

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING COMMITTEE

11:15 a.m.
Thursday,
June 10, 2004

Auditorium
State Capitol Extension
1100 Congress
Austin, Texas

COMMITTEE MEMBERS:

BETH ANDERSON, Chairman
C. KENT CONINE, Vice Chairman
SHADRICK BOGANY
VIDAL GONZALEZ
PATRICK GORDON
NORBERTO SALINAS

STAFF PRESENT:

EDWINA CARRINGTON, Executive Director
CHRIS WITTMAYER

ALSO PRESENT:

BRENDA HULL

A G E N D A

<u>ITEM</u>	<u>PAGE :</u>
CALL TO ORDER, ROLL CALL CERTIFICATION OF QUORUM	5
PUBLIC COMMENT	6
 <u>ACTION ITEMS</u>	
ITEM 1 Presentation, Discussion and Possible Approval of Minutes of Board Meeting of May 13, 2004.	
Item 2 Presentation and Discussion of Report from the Programs Committee:	
C. Kent Conine	22
a) <i>Update on Issues Raised at the May Committee Meeting Including HOME Funding Timelines, HOME Over-Subscription Rate for Current Cycle, Community Development Block Grant Housing Information Update and HOME Consolidated Plan Amendment Language</i>	
b) <i>Report from Texas Interagency Council for the Homeless</i>	
c) <i>Update and Discussion on Section 8 Program</i>	
Item 3 Presentation, Discussion and Possible Approval of Programmatic Items:	
C. Kent Conine	30
a) <i>Forgiveness of Housing Trust Fund Predevelopment Loans for: City of Orange for \$50,000 East Austin Economic Development Corporation for \$30,000</i>	
b) <i>Update on Strategic Plan for Fiscal Years 2005-2009</i>	
Item 4 Presentation, Discussion and Possible Approval of Multifamily: Mortgage Revenue Bonds and Four Percent (4%) Housing Tax Credits With TDHCA as the Issuer:	
Vidal Gonzalez	
a) <i>Proposed Issuance of Multifamily Mortgage 34 Revenue Bonds for Tranquility Bay, Pearland, Texas in an Amount Not to Exceed \$14,350,000 and Issuance of Determination Notice (Requested Amount of \$650,675 and</i>	

Recommended Amount of \$649,023) for Housing Tax Credits for Tranquility Bay, Pearland, Texas #04-420

b) Selection of Underwriters for the Multifamily Bond Program 161

c) Selection of Trustees for the Multifamily Bond Program 162

Item 5 Presentation, Discussion and Possible Approval of Housing Tax Credit Elizabeth Anderson Items:

*a) Appeals to Board from Housing Tax Credit 164 Applicants on Applications as follows:
04-066 Pineywoods Community Development, Orange, Texas
04-267 Brentwood Apartments, Aldine City, Texas*

b) Issuance of Determination Notices on Tax 195 Exempt Bond Transactions with Other Issuers:

04-425 The Masters, Dallas, Texas City of Dallas Housing Finance Corp. is the Issuer (Requested Amount of \$511,061 and Recommended Amount of \$500,879)

04-428 Primrose at Pasadena, Pasadena, Texas Southeast Texas Housing Finance Corp, is the Issuer (Requested Amount of \$783,565 and Recommended Amount of \$783,565)

c) Proposed Amendments to Housing Tax Credit Projects: 196

03-134 Lilac Gardens, El Paso, Texas

04-408 Hickory Manor, DeSoto, Texas

d) Extension of Construction Loan Closing Deadlines for: 203

03-004 Arbor Woods Apartments, Dallas, Texas

03-011 Jefferson Davis Artist Lofts, Houston, Texas

03-136 Tigoni Villas, San Antonio, Texas

03-159 Summit Senior Village, Gainesville, Texas

03-178 Jacinto Manor, Jacinto City, Texas

03-182The Manor at Jersey Village, Jersey
Village, Texas

03-212Village of Kaufman Apartments,
Kaufman, Texas

03-213Fox Run Apartments, Orange, Texas

03-220 Desert Breeze, Horizon City, Texas

e) Request for Additional Housing Tax

Credits for:

205

1) 0004T, Carroll Townhomes, Dallas, Texas,
in the Amount of \$13,587 (Total amount
of Housing Tax Credits for Carroll
Townhomes is \$265,587)

2) 01401, Roseland Gardens, Dallas, Texas,
in the Amount of \$3,188 (Total amount
of Housing Tax Credits for Roseland
Gardens is 402,563)

ADJOURN

208

P R O C E E D I N G S

1
2 MS. ANDERSON: Call to order the Board meeting
3 for the Texas Department Housing and Community Affairs for
4 Thursday, June 10, 2004.

