MS. BOSTON: Also for the QAP, and we may need
10 to retroactively do this then for all the subsequent
11 rules. We're proposing their repeal as well for the Texas
12 Register component of this. And so Chris was pointing out
13 to me technically, I don't think we voted on repealing the
14 draft rule. I don't really know if you all need to vote
15 on that.

16 MS. CARRINGTON: Yes. The old QAP --

17 MR. CONINE: Let's get the lawyer up here.

18 MS. CARRINGTON: The old QAP was Section 49.
19 For those of you who read carefully, the new QAP is
20 Section 50.

21 MR. WITTMAYER: Under Item 3(b)(1), we have the
22 proposed repeal of Chapter 50, the 2001 QAP. And we
23 skipped over that. So if the board would like to have a
24 motion to propose the repeal of the 2001 QAP.

1 MS. ANDERSON: You mean the 2002?

2 MR. CONINE: You mean the chairman messed up?

3 MR. JONES: Well, we currently have a motion on
4 the floor. So let's deal with that first. We have on the
5 floor the motion to --

6 MR. CONINE: Approve.

7 MR. JONES: -- approve for publication the HOME
8 Investment Partnership's Program rules, proposed amendment
9 to Title 10, Part 1. That motion is before us.
10 Any further questions, comments, discussion? Hearing
11 none, I assume we're ready to vote. All in favor of the
12 motion, please say aye.

13 (A chorus of ayes.)

14 MR. JONES: All opposed, nay?

15 (No response.)

16 MR. JONES: The motion carries. The chair
17 would then entertain a motion to repeal Title part 1,
18 Chapter 50, the old Low Income Housing Tax Credit Program
19 rules. Is the motion made?

20 MR. BOGANY: So moved.

21 MR. JONES: So moved by Mr. Bogany.

22 MR. CONINE: Second.

23 MR. JONES: Seconded by Mr. Conine. Further
24 discussion? Hearing none, I assume we're ready to vote.

1 All in favor of the motion, please say aye.

2 (A chorus of ayes.)

3 MR. JONES: All opposed, nay?

4 (No response.)

5 MR. JONES: The motion carries. Item 3(b)(3),
6 Ms. Carrington?

7 MS. CARRINGTON: The amendments to the Housing
8 Trust Fund Rules. Preface is the same. We're actually
9 amending rules that were last approved by the board in
10 April 2000. Roundtable --

11 MR. CONINE: Move for approval.

12 MS. CARRINGTON: Thank you. You bet.

13 MR. BOGANY: Second.

14 MS. CARRINGTON: You bet.

15 MR. JONES: Okay. Mr. Conine makes a motion
16 that they be approved for publication. It's been seconded
17 by Mr. Bogany. Questions, comments, discussion?
18 Hearing none, I assume we're ready to vote. All in favor
19 of the motion, please say aye.

20 (A chorus of ayes.)

21 MR. JONES: All opposed, nay?

22 (No response.)

23 MR. JONES: The motion carries. We'll then
24 move to Item 3(b)(4). And we have public comment. Diana

1 McIver. Hi.

2 MR. CONINE: I thought we had some public
3 comment left.

4 MS. MCIVER: Chairman, board, I'm pleased to be
5 able to speak to you this afternoon. My name is Diana
6 McIver, and I'm President of DMA Development Company, and
7 also Vice President of TAP.

8 The comments that I have are specifically
9 addressed to predominantly the scoring section of the
10 TDHCA bond. But initially, one is addressed just to the
11 prequalification assumptions. And it does, though,
12 address rehab.

13 And if you look at the prequalification
14 assumptions, it says that construction costs will range
15 from 47 to 61. And a reality, what I'm requesting is that
16 assumption be that if you're doing acquisition rehab, that
17 you get to count those acquisition costs, plus the
18 construction costs. Otherwise, we're going to have some
19 very expensive rehab. So that's just a technicality.

20 The second issues that I want to address really
21 do relate to the scoring. And as currently constructed,
22 the scoring that is proposed is it favors new
23 construction, and it favors family housing. And so all of
24 my comments are addressed to leveling the playing field

1 for rehab and for senior housing. And they would be
2 these.

3 One is, you get five points for a certain size
4 of units across the board, and averaging of a size of
5 units. And if you're doing rehab, it's going to be hard
6 to meet that, and you're going to lose that five points.

7 So I would just request that we rehab projects
8 get the five points for unit size automatically, and that
9 those just apply to new construction.

10 Then beyond that, the quality and amenities --
11 my recommendation would be that we treat it similar to
12 what we do in the 9 percent program. And in the 9 percent
13 program, when you start going through those items like
14 washer/dryer connections and microwave ovens and covered
15 parking, you basically allow a rehab project to have
16 double the points for each item.

17 And so I'm requesting that within the scoring
18 for the bonds which rehab, that the double point be the
19 same as it is in the 9 percent program. So it's a policy
20 the department has had. Now, there is -- there are, I
21 think, is still a typo in that section. It talks about
22 the maximum points being 38.

23 In reality, when you total them now with the
24 revisions, there are 34. And I would say even though

1 you're giving double points to rehab, you were still then
2 capped out at 34. Or if you assume that someone will not
3 do garages, and regular covered parking, then you would
4 cap it at 32. But something along those lines.

5 And then my third point gets to the list of
6 amenities that we have to select from. And all of those
7 are directed, for the most part, to family housing. So I
8 would just propose some substitutions.

9 And one is where the amenity for family housing
10 is playground and equipment, then I would propose that we
11 do a -- either a covered, furnished community porch, or a
12 walking trail for a senior project.

13 Where it's barbecue grills and tables, that we
14 substitute for senior housing an outdoor gazebo with
15 seating. And for game room, that can sort of go either
16 way. But also to allow a t.v. lounge in senior housing as
17 a substitute for a game room, since that wasn't defined.

18 And then workout facilities -- a lot of senior
19 projects do have workout facilities, but they need to be
20 appropriately addressed with the kinds of fitness
21 equipment that seniors use. But as an alternative to
22 that, if a sponsor didn't want to have fitness equipment,
23 they be allowed to have a library or some other --

24 So my comments were all relating to trying to

1 level the playing field for rehab, but also for senior
2 housing. And I appreciate your time. Thanks.

3 MR. JONES: Thank you, ma'am. John Garvin.

4 MR. GARVIN: Good afternoon. Thank you for the
5 opportunity to comment. My name is John Garvin. I'm with
6 the Texas Affiliation of Affordable Housing Providers.

7 Our first comment on the rule -- proposed rules
8 is on page 7, with that new signage requirement. We don't
9 think that it has anything to do with what the past
10 legislative session on notification.

11 What I would like to recommend is -- and this
12 came up in the Conference Committee on Senate Bill 264.
13 And it was, we are trying to get this extended
14 notification out of threshold, and get it into points as
15 an encouragement, because you know everyone will go for
16 the points.

17 And one of the legislators in there, actually,
18 the author of the bill on the House side said, Well, if
19 you have to notify me, I will be sure to notify all of the
20 neighborhood associations.

21 So what we were thinking is TDHCA put together
22 a database of all the neighborhood organizations on
23 record, and then certified mail to the local legislator
24 saying, If there are any more that you know of, let us

1 know, we'll add it to the list, and then it will be done.

2 Because we find the signage extremely
3 burdensome. And in the first few years of it it was okay.

4 But with the rampant neighborhood opposition, we just
5 find it kind of discriminatory against Multifamily
6 Affordable. If --

7 MR. JONES: So when they're mad that they
8 haven't been notified, they're going to be mad at us and
9 not at you all. Right?

10 MR. GARVIN: Exactly. Now, what we're looking
11 at --

12 MR. JONES: I mean, that's a big burden to be
13 shifting here, really.

14 MR. GARVIN: No. There would be more
15 notification, still. I mean, like someone mentioned
16 earlier, not everyone --

17 MR. JONES: But if somebody doesn't get
18 notified, I mean, I guarantee you, this department takes a
19 lot of black eyes.

20 MR. GARVIN: Oh, I sat here and watched it.

21 MR. JONES: And I guarantee you, you have just
22 created a monstrous black eye for us on numerous
23 occasions, because somebody is going to get notified, and
24 it's going to be the department, then, that's at fault.

1 Am I off base?

2 MR. SALINAS: There's nothing wrong with the
3 sign.

4 MS. CARRINGTON: Definitely is an issue and a
5 problem.

6 MR. JONES: Okay. Thank you. I just wanted to
7 point that out.

8 MR. GARVIN: Okay. We -- I agree. I've been
9 to these meetings. I agree with you, people when they
10 don't feel they're notified -- on that --

11 MR. JONES: I just think -- you've been part of
12 this department, John. And I think you know that we've
13 got a real hard job to do, and we stub our toes enough on
14 our own.

15 But to give us added responsibilities in
16 controversial areas -- boy, I find that is to being
17 something that, you know, I just hate to see this
18 department and this staff be subjected to that, because if
19 they don't get notice, and we create that kind of system,
20 where, oh, suddenly it's our responsibility to go to the
21 Legislature -- I mean, the legislators --

22 MR. GARVIN: With all due respect, that's not
23 what we're saying.

24 MR. JONES: Okay. Well --

1 MR. GARVIN: Right now the new statute says
2 TDHCA is required to notify neighborhood organizations on
3 record. And to make sure that you all didn't miss any of
4 these neighborhood organizations on record, you propose
5 doing the sign. Which makes sense. We're not saying it
6 doesn't make sense.

7 We do find, however, that it's not required of
8 single-family or conventional. So it is only against
9 multifamily housing, and we find just with the
10 neighborhood organizations here today saying can't you do
11 single-family housing? Okay. We hear that all the time.

12 I live in multifamily. It's not worse than
13 single-family housing. So we're saying to the staff --
14 and we do completely understand. We get that neighborhood
15 opposition, too. Is instead of doing the sign, make the
16 sign an option if you have to. I mean, I'm not expecting
17 things to be thrown at me just for even suggesting
18 otherwise.

19 But if you meet the letter of the law, the law
20 says --

21 MR. JONES: Well, John, let's be clear. Before
22 we leave that, okay, just because you're so much fun to
23 talk to.

24 MR. GARVIN: Yes, really, I'm just a --

1 MR. JONES: You know, we are compelled by the
2 Legislature, by various public officials to get out
3 notice. You agree with that, don't you?

4 MR. GARVIN: Uh-huh.

5 MR. JONES: I mean, there is no question about
6 that. In fact, you know, if we go through Sunset next
7 time and we're not doing that, you know, they're going to
8 hang us all. You know, not individually, collectively.
9 So that's a given. Right?

10 MR. GARVIN: Yes.

11 MR. JONES: Is it not true, I mean, if we're
12 just going to -- let's all be honest with each other, is
13 it not true the best way to get notice is the sign?

14 MR. GARVIN: I don't agree.

15 MR. JONES: You don't agree? And why not?

16 MR. GARVIN: I think that if you do a solid --
17 two neighborhood organizations that are on record, and you
18 do a solid notification of that in writing, there is a
19 chance they will read it and they're really look at it.
20 You can post it on your website if you have to.

21 But to put up a sign is inciting neighborhood
22 opposition. To give out proper notification is saying we
23 want a fair exchange. Not that we want to say, Watch out,
24 look what's coming here.

1 MR. JONES: But why is a sign inciting public
2 opposition? I mean, if -- you know, in my neighborhood,
3 we don't have an organization. My neighborhood has no
4 organization that I live in.

5 MR. GARVIN: Well, you'll be seeing a lot more
6 development up there.

7 MR. JONES: But if they're going to change the
8 zoning in my neighborhood, they put a sign on the lot.

9 MR. GARVIN: Right.

10 MR. JONES: It's been done that way in every
11 community across this state for hundreds of years. Why is
12 that inciting public opposition? I see signs in my
13 neighborhood concerning zoning, and I don't think they're
14 inciting me to oppose it. I really think they're trying
15 to just notify me so I can be for it if I want to, or
16 against it if I want to.

17 By why -- I mean, that conclusion that you just
18 made, that it incites public opposition -- I find no basis
19 for it.

20 MR. GARVIN: In our experience, from the
21 development industry, we do. And --

22 MR. JONES: But why? I mean --

23 MR. GARVIN: -- even with the notification --

24 MR. JONES: I mean, you know, you've got to

1 have a reason for that, John. I mean, there must be a
2 reason for that. Why the mere fact that you're actually
3 letting the public know what's going to go on that
4 particular piece of property, is that an incitement of
5 opposition?

6 MR. GARVIN: You'll be letting them know
7 through notification, anyway. A sign means anyone who
8 drives by can go, Oh, no, look what's coming.
9 Notification to the neighborhood organizations that
10 understand housing policy --

11 MR. CONINE: Yes. It's a jurisdictional issue.

12 MS. ANDERSON: And that -- and I would say, you
13 know -- and that's why --

14 MR. JONES: No, you know, John, you know --

15 MR. GARVIN: Are my three minutes up yet?

16 (Laughter. Applause.)

17 MR. JONES: Yes.

18 MR. GARVIN: Okay. Moving past the sign issue.

19 If you do -- on the alternate of the 1,000-foot deal, we
20 agree with a recommendation to do it as it mirrors the
21 local zoning ordinances, and where there is no zoning, 500
22 feet is what we recommend.

23 MS. ANDERSON: Did you say five or 500?

24 MS. CARRINGTON: Five hundred.

1 MR. GARVIN: Five hundred. Well, whichever you
2 choose. And just one other -- or a couple of things. But
3 for clarification, the Bond Review Board currently has
4 rules proposed that says TDHCA's deals will be exempt from
5 going unless they are CHDO deal.

6 And yes, the original rules had it -- stated
7 the exact same way. And then I noticed a change that said
8 now "The department conduit housing transactions that have
9 no impact to the state's general revenues shall be exempt
10 from approval by the Texas Bond Review Board, with the
11 exception of" -- it took out CHDO applications, and put in
12 "applications claiming a property tax exemption."

13 And it's not consistent with the rule that the
14 Bond Review Board is proposing. And when this whole PHA
15 exemption came up as you heard earlier, and where PHAs are
16 not used in determining the tax rolls as it relates to
17 school funding, we thought you should stay consistent,
18 because this is inconsistent with the rules being proposed
19 by the Bond Review Board. So just clarification.