5 We'll call the roll. Beth Anderson, Chair, is
6 present.

7 Mr. Conine?

8 MR. CONINE: I'm here.

9 MS. ANDERSON: Mr. Bogany.

10 MR. BOGANY: Here.

11 MS. ANDERSON: Mr. Gonzalez.

12 MR. GONZALEZ: Here.

13 MS. ANDERSON: Mr. Gordon.

14 MR. GORDON: Here.

15 MS. ANDERSON: Mayor Salinas.

16 MR. SALINAS: Here.

17 MS. ANDERSON: We have all six members present,
18 and we have a quorum.

19 I'd like to begin this morning by asking that
20 we have a brief moment of silence in the memory of the
21 40th president of the United States, Ronald Reagan.

22 Thank you for that. I have just one other
23 comment I'd like to make this morning and this is to ask

ON THE RECORD REPORTING

(512) 450-0342

1 that you keep in your thoughts and prayers the family of
2 State Representative Jim Pitts, whose wife was tragically
3 killed over the weekend in a car accident.

4 And as many of you all know, her brother-in-law
5 is John Pitts, who is a member of our affordable housing
6 community here in Texas and a participant in the
7 Department's activities and programs.

8 Okay. Then the first item of business on the
9 agenda is to solicit public comment. And as we do at all
10 of our meetings, we entertain public comment both during
11 this initial public comment period or a person can choose
12 to speak at the time of the agenda item.

13 I have a number of witness affirmation forms,
14 and I will call on you to speak.

15 If there's anyone in the audience that would
16 like to speak to the Board this morning and has not
17 completed a witness affirmation form, they're up here in
18 front, and I ask that you fill out a witness affirmation
19 form if you want to speak.

20 The first person is Susana Benevidez from
21 Congressman Charlie Gonzalez' office. Good morning.

22 MS. BENEVIDEZ: Good morning. I'm here to
23 represent Congressman Charlie Gonzalez, District 20,

ON THE RECORD REPORTING

(512) 450-0342

1 Texas. I'm going to read a letter that he has sent the
2 executive director, Edwina Carrington.

3 But before I do, I'd like to give you a brief
4 overview regarding the applicant. This is application
5 Number 04-074, Las Palmas Garden Apartments.

6 Urban Progress Park Recreation, a 501(3) has
7 owned the property for 39 years. There have been three
8 resident meetings. They were very well attended.

9 Development team has had several meetings with
10 the residents in the surrounding community to listen to
11 concerns, and they've worked together to set a program for
12 rehabilitation.

13 A 100 units with 100 percent being affordable
14 at 40 percent of the median income. Amenity center with
15 computers, social and educational programs for the whole
16 family.

17 They will be adding air conditioning,
18 carpeting, energy efficiencies, swimming pool, perimeter
19 fencing with security gates.

20 Residents are happy to live there and are happy
21 with the schools. They don't want to move away. And this
22 is located in a poor section of the Congressman's
23 district.

ON THE RECORD REPORTING

(512) 450-0342

1 And this is the letter that he has sent Ms.
2 Carrington.

3 "I'm writing this letter in support of Las
4 Palmas housing in their application to the Texas
5 Department Housing and Community Affairs for housing tax
6 credits to rehabilitate the Las Palmas Garden Apartments
7 at 1014 South San Eduardo, San Antonio, Bexar County,
8 Texas 78237.

9 The 100-unit multifamily development consists
10 of one, two and three bedrooms on 7.15 acres. There is a
11 need for quality, affordable housing on the west side of
12 San Antonio.

13 This rehabilitation of the 35-plus-year old
14 multifamily apartments will continue to address the needs
15 of families in the 40 percent, 50 percent and 60 percent
16 of the area median income.

17 Las Palmas Garden Apartments has long and good
18 standing in the community.

19 I support this application to the Texas
20 Department of Housing and Community Affairs. If you have
21 any questions or concerns regarding this letter, please do
22 not hesitate to contact my office.

23 Sincerely,

ON THE RECORD REPORTING

(512) 450-0342

1 Congressman Charles A. Gonzalez"

2 Thank you.

3 MR. CONINE: Thank you.

4 MS. ANDERSON: Jose Angel Salinas.

5 MR. SALINAS: Yes. I'd like to yield my time
6 to Mr. Ron Mayfield.

7 MS. ANDERSON: Leslie Hinds.

8 MS. HINDS: I'd like to yield my time to Ron
9 Mayfield.

10 MS. ANDERSON: Patti Jeschke.

11 MS. JESCHKE: I'd like to yield my time to Ron
12 Mayfield.

13 MS. ANDERSON: Chad Howard.

14 MR. HOWARD: I'd like to yield my time to Pete
15 Dumont.

16 MS. ANDERSON: David Crane.

17 MR. CRANE: I'd like to yield my time to Peter
18 Dumont.

19 MS. ANDERSON: Jason Simon.

20 MR. SIMON: I'd like to yield my time to Peter
21 Dumont.

22 MS. ANDERSON: Patrick Lesley.

23 MR. LESLEY: I'd like to yield my time to Peter

ON THE RECORD REPORTING

(512) 450-0342

1 Dumont.

2 MS. ANDERSON: Okay. And Mr. Dumont, I have
3 your form. It indicates that you want to speak during the
4 public comment period. But do you prefer to speak when
5 the agenda item is presented?

6 MR. DUMONT: Yes.

7 MS. ANDERSON: Okay. The other witness
8 affirmation forms that I have indicate that people who
9 want to speak, want to speak at the agenda item. Is there
10 anyone who's filled out one of these forms that would
11 prefer to speak now?

12 Yes. Your name, ma'am.

13 MS. RODRIGUEZ: Stella Rodriguez.

14 MS. ANDERSON: And you'd like to speak now?

15 MS. RODRIGUEZ: Yes.

16 MS. ANDERSON: Okay. Please come down.

17 MS. RODRIGUEZ: Good morning, Madam Chair.
18 Members of the Board. My name is Stella Rodriguez, and
19 I'm the Executive Director of the Texas Association of
20 Community Action Agencies.

21 We are based here in Austin, and we represent
22 the network of community action agencies across the State.

23 On behalf of the Board of Directors of TACAA,

ON THE RECORD REPORTING

(512) 450-0342

1 I'm here to present a resolution which was adopted by our
2 membership regarding a policy by this Department that not
3 creates a burden to the clients we serve, it also prevents
4 many clients from being served with needed assistance.

5 Effective January 1, 2004 TDHCA implemented
6 general policy number 04-3.2, which in essence requires
7 service providers of three programs -- the Community
8 Services Block Grant, the Comprehensive Energy Program and
9 the Weatherization Assistance Program.

10 It requires them to use previous 90-day income
11 of a household to determine eligibility as opposed to a
12 30-day period formerly used.

13 The policy further states that if income is
14 unavailable, the applicant must complete and sign a
15 Declaration of Income statement.

16 We understand this policy is a result of a
17 recommendation made by the State Auditor's Office.
18 However, it is our understanding that the SAO
19 recommendation did not mandate a 90-day period.

20 And as advocates of the clients we serve, we're
21 compelled to share with you the affects of this policy on
22 our clients.

23 The clients we serve are extremely fluid in

ON THE RECORD REPORTING

(512) 450-0342

1 terms of employment. Many have seasonal jobs. They are
2 left unemployed due to the unstable economy and live
3 paycheck to paycheck.

4 They are familiar with federal and state
5 programs, that most of them require 30-day income
6 policy -- for example, food stamp, transportation, family
7 planning, etc.

8 They're challenged in retaining documentation
9 for a long-term period. They're reluctant to ask
10 employers for information out of embarrassment in seeking
11 assistance. And they're diversified in the type of
12 circumstances and situations they find themselves.

13 A sampling of specific case scenarios reported
14 to our statewide network include a number of things, but
15 I'm not going to read to you every one. I do have written
16 testimony to provide to you. But let me give you a few
17 examples.

18 A woman who cleans house for a living is paid
19 in cash. One of her employers moved away. A month later,
20 she is in need of assistance. However, the TACAA was
21 unable to help her because her income for the previous 90
22 days was unattainable.

23 And elderly woman's husband died four weeks

ON THE RECORD REPORTING

(512) 450-0342

1 prior to the client applying for assistance. She receives
2 \$525 in social security. Her past 90-day income included
3 her social security, her husband's social security and her
4 husband's part-time wages.

5 When you factor in the 90-day period, this
6 client is disqualified from receiving any assistance.

7 A woman left her abusive husband. She now
8 works at the Dollar Store, earning \$5.15 an hour for 20
9 hours a week. She and her three children are broke, and
10 they need assistance now. However, they're ineligible,
11 due to this policy.

12 Some general case scenarios include: client
13 seeking assistance with utility bills are denied at a
14 higher rate. Clients get frustrated with the process and
15 choose to suffer the consequences of not receiving
16 assistance.