20 MR. JONES: Now, let me give you some feedback,
21 okay, from the board, as we talk about these rules. I
22 know, and have heard developers tell me that one of the
23 things that's done is to try to fly under the radar
24 screen. And the later you get public opposition, the

1 better off you are.

2 You know, I have had that said to me to my face
3 before.

4 MR. GARVIN: Not many of my developers -- they
5 know it's a bad investment to --

6 MR. JONES: And that's -- so -- and I believe
7 that. I believe that, and I have great respect for you.
8 You know that. And I would just say this, though. To me,
9 the only reason I really question you on this point is I
10 don't think we're working together.

11 Because, you know, if we agree that
12 notification is important, then sometimes when I hear your
13 arguments in this area, it doesn't sound like you really
14 agree that notification is important. It sounds like
15 you're going back to the let's get under the radar screen.

16 And I would just encourage your organization,
17 and I encourage developers, let's work together on this
18 issue. But let's not pretend like we're working together
19 and say things to each other that just, you know, we know
20 better.

21 MR. GARVIN: And if I could, I agree with you.
22 No, you're not going to invest in a project -- I mean,
23 there was a deal -- that deal out in Katy that I wouldn't
24 let people rent a property from me there, because I'd be

1 afraid for their lives; the people are horrible.

2 And so I mean, good neighborhood notification
3 is fine, and neighborhood opposition is often valid.

4 MS. ANDERSON: Boy, John, I have to take
5 exception to that comment. And I'm not here to beat you
6 up. But one of those people that was a part of the
7 opposition there has also worked very constructively with
8 this agency for the last several months.

9 MR. GARVIN: And I've heard that, too, and I
10 know the person. They were fair. And some of our members
11 are on that same committee. So we do agree with the
12 neighborhood opposition. But some of it is beyond
13 control. It does have a mob mentality, and it's just --
14 we have to further affordable housing. And you can't do
15 it when 800 people come up thinking that you're going to
16 put in a bunch of criminals.

17 MR. JONES: And I agree with you. And I
18 stated, on the record, that I did not agree with that
19 premise. And I will state it on. That is, you don't
20 understand affordable housing if you believe that. That
21 wherever it goes, crime follows. That is wrong.

22 MS. ANDERSON: Right.

23 MR. JONES: There is no doubt in my mind that
24 that is wrong. But not having the best notification

1 possible is also wrong. And the bosses to this board
2 believe it's wrong, I believe.

3 When they talk to me, and when they take me on
4 the carpet like I'm taking you on the carpet, and I
5 apologize to you --

6 MR. GARVIN: I appreciate that.

7 MR. JONES: I wouldn't do it if I didn't really
8 like you and have so much respect for you, because I feel
9 like I can express it --

10 MR. GARVIN: I wish you liked me a little less.

11 MR. JONES: -- to you and get away with it.

12 MR. GARVIN: Typical attorney.

13 MR. JONES: But you know, our bosses to us, you
14 know, certainly have told us that.

15 MR. GARVIN: I've heard them too.

16 MR. JONES: And I think the public -- I mean,
17 if the people of the State of Texas are all our ultimate
18 bosses with regard to these tax dollars, and tax credits,
19 which I believe are tax dollars, too, then they're telling
20 us that too.

21 And I just think with either the developing
22 community as well as our board, as well as our department,
23 would be better off if we'd all get on the same page there
24 and say, Okay. Notification is important. Now, let's

1 really try to get it done, as opposed to putting all these
2 limits on notification.

3 Because I'm convinced that really, you're
4 better off if the opposition happens earlier, because we
5 have a chance to work with it, and we have a chance to
6 deal with it. And I would say this. To the extent
7 developers don't believe that, I think they're selling the
8 public short, because I think if we have time to work
9 together, we can get there.

10 MR. GARVIN: I agree with you. And the
11 majority of my membership also agrees with you. Proper
12 notification is a good business decision. I agree with
13 what Mr. Bogany was saying earlier, on -- that applicants
14 have to come here and defend their market studies and all
15 their underwriting and all of that, but neighborhoods can
16 come and say, Oh, we have 1,300 calls from that district,
17 that deal over there.

18 I think they should have to submit it earlier
19 so that they can be challenged by the applicant and make
20 it a fair playing field. We don't mean to intend that
21 we're against notification in its entirety. But we do
22 think that easing up on it couldn't hurt. We'll just
23 agree to disagree on that.

24 And then only my last deal on this was the --

1 and Representative Jones did a bill, and this is on the
2 Real Estate Analysis thing, which you're not up to yet,
3 but I think I might sit down after this one -- there was a
4 Bill 264. It had Senator West's bill rolled into it on
5 the one-linear mile concentration.

6 And we worked very hard to get both those bills
7 amended, both the House bill and the Senate bill amended
8 to say you can distinguish between family and elderly
9 within that one-mile radius. Well, it didn't get rolled
10 into Senate Bill 264, but Representative Jones got his
11 bill continued with it, and got it signed by the Governor
12 after Senate Bill 264.

13 So we'd like to ask the department to research
14 that and see if you can -- if because it was signed after
15 the 264 by the Governor, if it doesn't mean that you can
16 distinguish between family and elderly when you're doing
17 your concentration analysis.

18 MR. CONINE: Meaning the one-mile exemption
19 would be -- would go away when you're doing two different
20 product types? Is that what you mean?

21 MR. GARVIN: Right. You wouldn't consider
22 elderly in the --

23 MR. CONINE: Okay.

24 MR. GARVIN: Any more questions?

1 MR. SALINAS: I just don't think that -- you
2 know, the more publications we have the better for the
3 community. I don't know. I think you're safer, and
4 people get outraged when they don't get notified.

5 I mean, I would feel -- if I want to do a good
6 project, I won't feel proud and just go ahead and put
7 aside that I'm going to do a project there for the
8 neighborhood.

9 MR. GARVIN: And you can do a sign saying the
10 best thing on earth is coming here, too. I mean, there is
11 no --

12 MR. SALINAS: The Katy -- the Katy deal was a
13 learning experience for this whole board and this whole
14 state. We almost lost the agency because of that, because
15 the state representative from Katy -- what's his name?

16 MR. GARVIN: Callegari -- Senator Callegari.

17 MR. SALINAS: Yes. You know, we had gotten 12
18 years from the Senate. And then we almost got only two
19 because of him. And you know, all we had to do was to --
20 just to have a little bit of common sense.

21 We went ahead, and thank God this board decided
22 to go ahead and stop that project, because we would have
23 lost the agency because of that project. There were 1,600
24 people against that project.

1 MR. GARVIN: I was at that hearing.

2 MR. SALINAS: Not one in favor. Now, what's
3 wrong with having public input?

4 MR. GARVIN: We -- I supported the public
5 input.

6 MR. SALINAS: You know, this is what the
7 community is all about. This is about elections and
8 having public officials. I mean, there is nothing wrong
9 with having information up front for people to go ahead
10 and look at. And --

11 MS. ANDERSON: And I think we've -- I'll brag
12 on us for a minute. I mean, I think this board
13 demonstrates repeatedly, you know, its ability to sift
14 through what it hears from both sides, you know, and make
15 a fair decision.

16 MR. GARVIN: I'd just like to announce TAP is
17 having a new business that will do a signage for anyone
18 that's interested.

19 MS. ANDERSON: Now, we have the other in
20 McKinney, you know. And McKinney's project -- we voted in
21 favor it. You've got -- it got stopped at the Bond Review
22 Board. And it was a good project.

23 MR. GARVIN: And we believe this was extremely
24 fair [inaudible]. I'm not saying that.

1 MS. ANDERSON: Nobody would leave the room.

2 MR. JONES: John, thank you so much for coming.

3 MR. CONINE: Is that all the public comment?

4 MR. JONES: That's all we've got on public
5 comment.

6 MS. ANDERSON: Any more public comment, Mr.
7 Chairman?

8 MR. GONZALEZ: Nobody wants to comment anymore.

9 MS. CARRINGTON: They're afraid to come up
10 here. For the board's information, the copy of the
11 Proposed Emergency Multifamily Bond Rules that you have in
12 front of you today has been black-lined against the copy
13 of the draft rules that you had at the July board meeting.

14 That was the board meeting that you did ask us
15 to table those rules so that we could take some public
16 input, and you all could have an opportunity to take a
17 look at them.

18 We did have two public meetings, where we had
19 probably 35 folks at one, and maybe 20 to 25 people at the
20 second public meeting. So we did take public input, and
21 have made some amendments and changes based on those
22 comments. And as I said, the copy that you have today is
23 black-lined against what you saw in your board book on the
24 30th of July.

1 With that said, if I can make a couple of
2 comments. One of the changes -- one of the amendments
3 that I did want to read into the record is on page 11.
4 John has already referred to this. It is at the top of
5 the page in that first paragraph, that first full
6 paragraph. And it begins one, two, three -- fourth line
7 down.

8 It says, "The department's" and it would strike
9 conduit housing. Where it would read, "the department's
10 transactions will be processed in accordance with the
11 Texas Bond Review Board's rules." And so that is --
12 because Bond Review Board has not approved those rules.
13 And so our language, obviously, and of course, will track
14 and be in accordance with the requirements of the Bond
15 Review Board. If I can make four comments.

16 MR. JONES: Please do.

17 MS. CARRINGTON: Okay. One of the changes that
18 you will also see in these proposed rules is an option, as
19 opposed to the signage requirement. We are proposing to
20 give the developers an option. And that option would
21 be -- and this is on page 7, this addresses the -- it
22 says, "The final application and supporting material will
23 consist of the following information."

24 So one, the first part of Number One of the

1 requirement is this public notification sign. We had even
2 gone so far in the back of these rules to give a sample of
3 the sign along with size and lettering and what the
4 requirements are.

5 Based on comment that we have heard, we have
6 come up with an alternative that says that the developer
7 will mail written notification to all addresses located
8 within 1,000 feet of any part of the proposed development
9 site.

10 Let me say that we had comments from the clerk
11 of the Urban Affairs Committee, who said to us that the
12 language on the signage that we were proposing was not a
13 part of what the legislative intent or the legislative
14 requirements were. And that at least as far as Chairman
15 Talton was concerned, that he was absolutely opposed to
16 the signage requirement being included in our rules.

17 So with that comment from someone who was very
18 intricately involved in this happening, we thought perhaps
19 giving an option was one of the things that we might want
20 to do.

21 MR. SALINAS: What does that -- what does the
22 bill say?

23 MS. ANDERSON: Silent.

24 MS. CARRINGTON: It's silent on signage.

1 MR. JONES: The bill doesn't say you have to do
2 signage. So the opinion is that since it doesn't say
3 they'd have to, that what that means is they shouldn't be
4 required to.

5 MS. CARRINGTON: And what we are currently
6 doing, Mayor, with our bond program, is that it's an
7 option for the developers to put the signs up. And for
8 the most part, Robbie, I think they are putting signs on
9 the property. So right now it's an option.

10 What this would be would be a requirement.
11 Certainly there is one of the things I know, and as I read
12 the public -- as I read the transcripts of the three TEFRA
13 hearings last weekend, we receive criticism either way.

14 MS. ANDERSON: Right.

15 MS. CARRINGTON: Because what you saw in the
16 TEFRA hearing transcripts were people saying, Well, the
17 sign was behind a tree. Or the sign was too small for me
18 to read. Or I don't drive down that road. I drive the
19 next road over. So I didn't know there was a sign up.

20 And so I think what the department knows is
21 that there is no perfect way. That there is no perfect
22 notification.

23 MR. SALINAS: Won't they -- won't the people
24 get notified by their own planning and zoning people and

1 the city?

2 MS. CARRINGTON: Uh-uh.

3 MR. SALINAS: Or businesses --

4 MS. CARRINGTON: Not if the property is already
5 zoned. And --

6 MR. SALINAS: If the property is already zoned,
7 then you don't have any problems.

8 MS. ANDERSON: Well, if -- you still have
9 neighborhood concerns about it.

10 MR. SALINAS: Then you don't need no signs. If
11 you don't even have --

12 MS. ANDERSON: But you're going to notify the
13 neighbor --

14 MR. SALINAS: -- zoning, I mean, you have no
15 signs. I mean, you're talking about the Houston problem.

16 MS. ANDERSON: Is there neighbor --

17 MR. SALINAS: Houston was -- would always have
18 this problem. I think you need signs in Houston. Maybe
19 three signs on every project so people would be notified,
20 because I don't think we have the problem in the rest of
21 the state.

22 Everybody knows their zoning. Everybody has
23 their elected officials. I'm sure that if you want to do
24 a project like this in Houston -- I mean, in Dallas,

1 Texas, I mean, you've got to go through your local
2 planning and zoning.

3 MS. ANDERSON: Well, what --

4 MR. SALINAS: And your zoning -- I mean, they
5 will go ahead and notify the people of what's coming down
6 to their neighborhoods. The problem is where you just
7 don't have the zoning.

8 MS. CARRINGTON: We have certainly seen
9 neighborhood opposition on property that was zoned
10 multifamily.

11 MR. SALINAS: Yes, but that would be entirely
12 up to the city council and the city mayor and the elected
13 officials, that if they wanted to get themselves reelected
14 again, they're just going to have to work their way with
15 the public that is opposing that certain project. I don't
16 think we have anything to do with it.

17 I mean, if you have a zone, the developers go
18 and buy a piece of property for a certain project, and
19 they go and find if it's zoned right. That's why you buy
20 it. If it's not zoned the right way, then you buy it with
21 an option until you get it zoned. You just don't buy a
22 piece of property just thinking that you're just going to
23 get it zoned. Right, Conine?

24 MR. CONINE: It's difficult to go get a

1 landowner to allow you to rezone his property, especially
2 if it's going, say, from commercial to multifamily or --

3 MR. SALINAS: Exactly.

4 MR. CONINE: -- single-family to multifamily
5 without having actually owned the property. So I think
6 it's the -- it's just hard to do that.

7 We're asking them to try to do that through P&Z
8 in our regulations and get it to that point so that it's
9 not official until the actual city council passes the
10 zoning. But at least we know that P&Z has approved it,
11 and there is a pretty likely -- good likelihood that city
12 council will approve it once P&Z is done.

13 MR. SALINAS: Yes.

14 MS. ANDERSON: I think we've seen more
15 community opposition on 4 percents, and most of those
16 come -- I mean, unless they're in Houston or Victoria -- I
17 mean, they come to us already -- pretty much zoned right
18 in the 4 percents.