17 Some employers are uncooperative and fail to
18 provide income verification, thereby leaving a client
19 unserved.

20 Clients usually assisted under a 48-hour
21 response period through the energy crisis component of the
22 Comprehensive Energy Assistance Program are now denied or
23 forced to sign a self Declaration of Income statement.

ON THE RECORD REPORTING

(512) 450-0342

1 Clients get angry with the local CAA and
2 consequently contact their local elective officials for
3 intervention, which ultimately are referred to this
4 Department by the elected official.

5 The CAA network has a great working
6 relationship with this Department.

7 And as partners, we simply bring to your
8 attention the fact that clients needing are no longer
9 being served or are having to wait much longer before
10 they're assisted, which oftentimes compounds they're
11 crisis situation.

12 Furthermore, we ask the Department not to
13 penalize the community action agencies for client overuse
14 of the Self Declaration of Income statement caused by this
15 policy.

16 In any event, our network will implement
17 whatever policy this Department adopts.

18 Thank you for the opportunity. And I actually
19 have Dan Boyd with me from the Galveston County Community
20 Agency, who I'd like to address you at this point, if
21 possible.

22 MS. ANDERSON: Mr. Boyd.

23 MR. BOYD: Thank you, Ms. Rodriguez. Thank

ON THE RECORD REPORTING

(512) 450-0342

1 you, Madam Chair, members of the Board, for this
2 opportunity to give you a brief look at this very
3 important issue.

4 My name is Dan Boyd. I'm Deputy Executive
5 Director of Galveston County Community Agency Council. We
6 serve four counties on the Gulf Coast of Texas.

7 In support of the TACAA resolution on behalf of
8 community action agencies across the State, we appear
9 before you today as advocates for the citizens of Texas
10 who come to us in their time of need.

11 We're eager to demonstrate to you how TDHCA
12 General Policy Issuance 94-3.2 affects the access to
13 services for our low-income citizens.

14 From the field you see a clear picture of how
15 this issuance puts in peril the ability to help needy
16 families. We wish to present now a set of five
17 undeniable particulars with respect to the lives of the
18 very people we seek to serve.

19 First, our customers have fluid lives. The
20 lack of adequate income precludes families from enjoying
21 certain stabilities that many of us take for granted.
22 Working in unprotected jobs makes continued employment an
23 uncertainty.

ON THE RECORD REPORTING

(512) 450-0342

1 Uncertain employment makes stable and long-term
2 housing a vague and distant reality. Often families
3 relocate in order to trail gainful employment. Often the
4 arrival in a new place requires assistance with housing
5 and basic necessities.

6 While finding adequate housing is a function
7 that CSBG case manager have helped families do for almost
8 40 years. This issuance prevents far too many of these
9 families from being eligible for the very assistance we're
10 mandated to provide.

11 Second, our customers are more susceptible to
12 crisis. Often a catastrophic event such as employment
13 loss, illness, death or accident can send any family into
14 crisis.

15 However low-income families need not have such
16 a grand event to plunge their lives into a disparaging
17 situation.

18 A broken alternator on the family's only car,
19 back to school expenses or an unexpected increase in the
20 cost of a maintenance prescription can quickly deplete
21 financial reserves, providing any reserves ever existed.

22 Often such crises permeate every aspect to the
23 family, from attitude to record keeping. Knowing that a

ON THE RECORD REPORTING

(512) 450-0342

1 family will need income documentation for the previous 13
2 weeks of employment is frequently overwhelming.

3 Often, it's to the point that some families
4 will not keep appointments with case managers when told
5 that assistance requires compliance with the
6 afore-mentioned issue.

7 Third, our customers seek our help in a
8 predictable manner. Most Texas are proud people, and when
9 faced with a crisis, they'd like to be able to handle it
10 themselves.

11 But when no sustainable relief is in sight, and
12 the second round of unpayable household bills begins to
13 arrive in the mail, our services are sought. This usually
14 puts needy families at our doorstep between five and seven
15 weeks following any catastrophic event.

16 This is where the issuance can be at its most
17 prohibitive. When calculating income for a 90-day period,
18 all too many of these families become ineligible for the
19 services they seek.

20 A 30-day look at the family paints a more
21 accurate picture of the family's current situation. For
22 many of us here a 30-day look paints the same picture of
23 our lives that a 365-day look would provide.

ON THE RECORD REPORTING

(512) 450-0342

1 For the overwhelming majority of your
2 customers, however, this is not the case.

3 Fourth. This set of situations exists in every
4 constituency in Texas. As more and more citizens cannot
5 access available services due to this issuance, the number
6 of communications to state legislators will continue to
7 increase.