19 I'm sorry. This is a dumb question. I just
20 get all these terms confused. But in the 4 percent bond,
21 is the developer notifying neighborhood associations? Or
22 is the agency notifying neighborhood associations? Or
23 is -- or are they only notifying elected officials?

24 MS. BOSTON: Because the requirement of

1 associated -- well, it is a requirement for the bond. But
2 because there is 4 percent credits on both programs --

3 MS. ANDERSON: Right. Four/nine.

4 MS. BOSTON: Right. Because there is credits
5 on both fields, the threshold for the credit program and
6 QAP applies to all. That requirement is two things. One,
7 they notify neighborhoods and elected officials. And then
8 when it comes here, again, TDHCA notifies neighborhood
9 organizations and elected officials again.

10 MS. ANDERSON: On both kinds of deals. So
11 really the notification is not just signage or letter.
12 It's signage or letter, plus the developer sends a letter,
13 plus we send a letter to affected neighborhood -- so the
14 black hole is if there is no neighborhood association to
15 send a letter to -- I mean, the gap -- the potential --

16 MR. CONINE: No. I think the applicant may --
17 the way I read this language, if you read the last
18 sentence of paragraph 1, it says an applicant chooses to
19 provide the mail service. We're not going to be mailing
20 all these people. Surely no.

21 MS. ANDERSON: No, I --

22 MS. BOSTON: Correct. And I -- when I said
23 notification, I meant a specific list. And I'm sorry. I
24 should have been more clear.

1 MS. ANDERSON: To the neighborhood
2 associations. I'm just trying to make sure -- see,
3 just -- I'm just -- all I'm saying is there is another
4 avenue of notification to -- if there is a neighborhood
5 association, both the developer has to mail to them, and
6 then we have to mail to them. So we're not just relying
7 on a signage and the letters within 1,000 feet.

8 We have this additional -- as long as there is
9 a neighborhood association, we have that additional avenue
10 of reaching the public.

11 MR. SALINAS: Well, how about the
12 municipalities? Where do they get involved in this?

13 MS. BOSTON: They also are notified by the
14 applicant and the agency.

15 MS. ANDERSON: Yes.

16 MS. CARRINGTON: Two different times, both the
17 local elected officials, and also the state senator and
18 the state representative that the development would be
19 located in.

20 MR. SALINAS: My argument there is if a local
21 municipality says, No, you're not going to -- I don't care
22 how many credits you get, you're ont going to get it done.

23 If a local Planning and Zoning does not approve the
24 zonings, and the city council does not approve the

1 project, it's a no. You can have 20 signs. It's not
2 going to happen.

3 The developer needs to be working closely with
4 the community, and of course, their city elected officials
5 in Planning and Zoning before they even apply for tax
6 credits, I would think.

7 MS. BOSTON: Yes. And I think that's just --
8 the key is what you said, is the timing, you know, because
9 as Mr. Conine said, some of these folks just don't have
10 the zoning change at the time they apply. This way you're
11 getting to notify the neighborhood before the zoning
12 change.

13 MR. SALINAS: Before you even apply for some
14 tax credits. I would think that -- I would do that if I
15 was in the business.

16 MS. CARRINGTON: One other comment I might make
17 on signage is that from our public input group that we put
18 together, they felt very, very strongly about
19 continuing -- or making the signage a requirement, as
20 opposed to an option, making it a requirement.

21 So we have heard from a variety of sources,
22 with a variety of differing opinions on this notification
23 topic.

24 MR. BOGANY: Ms. Carrington, I have a quick

1 question. Does the signage have to adopt this black-and-
2 white form, like the one I saw the other day? Or can it
3 be a picture of a nice family holding his kids and a --

4 MR. SALINAS: That will be a four-by-eight.

5 MR. BOGANY: It can be four-by-eight. But does
6 it say that it has to be black-and-white writing like
7 this? Or it could be a picture of a family, just saying a
8 housing credit program is coming to town?

9 MS. CARRINGTON: At least what we have proposed
10 is very prescriptive with a lot of information about the
11 development. But no pictures.

12 MR. JONES: But couldn't it be added -- I mean,
13 what -- what he means -- but couldn't it be added
14 optionally? I mean, as long as you include our basics, I
15 think you can put anything else on the sign you want to.
16 Isn't that true?

17 MS. BOSTON: Definitely.

18 MR. JONES: I mean, the sign can become an
19 advertisement for the new community. And by the way, I
20 also include this. I mean, most advertisement have
21 prescribed language in it that's required by some
22 statute, but they're still advertisements, so you can
23 certainly do that.

24 MR. BOGANY: Well, that's my point, is that I'm

1 driving by and I see a sign with a bunch of real small
2 writing there. I'll just assume that it's going to be a
3 Low Income Housing Tax Credit. And --

4 MR. CONINE: Does it have to look like this?
5 Are we saying it has to look like this?

6 MS. CARRINGTON: We were attempting to give
7 some guidance.

8 MR. BOGANY: Well, I would like to be able to
9 option that, if the developer wanted to be -- to put that
10 nice project that he is doing, and then have below,
11 meeting notice and all of that. They should have that
12 option, to be able to make it look a little bit more
13 invitational, versus a public notice that something's
14 wrong.

15 MR. CONINE: This is pretty explicit. It says
16 five-inch -- tell me what we've got. Do we have this? Is
17 this what we have? Where it has five-inch letters, four-
18 inch letters, two-inch letters? That's what we have.

19 MS. BOSTON: Right. As a minimum.

20 MR. JONES: As a minimum?

21 MS. BOSTON: That's -- I mean, at least it has
22 to have that information.

23 MS. CARRINGTON: With that sign, the idea being
24 we wanted it large enough somebody driving by at 30 miles

1 an hour could read the sign.

2 MR. CONINE: Ms. Carrington, as you said
3 earlier in one of these other topics, we need a little
4 more flexibility here, because you can't do this and still
5 make a pretty picture with the family holding the baby
6 like he's wanting to get done.

7 MS. BOSTON: Keep in mind, though, that that
8 sign is still meeting a TEFRA requirement, and it is
9 notifying about the hearing. So some of that information,
10 no matter how cute they make it, has to be there.

11 MR. JONES: But why can't that sign there be
12 part of another sign? I mean, you know --

13 MR. BOGANY: I just think the -- if it's a
14 four-by-eight sign, you can do a whole lot with a four-by-
15 eight sign. And I'm just thinking that it should give the
16 developer an opportunity to use that as advertisement for
17 new families that might want to lease it. Might also give
18 public notice. It should say several things that they
19 want the option.

20 They want to do writing like this, great. But
21 if they want to do a picture of a family or the project
22 itself, or a floor plan or something, or a schematic of
23 the site plan, they should have that opportunity to be
24 able to do that and not be looking like this if they want

1 to choose it. I just think they ought to have that
2 flexibility.

3 MS. BOSTON: We'll definitely put at a minimum.
4 And then that way they can go above and beyond as much as
5 they like.

6 MR. BOGANY: Okay, because it's a sales job.
7 And it starts with that sign.

8 MR. SALINAS: I really don't think we need
9 signs in South Texas or anywhere else. I think you all
10 need them in Houston. But not where we control -- and I'm
11 speaking on behalf of the cities -- I think we control
12 zoning and I think we control almost everything that has
13 to do with our ETJs, you know.

14 And signs or not won't make a difference, you
15 know, but I can understand somewhere where you don't have
16 any control of zoning, then you might want to need some
17 signs.

18 MR. JONES: But I do think the law is that
19 they -- there is notification, the public is entitled to
20 notification if it's a Tax Credit deal, even if zoning is
21 appropriate. I mean, under the laws as it is written in
22 the United States of America and the State of Texas that
23 we're abiding by, I as a public member, even if it's
24 within zoning, am entitled to notification.

1 MR. SALINAS: We -- you have a public
2 notification in your local newspapers. You have public
3 hearings in your city halls, two or three public hearings
4 on those issues. By the time it gets to the city council,
5 by the time it gets -- it's supposed to get here, we're
6 supposed to have that thing squared away. And fine, if
7 you all want to put a sign, that's fine.

8 But what I'm saying is the local developer, or
9 whoever is going to build these local projects, should
10 have that worked out by the time he gets here. Now we're
11 trying to dictate, say, Well, he put up a sign over there
12 because in case the cities and those people are not doing
13 their job. Fine.

14 Let's go ahead and put up a sign. I don't have
15 a problem with that. But what I'm saying is I think most
16 of the cities in the State of Texas are controlling their
17 designation in their own cities.

18 And they do their zonings. They do the
19 publications in the local newspapers, and they do public
20 hearings in their city halls, and they make developers go
21 and communicate with their neighborhoods.

22 I don't see -- but if this is what we have to
23 do in certain areas, well, let's do it.

24 MR. CONINE: Are you finished with your

1 presentation?

2 MS. CARRINGTON: Yes, sir.

3 MR. CONINE: I want to move we get this thing
4 on the floor to a discussion for approval.

5 MS. ANDERSON: Second.

6 MR. JONES: Okay. Motion's been made that it
7 be approved for publication and seconded.

8 MR. CONINE: Can we make the change -- well,
9 first off, let me ask a question. Did the -- are all the
10 definitions that we went through in the QAP and the
11 Housing Trust Fund, the HOME awards -- are they consistent
12 with the definitions here now?

13 MS. CARRINGTON: Yes, sir.

14 MR. CONINE: Okay. Can we modify, then, this
15 document to take up the notification footage issue, so
16 that we refer to the local municipality or 1,000 feet,
17 whichever comes in? And make sure that change gets made,
18 consistent with the previous documents.

19 And also the bedroom percentages in this
20 document anywhere? Or is it just in the QAP? Oh, we took
21 care of that issue. All right.

22 I'd like to hear some staff comment on Ms.
23 McIver's testimony relative to leveling the field for
24 acquisition rehab and elderly.

1 MS. BOSTON: I think she has excellent points.

2 MR. CONINE: I thought she did too. So we need
3 to go over to the scoring section, probably on -- well,
4 first, the acquisition rehab, 47 to \$61 square-foot cost
5 issue. Is it better to throw in the acquisition cost, as
6 she suggested? Or would it be better to just exempt
7 acquisition rehab from that particular number?

8 MS. BOSTON: Robbie, do you have a second? Or
9 Robert? I mean --

10 MR. ONION: To exempt it for an acquisition
11 rehab.

12 MR. CONINE: Okay.

13 MS. CARRINGTON: So in other words, they just
14 get the points.

15 MR. ONION: We were referring to new
16 construction points.

17 MR. CONINE: So we need to add some language,
18 then? Is that okay with everybody that we add some
19 language for that?

20 Now, on the double points for -- well, the five
21 points on the size issue, and since the size has already
22 been determined on an acquisition rehab, should that --
23 that should be an automatic, in your viewpoint, or in her
24 viewpoint. Do you agree with that?

1 MS. BOSTON: I agree. And you wouldn't want to
2 make them ineligible. So yes, it -- that definitely will
3 level the playing field.

4 MR. CONINE: Okay. And she suggested some
5 different amenities, I think, for -- she left shuffleboard
6 out, which I can't believe.

7 MS. CARRINGTON: And horseshoes.

8 MR. CONINE: Horseshoes, and a few others --
9 dominoes and a few others. But she had suggested and made
10 some specific suggestions. And I don't know whether staff
11 could maybe think of a few more, or you know, the board
12 can think, if you want to issue some more thought here on
13 it, the board can issue some more thought. But I thought
14 they were good suggestions.

15 MS. ANDERSON: Yes. She said t.v. lounge and
16 you know, a walking trail. I thought that was --

17 MR. CONINE: Right.

18 MS. CARRINGTON: And library.

19 MS. CARRINGTON: Library.

20 MS. BOSTON: That's fine. We --

21 MR. CONINE: Okay.

22 MS. ANDERSON: You know, they all -- no, I
23 guess those all have the same amount. Or it depends where
24 you put them. You need -- you know, because your

1 amenities have different points.

2 So like, playground and equipment, or walking
3 trail, or something, will get three points. You have to
4 spread them out -- you have to sort of spread them out so
5 that --

6 MS. CARRINGTON: Game room, t.v. lounge.

7 MS. ANDERSON: Right. Right.

8 MR. CONINE: I'm going to go over to the
9 scoring criteria sheet for just a minute. On the points
10 or the differentiation of points as to the deferred
11 developer fee, can you tell me the motivation there for
12 rewarding projects that -- let's say they're costly and
13 have to defer a lot, versus those that aren't too costly
14 and don't have to defer a lot?

15 MS. BOSTON: I will let Robert explain that to
16 you.

17 MR. CONINE: Okay. Great.

18 MR. ONION: Yes, sir. What we were trying to
19 accomplish by the scoring system and the deferred
20 developer's fee is to link the best, feasible deals first.

21 And certainly, the amount of deferred developer's fee is
22 an indication of how feasible it is.

23 We feel like we've plugged all of the necessary
24 holes that can be used to kind of skew that. And so as we

1 rank this at a snapshot picture of it, that those that
2 have the least amount of deferred developer's fee is the
3 most feasible at this point in time.

4 Obviously, to borrow a phrase from you, bond
5 transactions are very fluid, and we realize that we're
6 going to have an interest rate -- Excuse me, not interest
7 rate, but rental increase, possibly, the following year.
8 And so the transaction will change. Hopefully it will get
9 better.

10 However, in looking at these preapplications,
11 in most cases the numbers are as good as they're going to
12 get at preapplication stage. And they may even -- and
13 become less feasible as a transaction goes on, and the
14 numbers are firmed up.

15 MR. CONINE: I guess my concern is that again,
16 I'm thinking of high-cost urban projects, primarily, that
17 would logically cost more. Maybe an acquisition rehab,
18 for instance, that may cost more, where it's in an area of
19 town that you really need some affordable housing, and the
20 developer is willing to defer some of his fee in order to
21 make it on par with everybody else, but he can't get there
22 because the scoring is just as penalizing.

23 Once you defer a developer fee, no matter
24 whether it's 50 percent or 70 percent, it's equal in your

1 eyes as to feasibility. One is not more feasible than the
2 other.

3 Land costs may be a reason for the increased
4 deferred developer fee. If you're in a high land cost
5 area, then you're in essence, being penalized. And I just
6 have a hard time with once you level it by deferring a fee
7 and making all projects financially feasible at that
8 point, having nine-point differential being awarded in
9 such a narrow band of 50 to 80 percent.