8 The phone calls and letter have already started
9 and will most assuredly continue.

10 Thus the political implications of this
11 issuance can be more far-reaching than originally
12 estimated by the one person in the SAO that thought this
13 was a good idea, instead of a necessity based on actual
14 facts collected by reasonable tests of Texas CAAs.

15 Finally, there's no denying that my mother's
16 mother was correct when she taught me the grandmother
17 rule, which simply states, it doesn't matter who's right.

18 It only matters what's right.

19 With that, let me say we're not here telling
20 you your issuance was wrong. Nor will we concede that our
21 movement against it is wrong. We will simply live by the
22 credo that doing what's right for our citizens includes
23 revisiting this issue.

ON THE RECORD REPORTING

(512) 450-0342

1 We sincerely that you will indeed revisit this
2 issue, and please know that we are available to assist in
3 any way possible.

4 MS. ANDERSON: Thank you.

5 MR. CONINE: Can I ask a question or two,
6 maybe?

7 MS. ANDERSON: Sure.

8 MR. CONINE: Just out of curiosity. Let's play
9 devil's advocate for just a second, if I might. You have
10 a finite pool of dollars, and the 90-day rule is in
11 effect. Are you having trouble getting the money out? Is
12 there surpluses left over?

13 MR. BOYD: I will tell you the numbers are
14 down. I can't tell you. We haven't done an entire
15 program year. I don't know if there'll be a shortfall of
16 spending all the money.

17 But I will tell you the numbers are down. The
18 number of unkept appointments is up. I was in one of our
19 field offices yesterday afternoon --

20 MR. CONINE: I guess I'm more concerned about
21 the money actually going out the door.

22 It would seem to me that if a family or an
23 individual that has 90 days worth of trouble and problems

ON THE RECORD REPORTING

(512) 450-0342

1 and can get the assistance, has better access to the pool
2 of finite dollars than the 30-day person that might slip
3 in and get it before they do.

4 Aren't you really serving those who are in
5 worse shape than the 30-day pool?

6 MR. BOYD: I can't see the difference. I can't
7 see where a person who's been in trouble for 90 days needs
8 our help less or more than someone who's been in trouble
9 for 30.

10 I will tell you that, as I stated in my
11 testimony, five to seven weeks after they get in trouble
12 is when we see them. If we see them and their trouble has
13 existed for 90, 100, 270 days, that's a system client.
14 And we've seen them year after year.

15 MR. CONINE: Ms. Carrington, do we have a soft
16 spot for the dual income to single income scenario that
17 was painted by Ms. Rodriguez? And we don't have a car
18 route for that sort of circumstance in our rules
19 currently?

20 MS. CARRINGTON: What our policy issuance says
21 is that a 90-period will be looked at for income. I do
22 not believe that provides any kind of exclusionary
23 exception language.

ON THE RECORD REPORTING

(512) 450-0342

1 MR. BOYD: There is an exclusion for migrant
2 farm workers. And I think that's probably the only
3 exclusion.

4 MR. CONINE: I guess the appropriate follow-up
5 action, Madam Chair, would be to ask Staff to take a look
6 at this issue and bring it back. The Programs Committee
7 could take at it next session, and we'd bring it back to
8 the Board -- whatever we need to do.

9 MR. BOYD: Yes, sir. That's all we're asking,
10 that the issue be revisited.

11 MR. SALINAS: And you some of those elected
12 officials you've talked to are people who agree with what
13 we've done. Whenever you go back to them, they need to
14 communicate with us and say we need to revisit this,
15 instead of just telling you come see us.

16 We actually follow their mandate. And they are
17 the people that are closer to you than we are.

18 MR. BOYD: Yes, sir.

19 MR. SALINAS: And I think those elected
20 officials will tell you, the Texas Department of Housing
21 and Community Affairs is responsible. It's not that way.

22 We do follow up on what they ask us to do, and
23 we change the rules according to how they want us to do

ON THE RECORD REPORTING

(512) 450-0342

1 it.

2 MR. BOYD: Actually there was no mandate for
3 this issuance.

4 MR. SALINAS: But there is a lot of
5 communication with the elected officials themselves. And
6 we want to be able to take care of the needs of the people
7 that do need assistance.

8 I am from south Texas, and I do have the
9 exception on the migrant farm workers. But in the
10 Galveston area, how is the Agency supposed to allow
11 somebody that has cash money that they made.

12 How are we supposed to do that? Do we break
13 the rules? You need to help us how to justify that. We
14 go ahead and start doing that, then there's no end to
15 people telling us they made some cash money.

16 We want to be able to find some kind of proof
17 that they do have that income. We just don't want to take
18 the heat ourselves, because we do care, and we want to be
19 able to do that.