10 MR. ONION: Well, it is true that it -- this is
11 our first attempt at scoring. And certainly, we would --
12 along with the expenses and some of the things that we're
13 pegging, we're not being able to actually underwrite each
14 of the particular transactions. But what we did try to do
15 is to treat everybody equally across the board.

16 And hopefully, if that's done across the board,
17 then our methodology will still hold true, that these
18 transactions that have less deferral are more feasible,
19 and we want those to go first.

20 MR. CONINE: They're not more feasible. I
21 disagree with that statement. What they are is they cost
22 less. They don't have anything to do with feasibility.
23 Cost has nothing to do with feasibility.

24 The ultimate income and expense and how you

1 service the debt on that has to do with feasibility. So
2 you're using a little different word, I think, than what
3 you mean.

4 MR. ONION: Again, we take the debt coverage
5 ratio at exactly 1.1 on each of the transactions.

6 MR. CONINE: Right.

7 MR. ONION: We use the same expenses. We treat
8 everybody the same. I realize there is variations to
9 that, and there may be some higher cost land. We do
10 realize that once you get over 5,500 a unit, just based on
11 the bond transactions, it becomes a high-cost land that
12 would not work for a bond transaction. So --

13 MR. CONINE: Well, that's what I'm trying to
14 prevent here. If you get rid of the deferred developer
15 fee point scoring, then a project in the middle of
16 downtown Houston might work, because you don't have
17 someone in exurban Houston getting nine points for having
18 less deferred fee.

19 And I don't think that has anything to do with
20 feasibility. The only thing it just has to do with cost.

21 MR. ONION: Well, you know, obviously if the
22 developer's fee -- there is a larger percentage that is
23 deferred going in at the preapplication. Usually the
24 indication is is that number doesn't get any better. It

1 gets worse.

2 And then the third-party lenders and equity
3 providers see that as a risky transaction, and so
4 financing is just not feasible for the project. So the
5 department is trying to weed out the best.

6 MR. CONINE: But that's a separate issue.
7 That's a separate -- we can approve it and they can turn
8 it down, and it will come back to us. Okay? If that's
9 the way it is.

10 What are we doing in 9 percent round? Do we
11 score on deferred developer fee or not? So why are we
12 doing it in this at all?

13 MR. ONION: Well, usually in the 9 percent, the
14 equity portion is much larger than it is on the bond side.
15 And so the amount of deferred developer fee is much
16 smaller in relation to a bond transaction.

17 That's why it's so sensitive on the amount of
18 the deferred developer's fee. And if we say that it's
19 over 80 percent, even at the preapplication stage, we say
20 that it does not meet our requirements -- our threshold.
21 And therefore, we'll not consider it for an inducement.

22 MR. CONINE: Well, that's a difference, and I
23 might agree with that particular threshold requirement,
24 that anything over 80 percent just gets kicked out.

1 But to score points for something less than 80
2 percent -- I think it does a disservice in some
3 circumstances. And I would recommend that we take that
4 particular part of the scoring system out of it. I just
5 don't see it as a matter that affects whether or not a
6 project wins or loses on a scoring criteria. I think --

7 MS. ANDERSON: It's not they're going to get
8 kicked out. I don't want to -- Brooke did a good job of
9 explaining this to me last week on the phone, because I
10 had the same sort of like, what is all this?

11 Because we're in a -- it's not like they get
12 kicked out if they have fewer points. They just might be
13 a June deal and not a February deal. But they'll be later
14 on the list because we have to match the high-scoring deal
15 to the first number on the ping-pong ball.

16 MR. CONINE: And that's my point, Beth, is why
17 are we punishing them? What's the purpose of the punish,
18 if you have leveled the playing field on financial
19 feasibility, which is the issue here?

20 MS. ANDERSON: Yes, I guess what worked for
21 me -- I bought the argument that if it starts out on
22 October 2 with, you know, 50 percent deferred fees, or
23 70 -- that number is not likely to go anywhere except
24 north. It gets based on your all's experience, that

1 number gets worse.

2 MR. CONINE: In a downward interest rate
3 market, you're going to say it goes north? I don't agree
4 with that assumption. Just because we're currently -- for
5 the next year it looks like we may be in an upward
6 interest rate environment. But it doesn't necessarily
7 hold true.

8 MR. ONION: However, certainly at the
9 preapplication stage they may not know exactly what the
10 construction number is, the cost to build.

11 MR. CONINE: Right.

12 MR. ONION: They will not know that the
13 property may need some additional engineering work, which
14 will drive up the cost of the land --

15 MR. CONINE: Right.

16 MR. ONION: -- which would make it less
17 feasible. They certainly do not know whether or not they
18 will get a bump in the rental --

19 MR. CONINE: But what do we pick up as a
20 department? We don't pick up financial feasibility
21 increases, because once they've deferred, they've already
22 deferred, whether it's 50 or 80. Why are we scoring
23 points for that? What are we gaining?

24 MR. ONION: By ranking what we perceive to be

1 the most feasible transactions first, and leaving the ones
2 that are below that on the waiting list. Giving more of
3 an opportunity to close transactions sooner in the year,
4 rather than cycling through all of the priority ones to
5 get to priority-two deals, which are more economically
6 feasible.

7 MR. CONINE: Well, you're making the assumption
8 that they're economically feasible, and I'm arguing that
9 assumption. I say -- I'm saying that you, by deferring
10 whatever portion it takes to get there, you then leveled
11 out the 50s and the 80s. They're both financially
12 feasible at that point, equally.

13 MR. ONION: And correct. And I would think
14 that the one that is 50 or below has a better chance of
15 absorbing any changes in the numbers as they go along with
16 the feasibility of the project, versus one that is close
17 to 80, which will then get to the point where it is no
18 longer feasible and cannot be financed by third-party
19 lenders.

20 MR. CONINE: Well, I think my defense is of
21 urban and rural projects. We always say it's hard to do
22 rural in bond deals. If a guy wants to defer 80 percent
23 of his fee to get a rural deal done in Texas in a bond
24 deal, he's not going to get it if he's not awarded ten

1 points.

2 If he only gets one point against one in an
3 exurban deal that's a 50-percent deferral.

4 MR. ONION: And the difference is in bond --

5 MR. CONINE: Now, I just don't understand the
6 logic here.

7 MR. ONION: The difference then is bond
8 transactions. If the area median income isn't near 45 to
9 47,000 average area median income, a bond transaction
10 doesn't work. It doesn't make any difference whether it's
11 priority one or priority two.

12 San Antonio is a very good example where you're
13 sitting on the fence, where because the area median income
14 is 45 to 47, that without some additional subsidy, it's
15 extremely difficult to get anything done. And so that's
16 why other areas of the state that are below 45 --

17 MR. CONINE: I'm not -- you're switching to
18 feasibility, and I'm talking points. Two different
19 subjects, totally.

20 MR. ONION: I -- again, I think the point
21 system is encouraging those transactions, which I think
22 are stronger and have a better chance of getting closed.
23 And I think that's part of our process, in looking at the
24 scoring and doing any preliminary underwriting, is that we

1 want to make sure that if they do receive a reservation,
2 that they have a likely chance that that reservation will
3 turn into affordable housing.

4 MR. CONINE: I'm going to have to disagree.
5 And I recommend -- again, I think we're punishing the
6 urban deals and the rural deals for the bond program. And
7 I recommend we remove the points totally for this deferred
8 developer fee.

9 MS. ANDERSON: Could I just ask a question?

10 MR. CONINE: Sure.

11 MS. ANDERSON: If we take these points out -- I
12 mean, this is like -- I mean, Kent is right. There is a
13 huge swing in the points, one, five and ten. Do we have
14 enough variability in the rest of the scoring criteria
15 that when you take your, you know, 60 applications, and
16 you rank them all in October, that you're going to get
17 enough variation in your scoring, and you're going to get
18 30 applications, and they all have the -- you know, they
19 all score 78? Do you understand what I'm trying to ask
20 you?

21 MR. ONION: I think there will be enough
22 variations. Certainly the public support and opposition,
23 which is new now for the scoring, will provide that.
24 Again, previous to this, before we had even a point

1 system, we strictly just used anything over 80 percent
2 deferred developer's fee was kicked out, and we allowed
3 all the other transactions to go in and just compete and
4 see if the transaction could get done through the
5 reservation period of 140 days.

6 MR. CONINE: Which is what we'd be getting back
7 to under my proposal.

8 MS. ANDERSON: But we're still scoring them,
9 just not on amount.

10 MR. CONINE: Yes.

11 MS. ANDERSON: We're still coming out in a
12 certain order, but just not at the --

13 MR. CONINE: The 80 percent kick-out on
14 threshold I don't have a problem with, but --

15 MR. ONION: We sure have to kiss a lot of toads
16 before we get affordable housing on the ground.

17 MR. CONINE: I'm not going to comment on that.

18 MS. ANDERSON: Well, and it -- okay. So right
19 now you only kick out the 80s and above. And so we induce
20 everything, and of the -- I don't know. I mean, let's
21 just take this year as an example. Starting in January up
22 through today, I don't know how many we've approved, but
23 is it 2X, if we've approved X, have you worked through 2X?
24 Or --

1 MR. ONION: To give you an example on the
2 priority one for the prior year, we had 29 priority one
3 transactions --

4 MS. ANDERSON: Right.

5 MR. ONION: -- and we were able to get three to
6 close. So our hit ratio on priority ones has been --

7 MS. ANDERSON: How many came to the board? I
8 mean, we probably killed a couple of those.

9 MR. ONION: Yes. I'd have to go back and see
10 how many of those. But there were a lot of them that just
11 simply did not --

12 MS. ANDERSON: We didn't -- but we didn't kill
13 26 of them.

14 MR. ONION: -- work as a result of not being
15 feasible.

16 MS. ANDERSON: Okay.

17 MR. ONION: And at 100 percent at 50, which of
18 course now has changed, priority one transactions really
19 don't work in Houston unless you have some additional
20 subsidy.

21 So that left -- that's why you've been seeing a
22 concentration of projects in Dallas, because their area
23 median income is higher. Houston is just barely you can
24 make it work. And of course, Austin I think has its own

1 unique problems.

2 MR. BOGANY: So if we did what Mr. Conine
3 suggested we do, the advantage is to the developer or is
4 it to the agency or to the project? If we removed what he
5 suggested on deferred fees, and removed that like we used
6 to do it, my question is, who is the advantage to?

7 Is it the urban? Is it the rural? Who has an
8 advantage? So is it any harm in moving that out?

9 MR. ONION: I don't think rural really even
10 comes into the picture just because of the area median
11 income --

12 MR. BOGANY: Okay.

13 MR. ONION: -- and what works and -- with bonds
14 or not. So it's just we will have to work through more
15 transactions in order to get affordable housing on the
16 ground. And we certainly have done that in the past.
17 We've done a very good job and still met our goals.

18 MR. BOGANY: So it's no work for you, then, if
19 we remove that?

20 MR. ONION: I'm flexible. It will work either
21 way. One, I think, rewards those that have tighter
22 numbers, that look like better transactions.

23 MR. CONINE: Right. It gives rural Texas a
24 shot; just a shot. It doesn't automatically run them out.

1 MR. BOGANY: Okay.

2 MS. ANDERSON: Was there any public comment at
3 either one of the developer forums about this topic?

4 MR. ONION: No, ma'am. Not that I'm aware of.

5 MR. CONINE: Well, there was some. Yes, there
6 was in one of those transactions that I read. It was
7 either a Friday morning or a Monday morning, there was
8 some comment about it.

9 MR. ONION: If -- could you refresh my memory?
10 I don't recall.

11 MR. CONINE: Well --

12 MS. ANDERSON: Well, I remember Mr. Fisher
13 talking about don't sort of -- underwrite it enough that
14 you know, don't try to shortcut your underwriting in your
15 preapp stage, where you might unnecessarily paint some
16 people out.

17 That we kind of end up weeding -- we run the
18 risk -- and I don't know if it was this -- if it was the
19 developer fee, or what it was that he thought we might be
20 weeding too many things out, kind of up front. Okay.
21 Yes.

22 MS. CARRINGTON: And we also had a discussion
23 about how our scoring criteria was, as Diana McIver has
24 talked about on elderly, that we had scoring criteria that

1 might be discouraging or providing lower points for more
2 rural transactions. And we did do some adjustments based
3 on those comments.

4 MR. BOGANY: Mr. Chairman, do you have a motion
5 on the floor?

6 MR. JONES: We have a motion on the floor, but
7 it's going to get kind of confusing.

8 MS. CARRINGTON: Do we have to --

9 MR. JONES: The motion we have on the floor is
10 that they be approved as presented.

11 MR. CONINE: Well, I move to amend the motion,
12 then.

13 MR. JONES: Well, just wait a second. And then
14 Kent's gone through and made certain changes, which kind
15 of as he went through, he said everybody agree on that.
16 So I think some of those changes are clear that we can
17 make the motion to amend that he suggested and make those
18 changes. Brooke, have you kept a good running list of
19 what those changes are?

20 MS. BOSTON: Yes.

21 MR. JONES: Good. So -- and then this last
22 one, though, there does not seem to be clear consensus on
23 it. So you might want to deal with that with a separate
24 motion, unless there is a clear consensus.

1 MR. CONINE: Move to amend the motion to strike
2 the scoring criteria points for deferred developer fees.

3 MS. ANDERSON: Second.

4 MR. JONES: Motion's been made and seconded.
5 Further discussion? Hearing none, I assume we're ready to
6 vote. All in favor of the motion, please say aye.

7 (A chorus of ayes.)

8 MR. JONES: All opposed, nay?

9 (No response.)

10 MR. JONES: The motion carries.

11 MR. CONINE: Thank you.

12 MS. ANDERSON: Can I talk about garages for a
13 minute?

14 MR. CONINE: Go ahead.

15 MR. JONES: Certainly.

16 MS. ANDERSON: We're enamored with garages.
17 And I heard it -- I think I heard it in the developer
18 forum, or read it in that transcript, and then I read it
19 in some public comment about garages. You know, garages
20 get five times as many points as a microwave oven. And I
21 just -- you know, if I'm a single mom, you know, coming
22 home at night, do I want a garage, or do I want a
23 microwave oven?

24 And I know as a -- I'm not a single mom, but

1 I'm single most of the time these days, and I'd rather
2 have in my house a microwave oven than a garage most
3 nights.

4 And so I just would ask what am I missing about
5 why garages are so wonderful that we're giving them five
6 points?

7 MR. ONION: I think staff looked at what the
8 cost was in order to place that amenity. And certainly a
9 microwave oven -- and I'm going to guess it's about \$200.
10 Obviously a garage is much more expensive.

11 One of the things that we did decide is that
12 the only way that you could get points for that garage, is
13 if it was included in eligible basis, and therefore, was
14 not an extra charge to the tenant.

15 So a lot of the things, in looking through the
16 points, has to do with the cost of placing that amenity.
17 Otherwise, if it was a microwave and a ceiling fan, and
18 you had higher points, obviously you would be encouraging
19 the developer to put those amenities versus a garage
20 because of the cost difference.

21 MS. ANDERSON: How many of these garages -- I
22 remember something in some of the public testimony -- in
23 some of the transcripts I'm reading that said, you know,
24 you can argue whether a garage is a garage or a double

1 storage room. What's your -- I mean --

2 MR. ONION: I think a lot of times they are
3 used either for storage or for an automobile. And
4 research has found that the tenants do have cars.

5 MS. ANDERSON: Right.

6 MR. ONION: And we do believe that's an amenity
7 that is certainly well received with the tenant community
8 of either affordable or market rate property.

9 MS. ANDERSON: And true -- if we go back to
10 this argument about don't write rural off, don't write,
11 you know, anything that's not in a big-four county off. I
12 mean, is that really an amenity for an urban area?

13 MR. ONION: A garage?

14 MS. ANDERSON: Uh-huh.

15 MR. ONION: Yes, ma'am. And it has been
16 demonstrated as being a market amenity that's been well
17 received.

18 MR. CONINE: Where do the 50 percent of the
19 units come in? It says garages equal to 50 percent of the
20 units.

21 MR. ONION: Well, obviously, to put garages in
22 all of them -- we wanted to -- there is a question on
23 whether or not 100 percent garages per units would be
24 something that would be used by all the tenants. So we

1 limited it to 50 percent as being to get points.

2 Obviously if they want to put more, because if
3 they feel like the market that helps lease up the property
4 it certainly could do that. But we wanted to put a
5 minimum amount, because we had a certain amount of
6 garages, and then we had a certain amount of carports.

7 MS. ANDERSON: And it's a free amenity. Right?
8 You said they can't -- they won't charge for this.

9 MR. ONION: Yes, ma'am.

10 MS. ANDERSON: Well, it seems like it would
11 give middle management a headache. I got there and I'm
12 the 51st percent tenant --

13 MR. ONION: Again --

14 MR. CONINE: What if it's not direct access?

15 MR. ONION: What if they're not direct access?

16 MR. CONINE: Yes.

17 MR. ONION: That is still fine.

18 MR. CONINE: And can they charge for optional
19 detached garage space, \$75 a month or something like that?

20 MR. ONION: Only if they take it out of
21 eligible basis, in which case they would not receive the
22 points.

23 MR. CONINE: Okay. I'm with Ms. Anderson. I
24 think five points is a little rich for me on that

1 particular one as well. And in some of the architectural
2 stuff that I've done, when you get into the 18 units to
3 the acre stuff, to get 50 percent garage cover, it's just
4 still pretty steep.

5 I might suggest a number of 35 percent there,
6 because that, from a practical standpoint, to get enough
7 parking on site, and have some decent density, which
8 municipalities create, to have 50 would generally mean
9 that you couldn't -- there couldn't be direct access.
10 That some of them would have to be free-standing and
11 detached, and that's a whole separate issue and a whole
12 separate problem.

13 And if you want to take advantage of the
14 projects where the garages could be attached to the
15 building in and of itself, I think you need a lower
16 percentage there in order to make it practically work from
17 an architectural perspective. So I would suggest we drop
18 that to 35 percent, and maybe take the points down to
19 three points, something like that.

20 MR. JONES: I would go -- I will compromise
21 with you. I will go 35 percent. I think garages are
22 something that if you want to change some images, you
23 would go a long way. And I don't mind the 35 percent, but
24 I believe in the five points.

1 The reason I believe in the five points is just
2 what he says. If they want five points, there is a lot of
3 easier ways for them to get them and a lot of different
4 amenities.

5 But if you want to really upgrade your
6 development, and maybe make your neighbors a lot happier
7 with you, I think this is something you could really do.
8 And the ones that have garages are very, very impressive.

9 So I would be against giving away the five points. And I
10 don't mind the 35 percent. I understand where you're
11 coming from there.

12 MS. CARRINGTON: With all due --

13 MR. BOGANY: I agree from -- with Mr. Jones,
14 that the garages are important. And I think it's a new
15 change, it's a new development, and it's basically letting
16 people know you're living in homes -- apartment homes
17 instead of apartment projects.

18 I agree with the five points. The 35 percent I
19 agree with, because I think you know, logistically it's
20 harder to make 50 percent of them based on their layout.
21 But I truly believe a garage complex is much nicer than
22 one without them. And I think people using them for
23 storage, even if they can't put -- these units are not
24 that big.

1 And even if they've got to go get storage and
2 use it as a storage facility for their property, it gives
3 them another opportunity; it's no different than having a
4 single-family home with no garage in one. Rent one -- and
5 one with one is more valuable, just bottom line. And it
6 makes the neighborhood look nicer.

7 So I think -- I could agree with the 35
8 percent. The five points -- I think they need it.

9 MS. ANDERSON: I actually don't -- I mean, I
10 think the -- with all due respect, Mr. Chairman, that
11 there are other ways to get five points are things they're
12 going to do anyway. I mean, they're going to have
13 microwave ovens in these units. And they're going to
14 have -- you know, they're -- because everybody has those.

15 I -- and I also -- if you're going to lower the
16 threshold to 35 for architectural reasons, which I can buy
17 into, then I don't think you'd give them 35 points.

18 You've just made it easier to get to five points. Right?

19 I mean, this was five points for 50 percent of the units.

20 Now, we've lowered the number of units, we're still going
21 to give them five points.

22 That seems right now we're really incenting
23 that behavior. And again, I just sort of go back to --
24 you know, thinking about, you know, market rate things

1 that I continue to see go up today. They -- you know,
2 they don't all have garages in them. I just -- it just
3 seems -- you know, it just seems a little rich to me.

4 MR. BOGANY: In the ones in Houston, Beth, the
5 ones that have garages, they charge extra for them. You
6 spend anywhere between 75 to a hundred and a quarter to
7 get that garage.

8 And if I think it was a development comes in
9 and doesn't charge for one, I think that just adds a ton
10 of value for that \$700 a month note out there. And I
11 would truly say, in most houses that are sold in
12 affordable, none of them come with microwaves. There is
13 just a stove there.

14 MS. ANDERSON: Yes, those are houses that --

15 MR. BOGANY: And I truly -- you know, I see it
16 all the time. I think they should, but for some reason,
17 the builders don't put them in there. And I would think
18 that the garage thing, to me, is just -- really helps
19 changes the look of the complex. It really does.

20 MS. ANDERSON: I'm willing to go out there and
21 you know -- well, no, we don't. Well, we will get public
22 comment on these. But --

23 MS. CARRINGTON: They're going into effect for
24 this year, emergency rules, they are going into effect.

1 They will be part of the consolidated public hearings.

2 MR. SALINAS: What's wrong with having 35
3 percent of the garages?

4 MR. JONES: That's fine. I agree.

5 MS. ANDERSON: I think that's fine.

6 MR. BOGANY: Nice point.

7 MR. CONINE: That's fine.

8 MR. JONES: Everybody agrees on 35. I will
9 argue the number is three to five points.

10 MS. ANDERSON: Then let's settle on four.

11 MR. CONINE: Is that four?

12 MR. BOGANY: No, I agree they only have five.
13 I think that's -- that tells me the developer is trying to
14 make this an apartment home, and it just has a better
15 look. It really does.

16 MS. ANDERSON: I'm just trying to help us get
17 to consensus.

18 MR. JONES: I gotcha. Well, here's what I
19 hear. Mr. Conine, do you make a motion that they be
20 amended to four points? Or what do you want to make it?

21 MR. CONINE: Yes, 35 percent and four. I'll
22 settle on that.

23 MR. JONES: Okay. Well, let's just do the 35
24 by consent, if we can on it. We can go ahead and make

1 that change when we do the lump sum amendment. Okay. So
2 we've got 35. Okay. We've got a motion for four. Is it
3 seconded? I assumed it is by Ms. Anderson?

4 MR. SALINAS: I'll second it.

5 MR. JONES: Okay. By the mayor. The mayor
6 seconds it. Okay. Further discussion on the motion?

7 MR. BOGANY: I think it should be five points.

8 MR. JONES: I'm with you.

9 MR. BOGANY: Bottom line. Let's leave it
10 there.

11 MR. JONES: I vote with you, Shad. This may be
12 a three to three deal. Okay. Okay. All in favor of the
13 motion, say aye.

14 (A chorus of ayes.)

15 MR. JONES: Okay. All opposed to the motion,
16 say aye.

17 MR. BOGANY: Aye.

18 MR. JONES: It's three to three. The motion
19 does not -- oh, okay.

20 MS. ANDERSON: Wait. I just -- I voted nay.

21 MR. JONES: Okay.

22 MS. ANDERSON: I'm going to vote nay as long as
23 we're talking about this. Okay. Great.

24 MR. JONES: So where does that -- oh, you voted

1 for --

2 MS. ANDERSON: No. I did not move or second on
3 four, and I voted against four.

4 MR. JONES: Okay. She's voted against four.
5 So your motion dies. Three to three.

6 MR. CONINE: You don't have to be so explicit.
7 I understand all that.

8 MR. JONES: Okay. Moving right along.

9 MR. SALINAS: So five.

10 MR. JONES: So it is five? Yes, it stays five.

11 MR. CONINE: Can we talk about the negative
12 points.

13 MS. ANDERSON: You need to vote on that.

14 MR. JONES: We just -- well, we're going
15 to vote on approving it as is.

16 MS. ANDERSON: No, but I want you to vote on 5,
17 because I want to vote against it.

18 MR. JONES: Okay. Let's do that. Okay. There
19 is a motion that it be five from Shad. Right? There is a
20 motion that it be five, over there. Okay.

21 MR. SALINAS: I will not vote on this part. We
22 already decided on that.

23 MR. JONES: Well, I think you're right.

24 MR. SALINAS: You know, I --

1 MS. ANDERSON: No, we didn't. We -- there was
2 a motion on the floor for four, and that --

3 MR. BOGANY: We wanted four and we got turned
4 down.

5 MS. ANDERSON: -- failed. So now we have no
6 points as of right this minute.

7 MR. SALINAS: Four points.

8 MR. JONES: No, we've got five points. I've
9 got the staff's recommendation. We've already -- we've
10 already got a motion on the floor to approve staff's
11 recommendation.

12 MS. ANDERSON: I understand what you're saying.
13 All right.

14 MR. JONES: So you have to have a motion to
15 amend. Okay. Thank you. We're moving along. Great.
16 Okay. What have we got left, guys? Anybody? I guess
17 we're going to --

18 MS. ANDERSON: Well, --

19 MR. JONES: Yes?

20 MR. CONINE: How about proximity to a negative
21 feature? Can we talk about that for a minute?

22 MS. BOSTON: Sure.

23 MR. CONINE: Interstate highways and service
24 roads. Why is that such a negative?

1 MS. BOSTON: Actually, on both the QAP and in
2 this rule, the working group had spent a lot of time
3 trying to identify what they thought were positive and
4 negative site features in multifamily developments. And
5 this was one of their recommendations. And --

6 MR. CONINE: Really? Now, more -- one of the
7 best ways to get a project occupied is drive-by traffic.
8 You would think you would want to be as proximitied to a
9 major artery as humanly possible.

10 MS. BOSTON: I think it's just from a -- I'm
11 guessing, from like a safety perspective, and just that
12 you don't have to have any noise if you're not next to the
13 street.

14 MS. ANDERSON: [indiscernible] is doing it in
15 Dallas.

16 MR. CONINE: What's the 300 feet? Oh, within
17 300 feet.

18 MR. ONION: Right. We certainly agree with
19 you, but we thought two areas, a factor of being too close
20 to the highway for the traffic, et cetera. But certainly
21 from a marketability standpoint, I think we certainly
22 understand having the high-traffic visibility.

23 MR. BOGANY: I had a question about the high-
24 voltage transmission towers. There is -- I've never seen

1 any evidence saying that that's a negative on a piece of
2 property. And then when you get into some of the urban
3 areas, you're looking for space.

4 And I know right now Texas Southern is building
5 apartments up and down where their transmission towers
6 are. And I'm just -- why would you take five points away
7 because they were near that?

8 MR. ONION: As an industry standard, it's self-
9 imposed. There is no zoning that says that you cannot
10 build right up next to a high-transmission line.

11 MR. BOGANY: Uh-huh.

12 MR. ONION: I think lenders and equity
13 providers have self-imposed some 250 to 300 feet away from
14 that.

15 MR. BOGANY: Uh-huh.

16 MR. ONION: As that appears to be possibly a
17 marketing negative factor, and that's why we included it
18 in there. And of course, we did receive comments, and you
19 know, if they said anything, that we should increase those
20 features and make sure that the less desirable features
21 are not part of the transaction.

22 MR. BOGANY: Okay. Thank you.

23 MS. BOSTON: Can I ask a clarification from you
24 all?

1 MR. JONES: Sure.

2 MS. BOSTON: One of the suggestions that Ms.
3 McIver had made was to double the amenity points for rehab
4 deals, which is how we handle a non-QAP, still capping it
5 at the maximum of points, but basically they have to be
6 fewer of them to get to that number of points. And again,
7 it's just a way for things to remain equitable.

8 Did -- we hadn't commented on that, but you
9 commented on quite a few for other ones, and I just wanted
10 to be sure you weren't overlooking it on purpose, or --

11 MR. CONINE: No, I thought we had talked about
12 that, but maybe I was mistaken.

13 MS. BOSTON: Okay.

14 MR. JONES: The answer to your question is yes.

15 MR. CONINE: I will okay to that.

16 MS. BOSTON: Okay. So we can --

17 MR. CONINE: The other thing that Ms. McIver
18 brought up that wasn't really talked about was one-mile
19 separation and being able to do family and elderly within
20 one mile. Can you comment on that, Brooke?