20 MS. ANDERSON: Okay. Thank you.

21 The rest of the witness affirmation forms that
22 I have, I believe, are from people who want to speak at
23 the agenda item. Is there anyone who completed one of

ON THE RECORD REPORTING

(512) 450-0342

1 these forms that chooses to speak no in the initial public
2 comment period?

3 (No response.)

4 MS. ANDERSON: Okay. Seeing none, we'll
5 proceed with our agenda then.

6 Item Number 1 on the agenda is around the
7 discussion and possible approval of minutes of Board
8 meeting of May Board meeting.

9 However, members, because of some printing
10 problems and the way these books were prepared, we're
11 going to defer approval of the May minutes until the next
12 Board meeting, with your indulgence.

13 So then we proceed to Item Number 2 which is
14 presentation and discussion of report from the Programs
15 Committee.

16 But right before we do that, let me first
17 welcome some guests we have today. We have Beau
18 Rothschild from the House Urban Affairs Committee. Thank
19 you for being with us, Beau.

20 Lisa Gonzalez from the Governor's office is
21 also here. And I also saw Scott Sims from Speaker
22 Craddick's office. Thank you all for being here this
23 morning.

ON THE RECORD REPORTING

(512) 450-0342

1 Mr. Conine.

2 MR. CONINE: Thank you, Ms. Anderson.

3 The Programs Committee met this morning and
4 again had an update on our HOME Fund Program, and a lot of
5 good discussion, I think, came from that.

6 I get a little frustrated in reporting to the
7 Board that we had no action items, but I don't think we do
8 at this point in time.

9 But as we get into the public comment period
10 for the HOME program cycle for next year, we'll have a
11 chance to take some action on a few items.

12 Also I heard a report from the Texas
13 Interagency Council for the Homeless, which is a group of
14 multi-state agencies that get together and talk about how
15 to solve the homeless problem in Texas through the use of
16 various Agency resources.

17 TDHCA has been kind of the lead dog on this
18 particular Council for quite some time. We heard
19 testimony from various sources and asked Staff to come
20 back with some more information on that.

21 This is something that I think -- once the
22 Programs Committee actually gets some more input, we'll
23 probably have a presentation to the Board to make sure

ON THE RECORD REPORTING

(512) 450-0342

1 that the balance of the Board has a particular
2 appreciation for what this Council does and what it's
3 doing in the future.

4 So stay tuned for that for future Board
5 meetings.

6 And we also discussed our Section 8 Program.
7 Most of you know that the federal government, and
8 specifically HUD, has proposed some changes in the way
9 Section 8 vouchers are allocated and paid for.

10 And that was a concern to several of the public
11 witnesses that we heard this morning. We're asking Staff
12 to take a hard look at our involvement in the current
13 Section 8 Program and come back to us with some more
14 information.

15 And again, we will bring that back to this
16 Board when appropriate.

17 That concludes the items of discussion that
18 were on the Programs Committee this morning.

19 MS. ANDERSON: Any questions for Mr. Conine?

20 (No response.)

21 MS. ANDERSON: Thank you, very much for your
22 report and for your leadership of that committee.

23 Now we proceed to Item 3 on the agenda,

ON THE RECORD REPORTING

(512) 450-0342

1 presentation, discussion and possible approval of
2 programmatic items.

3 Mr. Conine.

4 MR. CONINE: Thank you. And I'll ask Ms.
5 Carrington to present the first item, please.

6 MS. CARRINGTON: Thank you.

7 The first item for your consideration is the
8 forgiveness of repayment for two predevelopment loans for
9 that were made through Department's Housing Trust Fund.

10 The first one is a loan to the City of Orange
11 for \$50,000. That was the full amount of the loan, and
12 they are requesting forgiveness of that.

13 The second one is forgiveness of \$30,000, which
14 is the \$30,000 remaining of a \$50,000 loan. It was made
15 to the East Austin Economic Development Corporation.

16 Both of the circumstances for these
17 transactions are in your Board materials.

18 With the City of Orange, the money that was
19 provided to them in redevelopment costs, was to examine
20 the feasibility of a Navy park addition, which was a
21 redevelopment of an area in the City of Orange.

22 The funds from Housing Trust Fund were used for
23 a study. And the study came back addressing social and

ON THE RECORD REPORTING

(512) 450-0342

1 economic revitalization, but did not include a new
2 construction housing component on the plan.

3 So because of that, they are requesting
4 forgiveness of the redevelopment loan. I might add that
5 both of the documents and these two loans did envision
6 forgiveness.