21 MS. BOSTON: It already is that way. And the
22 one-mile restriction --it already reads that way. That
23 it's per-type.

24 MR. CONINE: Per type?

1 MS. BOSTON: And the restriction itself is in
2 the QAP, because it's restrictions cut it since it's the
3 same whether it's 4 percent or 9 percent. And it's worded
4 as family or elderly. So it's already taken care of.

5 MR. CONINE: So I can put an elderly project
6 200 feet from a family project?

7 MS. BOSTON: Correct.

8 MR. CONINE: But I can't put another elderly
9 project within a mile of that elderly project.

10 MS. BOSTON: Correct.

11 MR. CONINE: And I can't put a family project
12 within a mile of that family project?

13 MS. BOSTON: Correct.

14 MR. CONINE: Good.

15 MS. BOSTON: And if -- definitely if Mr. Garvin
16 has a particular location where he saw otherwise than
17 that, he should tell me before we run in the Texas
18 Register. But I did double-check --

19 MR. CONINE: I'm not sure he wants to come back
20 up here.

21 MS. BOSTON: -- on that. It's been taken care
22 of.

23 MR. CONINE: Okay. Thank you.

24 MR. BOGANY: Brooke, I have a question. So

1 we're reverifying, making sure we are all voting on the
2 right thing. How do we come out on the signage? Are we
3 going to give the developer the flexibility to put
4 pictures, or whatever they want to put on the sign, as
5 long as it includes the information you need on there for
6 public notice?

7 MS. BOSTON: Correct. I have that we're going
8 to word it as, At a minimum, must have the following.

9 MR. BOGANY: Okay.

10 MS. BOSTON: But can do it as they like.

11 MR. BOGANY: Thank you.

12 MR. CONINE: I'm done.

13 MR. JONES: Just for clarification on that,
14 I'll say this on the signage issue. I mean, I'm willing
15 to leave it the way the staff's presented it, which makes
16 the signage optional. As I understand it, there's two
17 different ways to do it.

18 And I understand why you all are doing that. I
19 think that, you know, I respect the staff's decision. I
20 think you're doing that because you've been told -- who is
21 it in the legislative branch that told us this?

22 MS. CARRINGTON: Chairman Talton.

23 MR. CONINE: The clerk, wasn't it?

24 MR. JONES: Was it his clerk or him? I mean, I

1 want to make sure we quote it right.

2 MS. CARRINGTON: When he delivered the message
3 to us at our open meeting a week ago Monday, he said he
4 was delivering that message from the chairman.

5 MR. JONES: Okay. But it was his clerk that
6 said that?

7 MS. CARRINGTON: Correct.

8 MR. JONES: Okay. I want to make sure I quote
9 it right, because we have been told by a member of the
10 legislative branch that this is what the legislation
11 means. Now, I've read it. I don't know that I agree with
12 that, but that's just my opinion, you know. I could be
13 wrong.

14 But I don't -- I think it's silent on the
15 issue. I do not think it takes a position on the issue
16 with regard to the signage. And the mere fact that it's
17 silent, I think it's -- you know, I don't understand the
18 logic that you need for them to say that we can't acquire
19 signage.

20 But I will say this. I understand in light of
21 that comment, and in light of the fact that we have a
22 legislator commenting as if this is what the legislation
23 means, and this is what you have to do in order to comply
24 with the law, I think the staff in an abundance of caution

1 has taken a very conservative position on the matter. But
2 I can see the wisdom in doing that.

3 Having said that, I would also like to note on
4 the record, though, that I think if you talk to members of
5 the public who are supposed to be receiving these notices,
6 that members of the public, as they've said at our public
7 hearings, would prefer signage. And they think that's a
8 real good way for them to be notified.

9 I would say I understand the developers
10 disagree with that, and I respect that. But I will say
11 this. If you're really serious about notification, I
12 think it's real hard intellectually for me to understand
13 how you don't agree that signage gives notification now.

14 Now, having said all that, and in light of the
15 instructions our staff has received from the Legislature,
16 I at least for publication purposes, plan to support the
17 staff's position as we go on down the road and hear more
18 from the public about this. But I do support our staff's
19 position very much.

20 MR. CONINE: Call for the question.

21 MR. BOGANY: Question.

22 MR. JONES: Question's been called. The motion
23 we have on the table is to approve it, and I assume that
24 motion has now been amended so to include all the

1 amendments that have been done by consensus by the board
2 members here. Is that the motion, Mr. Conine?

3 MR. CONINE: And it was voted on.

4 MR. JONES: And it was voted on. Sounds right,
5 Mr. Conine?

6 MR. CONINE: Right.

7 MR. JONES: Okay. Is there a second?

8 MR. WITTMAYER: Mr. Chairman?

9 MR. JONES: Yes?

10 MR. WITTMAYER: There were five separate
11 actions that we have on the bond rules, and I just wasn't
12 100 percent clear as to what our action was, which the
13 item was.

14 MR. JONES: Well, we're going to do all five
15 actions in this motion.

16 MR. WITTMAYER: All five together.

17 MR. JONES: All five together. And the
18 amendments are going to be those that have been voted on
19 or that the board has indicated they are making by
20 consensus as we've done our discussions.

21 MR. WITTMAYER: And just to be clear for the
22 record, that the emergency rule will be a rule that will
23 be put in effect immediately upon its filing with
24 Secretary of State, and the bond process -- the

1 preapplication deadline is September 2. That's why
2 we're -- where it's required that we have the emergency
3 rule.

4 We're also putting the emergency rule out as a
5 proposed regular rule. We will have a minimum of 30 days
6 public comment period. But we have to have the emergency
7 rule in order to move forward with this bond cycle.

8 MR. JONES: Thank you, sir. Is that your
9 motion, Mr. Conine?

10 MR. CONINE: That was it.

11 MR. JONES: I knew it was. Any further
12 discussion on the motion? Hearing none, I assume we're
13 ready to vote. All in favor of the motion, please say
14 aye.

15 (A chorus of ayes.)

16 MR. JONES: All opposed, nay?

17 (No response.)

18 MR. JONES: The motion carries.

19 MS. CARRINGTON: The last set of rules for the
20 board's consideration are the Real Estate Analysis Rules.

21 We substantially -- we took these rules last year out of
22 the QAP, made them their own set of rules.

23 We have made some changes to these proposed
24 rules that incorporate the requirements of Senate Bill

1 264, and also include a new section called property
2 condition assessment rules and guidelines.

3 And staff is recommending that the board
4 approve these draft changes, or the changes for these
5 draft rules, and that we publish them for comment to go in
6 our cycle with the consolidated public hearings.

7 MR. CONINE: Move for approval.

8 MR. BOGANY: Second.

9 MR. JONES: Motion's been made and seconded.

10 Any discussion?

11 MR. CONINE: Yes.

12 MR. JONES: Mr. Conine?

13 MR. CONINE: Around the one-mile radius limit,
14 are we going to modify this for now to match -- to split
15 the family and elderly that was the confusion on the last
16 one?

17 MS. CARRINGTON: Tom, do you want to address
18 that?

19 MR. CONINE: Or is that -- does that come into
20 play?

21 MR. GOURIS: Yes.

22 MS. CARRINGTON: Yes, it does.

23 MR. GOURIS: Yes, it does. We added that as a
24 requirement for the underwriting report to -- the

1 underwriting to put stuff into the document.

2 On page 11 of 22, about -- it's right above
3 Number 3, Transition Housing. It's that last -- the
4 second paragraph where it does that. And it says, within
5 the same type.

6 MR. CONINE: Same type. Okay. Gotcha.

7 MR. GOURIS: So we're okay.

8 MR. CONINE: Thank you.

9 MS. CARRINGTON: Which is language right out of
10 the statute by --

11 MR. GOURIS: Very similar.

12 MS. CARRINGTON: Very, very similar to that.
13 Okay.

14 MR. GOURIS: Might I make a comment?

15 MR. CONINE: Sure. Love to hear you comment.

16 MR. GOURIS: I'm sorry. I notice that we had
17 low-income in our rule and I didn't take it out. And I
18 would like your permission to take that out. It wasn't
19 consistent.

20 MR. CONINE: Granted.

21 MR. JONES: Okay. The motion's been amended to
22 take out Low Income.

23 MS. CARRINGTON: Consistency is the key.

24 MR. JONES: Yes. And Mr. Conine wants that in

1 his motion. They want that in their second.

2 MR. CONINE: Right.

3 MR. JONES: So it's certainly been done.

4 Further discussion?

5 MS. ANDERSON: I have a question --

6 MR. JONES: Yes, ma'am.

7 MS. ANDERSON: -- for Mr. Gouris about the
8 market analysis section of these rules, which have not
9 changed, except for the addition of the one-linear mile.
10 And I'm -- I have to tell you I'm surprised they didn't
11 change, given -- during the 9 percent round, you know,
12 there was one particular analyst that your staff commented
13 on multiple occasions wrote weak market studies that make
14 it very difficult for us to do our job.

15 The deals we approved today -- there were
16 negative comments about a couple of the market studies.
17 And I just -- you know, I see in the QAP we've added the
18 word performance, which would give you an additional
19 criteria to evaluate these people.

20 I would have expected to see something flowing
21 through the market analysis rules and guidelines that
22 would, you know, communicate to our industry what we
23 expect in a market analysis, what we expect of a market
24 analyst's performance. So help me understand.

1 MR. GOURIS: At the top of page 13 of 22 --

2 MS. ANDERSON: Uh-huh.

3 MR. GOURIS: -- last year we included for the
4 first time rules with regard to performance. The intent
5 of those rules -- they are to remove market analysts who
6 do not perform according to our requirements, with some
7 allowance to get them to be able to return to acceptable
8 status if they correct those errors.

9 What we hope to get accomplished in the next
10 couple of months is sitting down with those market
11 analysts who we felt we had difficulty with in the past
12 year, apprise them of those difficulties, and have them
13 make those corrections or satisfy to our -- provide to our
14 satisfaction that they won't be making those same types
15 of -- give us those same types of concerns in the future.

16 In some ways, it's a little like herding cats,
17 or trying to move them into this direction without being
18 too draconian. It's a relatively small group of folks.
19 We appreciate their professionalism and the difficult job
20 that they have to do. And we want to make sure that they
21 are on-board, and coming with us to where we're going.

22 We do have the ability to remove them from the
23 list, and we will do so if we don't feel like their
24 performance improves.

1 MS. ANDERSON: When's the last time we kicked
2 somebody off the list?

3 MR. GOURIS: We've only had the list for a
4 year, or two years. But this rule's only been in place
5 for a year. And we haven't removed anyone to date. But
6 we plan on doing that.

7 MS. ANDERSON: Well, one -- we just
8 consistently run into these market study problems. It
9 makes our decision-making process much worse. And so I
10 know that you are going to do a great job of getting this
11 squared away.

12 MR. GOURIS: Yes, ma'am. I understand.

13 MR. CONINE: Okay. Any other comments from --
14 our Chairman has left for just a few minutes. I guess
15 nature called, or somebody called. Any other comments?
16 Here he comes.

17 MR. GONZALEZ: Motion to adjourn.

18 MR. JONES: Seconded. All in favor, say aye.
19 The motion carries.

20 MR. CONINE: I think we're ready for --

21 MR. JONES: We're ready to vote?

22 MR. CONINE: Yes.

23 MR. JONES: Okay. We have a motion that's been
24 made and seconded. Further discussion? Hearing none, I

1 assume we're ready to vote. All in favor of the motion,
2 please say aye.

3 (A chorus of ayes.)

4 MR. JONES: All opposed, nay?

5 (No response.)

6 MR. JONES: The motion carries. Four.

7 MS. CARRINGTON: 4(a)(1), you have in front of
8 you two appeals in the HOME Program. You funded -- we
9 funded HOME-eligible activities last month. And these are
10 successful appeals. Staff is recommending that the board
11 approve both of these. One is the City of San Benito.
12 And that award would be \$300,000 for Homebuyer assistance.

13 And the second award -- the second appeal that
14 staff is recommending that the board grant is the Middle
15 Rio Grande Futuro Communities. And that is for \$112,000
16 for Homebuyer Assistance. Both of these came out of
17 Region 11. They were undersubscribed regions, and so
18 these amounts will be subtracted from the amount that was
19 available for Region 11.

20 Also, with both of these applications, staff is
21 recommending 4 percent, which is allowable under the HOME
22 Program, 4 percent and administrative funds be granted to
23 both of those applications.

24 MR. BOGANY: So moved.

1 MR. GONZALEZ: Second.

2 MR. JONES: Okay. And we're going to deal with
3 both of them together. Correct? Okay. We have a motion
4 staff recommendation be approved as to both A(1) and A(2).
5 It has been seconded. Further discussion? Hearing none,
6 I assume we're ready to vote. All in favor of the motion,
7 please say aye.

8 (A chorus of ayes.)

9 MR. JONES: All opposed, nay?

10 (No response.)

11 MR. JONES: The motion carries. 4(b).

12 MS. CARRINGTON: Okay. And I've got all these
13 for 4(b)(2).

14 MR. JONES: Okay. 4(b)(2) -- we have a number
15 of people -- two -- you mean the Village Apartments/Cove
16 Terrace --

17 MR. CONINE: No.

18 MS. CARRINGTON: It would be --

19 MR. CONINE: Cottage Community, Caspita
20 Apartments, and Cedar Park.

21 MS. CARRINGTON: Yes, Cottage, Caspita and
22 Cedar Park, three separate appeals.

23 MR. JONES: Okay.

24 MS. CARRINGTON: That is what the board will be

1 considering.

2 MR. JONES: Okay. And now we will take public
3 comment on 4(a)(2). Right?

4 MS. CARRINGTON: Correct.

5 MR. JONES: Okay. And the first is Stuart
6 Shaw.

7 MR. SHAW: Mr. Chairman, the board, I'm Stuart
8 Shaw, and I'm one of the apartment development team for
9 the properties listed here as Caspita Apartments and Cedar
10 Park Ranch.

11 I'm part of the development team, but I'm a big
12 part of the guarantee team. And anyway, this is two
13 projects that we have shepherded, and one in particular
14 worked on for several years, trying to get affordable
15 housing for a bond. That would be Caspita, and that's a
16 family project.