7 Staff is recommending the forgiveness of the
8 loan to the City of Orange.

9 East Austin Economic Corporation -- they have
10 paid back to the Department \$20,000. This \$50,000 was to
11 be used for redevelopment costs associated with the
12 construction of a 20-unit elderly project in Lockhart.
13 And they have had difficulty.

14 The development has been completed. It is
15 partially leased. It has not performed as they had
16 anticipated it would perform. And so they are requesting
17 forgiveness of \$30,000 of that \$50,000.

18 And as I said, Staff is recommending that both
19 of these loans be forgiven.

20 MR. BOGANY: So moved.

21 MR. GONZALEZ: Second.

22 MS. ANDERSON: Discussion? Questions?

23 MR. CONINE: Ms. Carrington, I have a question

ON THE RECORD REPORTING

(512) 450-0342

1 on the City of Orange. You know I'm generally in favor of
2 Staff recommendations and so forth.

3 But I'm a little disturbed at an application
4 for Housing Trust Fund money that would ask for a study to
5 be produced on something that says a hundred-acre housing
6 development in the City of Orange.

7 And for us to spend \$50,000 or City of Orange
8 to spend \$50,000 on a study, to come back and say that no
9 housing component needs to be considered.

10 I'm just wondering how in the underwriting and
11 the processing of that application we thought or how the
12 City of Orange thought that there was a housing component
13 needed there based on, I'm sure, feedback from some of the
14 residents, and then all of a sudden we don't need any
15 housing.

16 Can you or anyone else shed some light on that?

17 MS. CARRINGTON: As we look at how we use this
18 Housing Trust Fund predevelopment money, it is typically
19 used for a variety of feasibility studies.

20 In this case, it was a redevelopment of an area
21 where they were looking at commercial, retail and
22 potentially residential.

23 And from the information that we have received

ON THE RECORD REPORTING

(512) 450-0342

1 back from them as they did complete the study, what they
2 have determined was that either there is no need, or they
3 did not believe it was suitable to include a housing
4 component in this redevelopment.

5 MR. SALINAS: What county is that?

6 MS. CARRINGTON: I'm sorry.

7 MR. SALINAS: What county?

8 MS. CARRINGTON: Well, it's the City of Orange,
9 and that would be in Orange County.

10 MR. SALINAS: Orange County which is what
11 region?

12 MS. CARRINGTON: It's southeast. It's the
13 Beaumont, Port Arthur area.

14 MR. SALINAS: What's the population of the City
15 of Orange? 18,000?

16 MR. CONINE: I'm still perplexed at how a
17 hundred acres in a city of that size cannot warrant a
18 housing component. What's it going to be? All retail or
19 all industrial?

20 Could someone give me a copy of the \$50,000
21 study, so I can take a look at it. I can't understand
22 this one at all.

23 MS. ANDERSON: I'm wondering if somebody can

ON THE RECORD REPORTING

(512) 450-0342

1 shed some light on this letter from their Director of
2 Planning and Community Development on April 16 of this
3 year that says, "We would not have sought the funds or
4 commission the study, but for the reassurances given to us
5 that the obligation to repay the cost could and would be
6 waived."

7 MS. CARRINGTON: We certainly do not commit to
8 anyone that we will forgive a loan. But we do provide in
9 the documents a forgiveness provision. We did verify
10 indeed that the loan agreement in this particular instance
11 did have --

12 MS. ANDERSON: How is that worded?

13 MS. CARRINGTON: Ms. Boston, do you --

14 MS. ANDERSON: To give the impression that
15 forgiveness is an option at the discretion of the
16 Department is one thing.

17 To even unintentionally give the impression
18 that they don't ever have to worry about paying it back,
19 because we're always going to forgive them, is a policy
20 that I don't think this Board member wants to be a part
21 of.

22 MS. BOSTON: I can assure that no longer
23 happens. And I don't know that it did then. That may be

ON THE RECORD REPORTING

(512) 450-0342

1 an impression he got that may not -- obviously there's two
2 sides to that.

3 I would like to comment though that since then,
4 that is the last time that we've approved a redevelopment
5 loan that is not specifically tied to a proposed
6 development.

7 Now our predevelopment loans have to be a
8 particular parcel of land that they believe they're going
9 to develop for affordable housing. And then they would
10 come in, and we would help pay for, for instance, the
11 market study or the environmental -- that type of thing.

12 So it doesn't happen any more.

13 MR. SALINAS: When did it happen?

14 MS. BOSTON: It actually was requested and
15 approved at the end of 2002, and the contract was executed
16 in March of '03.