17 Cedar Park Ranch is a senior's project, both
18 the Cedar Park, about three miles apart. And both are in
19 particularly in well located tracts of land. I just --
20 we're appealing a decision by the staff that it is just
21 troublesome to me. It has to do with our application for
22 HOME funds.

23 And we have applied for HOME funds for both of
24 these, and just encountered a lot of difficulties along

1 the way. And I'm here to speak in favor of our appeal.
2 I'm requesting that you vote in favor of our appeal. We
3 need to be in line for HOME funds for these projects, for
4 both of them.

5 And I don't know what the process is at staff,
6 and Edwina and I have spoken about this a little bit
7 earlier, that unlike tax credits where we get a three-day
8 period to cure a deficiency, in our HOME applications, we
9 don't get any time to cure a deficiency. We're not
10 notified of it.

11 And it's made it really difficult. We're
12 trying to do a good job here. And I note what you said
13 earlier, Mr. Conine, about whether or not a deferred
14 developer fee is a function of a good development.

15 And I -- for instance, these are really nice
16 pieces of land. They're not you know, over by the
17 railroad track, cheap, you know, nothing else to do with
18 them besides affordable housing pieces of land. They're
19 nice pieces of land.

20 And we're really trying to get a good job done.
21 And it -- we feel like we're kind of going up -- an uphill
22 battle on the HOME funds. Anyway, what I'm asking is is
23 that just in general, is that you look into a response
24 period for a development team.

1 In this case it's Maple Avenue Economic
2 Development Corporation is our partner and general
3 partner, and we're the developers. And we're trying to
4 get both these projects done. But we didn't get any
5 notice from TDHCA when our HOME applications were
6 rejected.

7 And in particular on this last one -- I've read
8 the -- now I've read in the book today, or last night, the
9 internal memos that are circulating about our application.

10 And it looks to me like -- and I'm just asking you all to
11 bear with me on this, it looks like on the internal memo
12 dated May 22 by the lawyer for TDHCA, that we were sort of
13 tried and proven guilty in that memo.

14 Not being disingenuous, but we were accused in
15 that memo of being deceitful about our application. We're
16 not.

17 MR. CONINE: Could you please wrap it up, Mr.
18 Shaw.

19 MR. SHAW: I sure can. I sure can. We're not.

20 And in fact, we're being absolutely genuine about it.
21 And we can defend it. We just need the time to do it, and
22 we'd like to have a chance to do it. We sure need your
23 help, and we appreciate if you would vote in favor of it.
24 Thank you.

1 MR. SALINAS: Caspita?

2 MR. CONINE: That was 4(a)(2), the second one,
3 Caspita. Yes.

4 MR. SALINAS: Caspita. How much were the HOME
5 funds?

6 MS. CARRINGTON: It is the -- may I say that
7 both Caspita Apartments had applied for \$1 million in HOME
8 funds. Cedar Park Ranch had also applied for \$1 million
9 in HOME funds. And staff's reason for denying both of
10 those is the same reason, which we will address when you
11 all ask us to.

12 MR. CONINE: David Evans.

13 MR. EVANS: Good afternoon. My name is David
14 Evans. I'm Vice President of the Covenant Group in Fort
15 Worth. I'm specifically speaking towards the Senior Park
16 Ranch Senior Project. Covenant Group has 14 years of
17 experience specifically for and exclusively for senior
18 citizens. Our focus is on affordability.

19 We manage 20 senior properties at this time.
20 The value, in our mind, of the senior -- Cedar Park Ranch
21 product, in terms of HOME funds, is that it is a -- it's
22 with MAEDC, who has 20 years of experience product. In
23 Amarillo, Metroplex, Gainesville, they've shown their
24 capabilities as the general partner. And that this is a

1 100 percent/50 percent priority-one deal.

2 All of the corridors will be interior and
3 conditioned. Four elevators. And a very strong social
4 services program. We can be better with HOME funds. Each
5 dollar that -- from the HOME funds program that goes
6 towards construction releases funds to make the social
7 program even better.

8 It was mentioned earlier that the 4 percent
9 deals need help. And the HOME funds in this case was the
10 help that we need. I ask that you approve the appeal.
11 Thank you.

12 MR. CONINE: Thank you, Mr. Evans. Any
13 questions? Okay. Next, Michael Eaton.

14 MR. EATON: Thank you, Mr. Acting Chairman,
15 members of the board, Ms. Carrington. Let me try to
16 summarize -- I think just to be clear, I think Monique
17 Allen, Executive Director of Maple Avenue Economic
18 Development Corporation has signed a witness affirmation
19 form, has agreed to yield her time to me --

20 MR. CONINE: Okay.

21 MR. EATON: -- as well. Irrespective of what
22 Dave Evans and Stuart Shaw might tell you about how the
23 project needs the funds, which is absolutely true; both
24 these projects need these funds. And what good projects

1 they are.

2 The fact is, let's look at it at a much more
3 legalistic and straightforward and I hope more simple
4 context. But as this is before you as a board appeal
5 under Rule 1.8 -- Provision 1.8 of Title 10 of the
6 Administrative Code of the State of Texas that governs
7 this particular appeal.

8 And it says that a proper ground for an appeal
9 is a procedural error. And a procedural error is defined
10 as the administrative agency or the State of Texas failing
11 to follow its own rules or procedures in the processing of
12 an application.

13 Well, if you look at the memo that was
14 circulated. I'm not even going to refer to the brief that
15 I've sent out, or the letter appeal, or anything else.
16 Just referring to the memo by Paul Smith that was
17 circulated internally, I understand Mr. Shaw taking some
18 umbrage about -- what appeared to be accusatory comments
19 about Maple Avenue Economic Development Corporation.

20 I want to point out a couple of things that
21 are -- they're not things to argue about, because you only
22 argue about things that are not verifiable facts. It's a
23 verifiable fact that Mr. Walt Fleming, who is a board
24 member of Maple Avenue Economic Development Corporation

1 joined the board of Maple Avenue Economic Development
2 Corporation in 2002, and was actually the very first name
3 on the list of directors in the original application for
4 HOME funds submitted for the first of these two projects,
5 Caspita, which was December 2002.

6 So the statement that -- on the original
7 application, "Walt Fleming was not listed as a board
8 member with the organization," is false on its face.
9 Secondly, the statement that -- regarding a letter sent by
10 Jorgè Reyes of the department, "On May 5, Jorgè sent a
11 letter noting the lack of local experience, and the board
12 member then appeared in a new list of board members
13 submitted after the original application."

14 That's also false. I'm not saying that's false
15 by intent or malice. But it's a false statement. It's
16 important for you to understand that a memo being
17 circulated for your reliance to help you make a decision
18 has false statements in it about when this board member
19 was added.

20 The reason that's important is because as part
21 of the uniform application that this department circulates
22 to the public at large, there is a statement about
23 experience, "There has to be in order to qualify as a CHDO
24 for certification as a CHDO setaside for HOME funds,

1 experience in the community, a history of service to the
2 community."

3 Here is exactly what the uniform application
4 says. "An organization or its parent company must show at
5 least one year of serving the community where it will
6 develop affordable housing. The year of service does not
7 have to be directly related to housing.

8 "If an organization or its parent company does
9 not have one year of serving the community, but has staff
10 or board members who have served the community for at
11 least a year, the organization may use this individual
12 experience to meet their requirement.

13 That's not coming from us. That's not coming
14 from us seeking it from a third party. That's coming from
15 the Texas Department of Housing and Community Affairs. In
16 my humble judgment, and I would certainly submit to you,
17 it is reasonable and equitable for any applicant to this
18 organization to be able to rely upon something that you
19 publish as a guideline for how to comply with your rules.

20 That's called a procedure.

21 Your agency failed to follow that procedure
22 when it denied the certification of Maple Avenue Economic
23 Development Corporation as a Community Housing Development
24 Organization for Williamson County, the sole basis for

1 that rejection being lack of service to the community of
2 Williamson County.

3 There is some more discussion in here as to
4 whether maybe that rule -- maybe that procedural guide
5 posted as part of your uniform application was legally
6 incorrect. I'd be happy to entertain questions about
7 that, because I think it is exactly legally correct.

8 And Mr. Conine, you're talking about
9 flexibility. There is a rather odd quote in here saying
10 the guy got some materials from someone at the Enterprise
11 Foundation that's supposed to tell him what HUD is
12 thinking about the basis and genesis and legislative
13 intent behind the HOME Program, not HUD, not the federal
14 government, but Enterprise Foundation, which I find odd.

15 But moreover, if you go to HUD and you look at
16 everything that's written, not only in the statute, but in
17 the HOME regulations, in the clause referencing
18 requirements, it all says the key component of the HOME
19 Program from a Federal standpoint is flexibility.

20 Now this particular organization, Maple Avenue
21 Economic Development Corporation, has a history of over 20
22 years of service to different communities within Texas.
23 It has a history of service to the community of affordable
24 housing development and acquisition within the State of

1 Texas.

2 It, through the proxy of its board member, has
3 a history of over a year of service to the community of
4 Williamson County. Organizations don't have feet, don't
5 have hands, don't have lungs. They're fictitious things,
6 fictitious persons created by statute. The only way they
7 can have experience is by their staff, their board, the
8 individuals that serve them.

9 If, in fact, the agency's position is going to
10 be we were legally wrong in posting this requirement, in
11 giving you this guidance in our application, I think the
12 question you have to ask yourselves is, Have there been
13 times in the past when people have relied on this, and
14 have in fact been awarded HOME funds, and been certified
15 as CHDOs, being in an identical legal position as Maple
16 Avenue Economic Development Corporation is in now.

17 If there have been, I would strongly suggest
18 that there might well be some liability in that regard.
19 And at the very least, we certainly have a condition of
20 inequitable treatment of this applicant, Maple Avenue
21 Economic Development Corporation, and a serious question
22 about equal protection of the law with respect to this
23 applicant.

24 And based on maybe a really simple idea that if

1 you tell us, that's how we're supposed to do it, and we do
2 it the way you tell us to do it, it's completely unfair
3 and inequitable to then say that isn't what we meant, it
4 doesn't count. And that's what this all boils down to.

5 And I would respectfully request that you grant
6 the appeal based on those fundamental grounds of equitable
7 treatment, fairness, and equal protection.

8 MR. CONINE: Thank you, Mr. Eaton. Questions
9 of Mr. Eaton?

10 You -- now, you mentioned a December 2002 date
11 that I think Mr. Fleming was --

12 MR. EATON: Yes.

13 MR. CONINE: -- listed on the board in an
14 application?

15 MR. EATON: Yes.

16 MR. CONINE: But I didn't hear you say when he
17 actually got on the board.

18 MR. EATON: I'd have to say it was in late
19 2002. It might have been November. I don't know. I've
20 actually asked a couple of people this morning if they had
21 verification of that date. But we don't know. But --

22 MR. CONINE: The board managed -- the
23 corporation don't --

24 MR. EATON: I -- I mean, I didn't have those

1 with me. I --

2 MR. CONINE: Okay. Thank you.

3 MR. EATON: I can certainly supplement that for
4 the board. Thank you.

5 MR. CONINE: Okay. Instead of moving on to the
6 next one, let's just deal with both of -- Caspita and
7 Cedar Park in the same appeal. I'm going to go ahead and
8 do those two before --

9 MS. CARRINGTON: Yes, sir. They are. It is
10 separate, in that it's \$1 million of HOME funds for each
11 one of them. But their appeal is on the same basis.

12 MR. CONINE: Why don't you go ahead and give
13 the staff presentation for those two only. And we'll go
14 back to Cottage Community in just a second.

15 MS. CARRINGTON: All right. I'll ask Chris,
16 Chris Wittmayer, our General Counsel, to do the
17 presentation.

18 MR. WITTMAYER: Chris Wittmayer, the
19 department's general counsel. You may rely on the opinion
20 that I give you here in addressing this appeal, and the
21 staff recommendation is to deny the appeal.

22 When you look at the Federal regulations --
23 well, first it's important to understand that this
24 concerns the CHDO setaside of the HOME award. And I think

1 it's useful to begin very simply by noting that CHDO
2 stands for Community Housing Development Organization.

3 And the specific requirement of the Federal
4 regulation, or one requirement for a community housing
5 organization is that it has a history of serving the
6 community within which housing to be assisted with HOME
7 funds is to be located.

8 And says, "In general, an organization must be
9 able to show one year of serving the community before HOME
10 funds are reserved for the organization. However, if you
11 have a newly-created organization formed by local
12 churches, service organizations, neighborhood
13 organizations, you may meet this requirement by
14 demonstrating that the parent organization has at least a
15 year of serving the community." That's the Federal
16 requirement.

17 Our own HOME rule is similar. We state that
18 it's required that the organization have a history of
19 serving the community within which housing to be assisted
20 with HOME funds is to be located, as evidenced by a
21 statement that documents at least one year of experience
22 in serving the community.

23 While the Appellant relied heavily on the CHDO
24 application summary, which appears on the department's

1 website, and the Appellant did accurately quote what this
2 guidance states, I suggest first, that it needs to be read
3 in light of the Federal regulation, and also the
4 department's rule, that if we are to take a very technical
5 view of this, let's be clear about specifically what it
6 says.

7 What it says is that if an organization or its
8 parent company does not have one year of serving the
9 community, but has staff or board members who have served
10 the community for at least a year, the organization may
11 use this individual experience to meet its requirement.

12 The Appellant's position is that they have one
13 board member who has some history of serving Williamson
14 County. I submit to the board that this does not meet the
15 Federal regulatory requirement. It does not meet the
16 department's rules.

17 And it does not meet this summary application
18 on our website, which requires that it have board members.

19 I read that to require at least two board members that
20 have served -- a history of service in Williamson County.

21 MR. CONINE: That the plural came in the
22 Federal, or our own regulations?

23 MR. WITTMAYER: In the guidance most heavily
24 relied upon by the Appellant, it's in our guidance. The

1 plural is in the guidance.

2 MR. CONINE: It's in the guidance?

3 MR. WITTMAYER: Yes.

4 MR. CONINE: Okay.

5 MR. WITTMAYER: The Federal and state rules go
6 beyond that. They don't speak to board members only.
7 They say that the organization has to have one year of
8 experience serving the community.

9 MR. CONINE: Any questions from any board
10 members? Do I hear a motion?

11 MS. ANDERSON: I move to deny the appeals for
12 Caspita and Cedar Park Ranch.

13 MR. GONZALEZ: Second.

14 MR. CONINE: I have a motion and a second by
15 Vidal to deny the application. Is there any other
16 discussion amongst the board. Are we ready to vote? All
17 in favor of the motion, signify by saying aye.

18 (A chorus of ayes.)

19 MR. CONINE: All opposed?

20 (No response.)

21 MR. CONINE: The motion carries. Now we'll go
22 back to the Cottage Community. And we have a public
23 comment from Tom Stacy.

24 MR. STACY: Thank you, Mr. Chairman, board

1 members, Ms. Carrington. Thanks for allowing me to
2 address you, and thank you for your service to Texas.

3 I'm the volunteer president of the Community
4 Partnership for the Homeless. My personal background is
5 I'm in the, First Real Estate business. My company has
6 owned or developed a couple of million square feet in
7 downtown Austin.

8 The Community Partnership for the Homeless has
9 provided homes for the past 13 years to homeless Texans,
10 and primarily homeless Texas veterans. The Community --
11 Cottage Community is a project that will provide homes for
12 single parents, single-parent household families, as well
13 as child care.

14 In the application which we appeal, we -- Ms.
15 Carrington and staff awarded us ten points out of our
16 appeal. The question that we present to you is a question
17 of ten more points that relates to a letter that was not
18 in the packet when staff reviewed the packet.

19 The letter pertains to whether our project
20 had -- has trash removal service available. The letter
21 from Texas Disposal System is in our copy of the
22 application that we submitted. Somehow it is not in your
23 copy. And we don't know how that happened. We may have
24 failed to put that in when we turned the application in.

1 But we, in fact -- and staff recognizes where
2 our letter is dated prior to our submission of the
3 application. We thought it was in there. We sort of --
4 we don't know what happened to that. But that is the
5 question that we would like for you to consider is that if
6 you can add those ten points to our application.

7 The funds are critical to this project. It has
8 a lot of community support. We have strong sponsorship on
9 our board. Former Mayor Kirk Watson has recently joined
10 our board. And it's a project we think is very important
11 to this community, and we'd really appreciate your
12 favorable consideration.

13 MR. CONINE: Any questions? Thank you, Mr.
14 Stacy. Close the public comment. Ms. Carrington?

15 MS. CARRINGTON: Thank you, Mr. Acting
16 Chairman. As has been previously mentioned, the HOME
17 Program rules, as they currently stand right now, do not
18 allow for the curing of administrative deficiencies. We
19 are proposing rules next year that do allow for the cure
20 of administrative deficiencies.

21 One of the requirements with the application is
22 that there be a letter that indicates that all utilities,
23 including trash service, are available to the property.
24 There was not such a letter in the file, so they did not

1 get the ten points.

2 So staff, per our rules, are recommending that
3 this additional ten points not be awarded.

4 MR. SALINAS: How much are they asking for?

5 MS. CARRINGTON: Brooke, can you tell me how
6 much the -- we do not have that on your summary page. And
7 I just realized that.

8 MR. SALINAS: I mean --

9 MS. CARRINGTON: What is the amount? Do we
10 know?

11 MS. BOSTON: It's a million.

12 MS. CARRINGTON: A million? Okay.

13 MR. SALINAS: A million.

14 MS. CARRINGTON: Thank you. Okay. \$1 million
15 in HOME funds out of the CHDO setaside.

16 MR. CONINE: Mr. Bogany?

17 MR. BOGANY: Can I -- I think this is a great
18 cause, and it's something that I'm sure Austin needs. I
19 just hate to see this organization be denied these funds
20 over a piece of paper telling whether or not they've got
21 trash pickup.

22 And I'd like to take the discretion of the
23 board and recommend that unfortunately we go against staff
24 on this one, and recommend that this project be moved

1 forward.

2 MS. ANDERSON: Second.

3 MR. CONINE: A motion and a second on the
4 floor. Any further discussion from the board?

5 MS. CARRINGTON: It looks like there will be
6 some staff -- maybe a staff comment needed?

7 MS. BOSTON: I just wanted to clarify, Mr.
8 Bogany. These developments are not being voted on for
9 funding. So they'll still come back next month for that.

10 MR. BOGANY: Okay.

11 MS. BOSTON: Okay. I just wanted to make
12 sure --

13 MS. CARRINGTON: But it will make them
14 eligible --

15 MR. BOGANY: That's fine. It just gets -- it
16 gets the points restated to get them up --

17 MS. CARRINGTON: Yes, it will make them
18 eligible to be in the round for next year.

19 MR. BOGANY: Okay.

20 MS. CARRINGTON: Thank you. Thank you, Brooke.

21 MR. BOGANY: I appreciate it.

22 MR. CONINE: Any other discussion? Seeing
23 none, all those in favor of the motion, signify by saying
24 aye.

1 (A chorus of ayes.)

2 MR. CONINE: And a nay?

3 (No response.)

4 MR. CONINE: Motion carries. All right. We
5 move this to 4(b), Ms. Carrington.

6 MS. CARRINGTON: Thank you, Mr. Acting
7 Chairman.

8 MR. CONINE: I'm a great acting.

9 MS. CARRINGTON: We have in front of you
10 recommendation for 12 awards for funding that comes to us
11 from the Comptroller's Office, State Energy Conservation
12 Office that goes into our Housing Trust Fund. We actually
13 had 21 applications. We are recommending 12. Seventeen
14 were eligible; four were deemed not eligible.

15 This is actually a very good success story for
16 our Multifamily Housing Finance Division. We had a
17 meeting with the Governor's office and the Comptroller's
18 office about two weeks ago, because as you all will
19 remember, at our July board meeting there was some
20 discussion about maybe not being able to allocate SECO
21 funds.

22 But because of this meeting with the Governor's
23 office, we have been able to satisfy them that indeed, we
24 are being stewards -- good stewards of this money. And we

1 are recommending these 12 applications. Four of the 12
2 are not tied to Tax Credits or HOME. That means eight of
3 them actually are leveraging funds, or layering funds with
4 other TDHCA programs.

5 The amount that we are recommending today is
6 \$1,579,089. That is about \$53,000 more than what is in
7 our '03 allocation of SECO funds. However, we do have
8 deobligated funds from '02 that will cover that amount.

9 There is one caveat that will be in all of the
10 contracts. These funds must be contractually obligated by
11 August 31 of this year. Right now the Comptroller's
12 office, the SECO staff are reviewing all of the
13 applications that we received for funding.

14 And so as we prepare the contracts and send
15 them out, they will be subject to this final approval of
16 the application from the State Office of Energy
17 Conservation.

18 MR. BOGANY: So moved.

19 MR. SALINAS: Second.

20 MR. CONINE: A motion on the floor by Mr.
21 Bogany seconded by Mayor Salinas. Any discussion? Seeing
22 none, let's call the question. All those in favor of the
23 motion, signify by saying aye.

24 (A chorus of ayes.)

1 MR. CONINE: All opposed?

2 (No response.)

3 MR. CONINE: The motion carries. Executive
4 Director's Report. Ms. Carrington?

5 MS. CARRINGTON: I do have two things, Mr.
6 Acting Chairman. The first is we have a letter from the
7 Office of the Mayor in El Paso. And I met with Mayor
8 Wardy the day after our board meeting in July.

9 And you will remember the controversy that we
10 did have on the Tax Credit developments in El Paso. The
11 Mayor is very complimentary of TDHCA and the board and our
12 affordable housing initiatives in El Paso. And he says he
13 looks forward to working with us, and with TDHCA funding
14 to meet the housing needs in El Paso.

15 So I'd like to recognize Mayor Wardy and
16 acknowledge the letter that he did receive, and the
17 courtesy that he did extend to me when I met with him the
18 day after the board meeting.

19 The second item on the agenda -- we have
20 invited Christopher Ptomey. Christopher is our state and
21 federal liaison officer in Washington, D.C. And we've
22 asked Christopher to spend a couple of minutes talking to
23 you all about what's going on and what he is doing in
24 Washington as it's related to the activities of TDHCA.

1 MR. PTOMEY: Thank you, Ms. Carrington, Mr.
2 Chairman, board members. I appreciate the opportunity to
3 take just a minute and let you know some of the issues
4 that are coming up for the remainder of the fall in
5 Washington, and some of the organizations that we're
6 reaching out to and working with on items of concern in
7 Washington.

8 First of all, we're kind of in the seventh-
9 inning stretch of the legislative year in Washington
10 during August, while Congress is on recess. In September,
11 the primary items of business will be the Appropriations
12 bills.

13 Five of the 13 appropriations bills include
14 major housing-related -- housing and community-
15 development-related issues. And we'll be working closely
16 with five members of the Texas delegation who serve on the
17 Appropriations Committees as those bills move forward with
18 the issues of concern.

19 There is additional pressure on appropriations
20 this year with the projected deficits. And the VA HUD
21 bill, which has its -- our primary concern, has been
22 pushed back. The Senate hasn't even taken up at the
23 subcommittee level the bill as of yet, but will be taking
24 it up the first week of September. So we'll be watching

1 that very closely.

2 The second item is the Mortgage Revenue Bond
3 and Low Income Housing Tax Credit Modernization Bill.
4 We've been doing -- been working very diligently,
5 particularly with the Council State Housing Agencies, and
6 with the Bond Market Association to build support in the
7 Texas delegation for that legislation.

8 The latest estimate of the benefits of the
9 appeal are 193 million over five years, and 442 million
10 over ten years. And it looks like September there may be
11 an opportunity to have the ten-year rule change included
12 in either a business tax package that deals with the
13 foreign sales corporations issue, or an extenders bill of
14 tax extenders that could be brought up at that time.

15 So we're trying to build additional support so
16 that when that tax legislation does come forward in Ways
17 and Means in September, we have a better chance of having
18 that ten-year rule included.

19 The third item is the CSBG and LIHEAP
20 reauthorization. Both the House and Senate held hearings
21 on this in July. Authorization will lapse as of October 1
22 if those programs are not reauthorized.

23 It's relatively non-controversial, although
24 Senator Alexander, who is the new chairman of the Senate

1 Committee that has jurisdiction, has indicated that there
2 will be some changes. So we'll be looking at that draft
3 legislation when it comes forward.

4 Finally, I just wanted to mention the Housing
5 Assistance for Needy Families, Section 8 Block Grant
6 Proposal, because I know that's been of significant
7 concern to many people.

8 There were five hearings held in the House in
9 the spring and the summer with regard to that
10 administration proposal. It was not well received in the
11 House. In fact, the chairman of the subcommittee in the
12 House that has jurisdiction -- when he introduced the
13 bill, issued a statement saying that he was not supporting
14 the bill, but was introducing it on behalf of the
15 administration for consideration.

16 So it looks like that will not move forward
17 this year. Next year being an election year, it's also
18 unlikely that action will be taken on it considering the
19 level of controversy.

20 Finally, I just wanted to mention some of the
21 organizations that we're working with. Of course, we're
22 working with the National Council of State Housing
23 Agencies, have worked extensively with John Hughes and
24 Chris Laurent on the Mortgage Revenue Bond Bill.

1 The Bond Market Association is also -- we're
2 also working with to build that close sponsorship. We've
3 worked with Marsha Sigal over at COSCDA, looking at the
4 Housing Assistance for Needy Families proposal, and the
5 possible impact that could have on states.

6 Next week I'm sitting down with Marty Morris of
7 the HomeBuilders, to talk to him about ways that we can
8 work together, not only on the Mortgage Revenue Bond
9 issue, but on other issues of mutual concern.

10 Later in the month, I'll be meeting with Lisa
11 Scott of the National Association of Realtors, and
12 discussing where we might be able to work together.

13 And finally, I just reached out to the National
14 Association of Local Housing Finance Agencies, and with
15 NAHRO to see what we can do together with them, both this
16 fall, and moving into next year for the second session of
17 the 108th Congress.

18 MR. CONINE: Any questions of Mr. Ptomey?
19 Sounds like you're doing a good job up in D.C. I
20 appreciate all of your efforts. Come by and see me
21 sometime.

22 MR. PTOMEY: Thank you. Sure will.

23 MR. CONINE: All right. Okay. Anything else,
24 Ms. Carrington?

1 MS. CARRINGTON: No, sir.

2 MR. CONINE: We need to have a brief Executive
3 Session of the board. So on this day, August 14, 2003, at
4 the regular board meeting of the Texas Department of
5 Housing and Community Affairs in Austin, the board
6 adjourned into a closed session as evidenced by the
7 following.

8 The board of directors will begin its Executive
9 Session today, August 14, at 4:05 p.m. The subject matter
10 of this Executive Session deliberation is as follows:

11 Litigation and Anticipated Litigation regarding
12 Cause Number GN-202219, Century Pacific Equity Corporation
13 v. TDHCA, Consultation with Attorney Pursuant to Texas
14 Government Code - Matters Concerning 572.054, Personnel
15 Matters under Section 551.074, and any item listed on the
16 board agenda. So we'll now go into Executive Session.

17 (Whereupon, at 4:05 p.m., the board went into
18 executive session.)

19 MR. CONINE: The Board of Directors has
20 completed its Executive Session of TDHCA on August 14 at
21 4:15. I hereby certify this agenda of the Executive
22 Session of TDHCA was properly authorized, pursuant to
23 551.103 of the Texas Government Code, posted at the
24 Secretary of State's office seven days prior to the

1 meeting, pursuant to 551.044 of the Texas Government Code,
2 and that all members of the Board of Directors were
3 present, and that this is a true and correct record of the
4 proceedings, pursuant to the Texas Open Meeting Act,
5 Chapter 551, Texas Government Code as amended.

6 Is there any other business to come before the
7 board today? How about a motion to adjourn?

8 MS. ANDERSON: So moved.

9 MR. BOGANY: Second.

10 MR. CONINE: All in favor, say aye.

11 (A chorus of ayes.)

12 MR. CONINE: Thank you.

13 (Whereupon, at 4:25 p.m., the board meeting was
14 concluded.)

C E R T I F I C A T E

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MEETING OF: Texas Dept. of Housing & Community Affairs
LOCATION: Austin, Texas
DATE: August 14, 2003

I do hereby certify that the foregoing pages, numbers 1 through 314, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the Texas Department of Housing and Community Affairs.

(Transcriber) 8/26/2003
(Date)

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