17 MS. CARRINGTON: And we can certainly provide
18 the Board the language from the loan agreement. If the
19 Board would like to have that, we can get that and bring
20 it back to you before the day is over.

21 MS. BOSTON: And actually just for
22 clarification, it wasn't in the loan agreement. It was in
23 the rule at the time. It was not in the NOFA, and it was

ON THE RECORD REPORTING

(512) 450-0342

1 not in the loan agreement.

2 It was just in the rule. And the excerpt of
3 the rule that allows the forgiveness is quoted in your
4 write-up. That's the only document it was in.

5 MR. SALINAS: And the study done was by
6 somebody in Orange, Texas?

7 MS. BOSTON: I'd have to look. I just gave Mr.
8 Conine my only copy. I know they had outsourced a third
9 party to do the study.

10 MR. CONINE: Madam Chair, I'm going to move to
11 table the City of Orange forgiveness part of the motion.
12 I'm ready to proceed with the East Austin. But I move to
13 table the Orange one until the next meeting.

14 MR. GONZALEZ: I second.

15 MS. ANDERSON: Any discussion on the motion? I
16 guess this won't -- all in favor, say aye.

17 (A chorus of ayes.)

18 MS. ANDERSON: Opposed, no.

19 (No response.)

20 MS. ANDERSON: Motion carries. That portion's
21 tabled.

22 MR. CONINE: Now we can go and move --

23 MS. ANDERSON: Talk about East Austin.

ON THE RECORD REPORTING

(512) 450-0342

1 MR. CONINE: East Austin.

2 MS. CARRINGTON: This loan was made in July of
3 '02. It was for \$50,000 also for predevelopment costs
4 associated with the construction of a 20-unit elderly
5 development in Lockhart.

6 As I indicated, they have repaid the Department
7 \$20,000 of the \$50,000. They are requesting forgiveness
8 of the remaining \$30,000, because circumstances have
9 caused their development in Lockhart to be less profitable
10 than what they had expected.

11 Basically what they did was they used some of
12 the predevelopment money to cover lease-up costs as they
13 were attempting to lease up the Lockhart development.

14 There is some language that they say there's a
15 deficit due. It's due to the lease-up phase that was
16 longer than expected. And that actually East Austin has
17 expended over \$14,000 in non-budgeted funds.

18 We have in our Real Estate Analysis Division in
19 our workout area, we have a request from this group to
20 look to restructure their HOME loan. So they actually had
21 two sources of funding from TDHCA.

22 They had the \$50,000 loan for predevelopment,
23 and then they also had a HOME loan in the amount of, I

ON THE RECORD REPORTING

(512) 450-0342

1 believe, \$1 million for the construction of the 20 units
2 in Lockhart.

3 MR. CONINE: If that's the case, then I'm going
4 to move to table this one, until the Real Estate Analysis
5 comes back with the HOME restructure, so we can do them
6 both at the same time.

7 MR. BOGANY: Second.

8 MS. ANDERSON: Discussion?

9 (No response.)

10 MS. ANDERSON: All in favor of the motion, say
11 aye.

12 (A chorus of ayes.)

13 MS. ANDERSON: Opposed, no.

14 (No response.)

15 MS. ANDERSON: Motion carries. East Austin is
16 tabled.

17 MR. CONINE: Okay. Update on the strategic
18 plan for fiscals year 2005 through 2009. Ms. Carrington.

19 MS. CARRINGTON: Thank you.

20 This is a requirement of all state agencies.
21 And we have for you a draft of our five-year strategic
22 plan, as Mr. Conine has said. This will cover fiscal
23 years 2005 to 2009.

ON THE RECORD REPORTING

(512) 450-0342

1 This plan is required and submitted to both the
2 Governor's office, the Budget and Planning and the
3 Legislative Budget Board. It's a very prescriptive plan
4 for the Department and for all state agencies.

5 We have identified for you on the summary page
6 the items that the Agency must address in putting together
7 this plan. I will tell you that our Center for Housing
8 Research, Planning and Communication has put together the
9 plan.

10 What they do is they draw from the State
11 low-income housing plan. They draw from the consolidated
12 plan, the one-year action plan and the workforce plan and
13 performance measures.

14 If you look through this, you will see that
15 much of the language and many of the items that are in
16 here will look very familiar to you, because they are
17 already in other existing plans that the Department is
18 required to put together.

19 We will be submitting this plan. It's due to
20 the LBB in the Governor's office on July 2nd.

21 There is no public comment period that's
22 required on this plan. However, by virtue of bringing it
23 to you today and putting it on our website, it basically

ON THE RECORD REPORTING

(512) 450-0342

1 does provide a public comment period for this plan.

2 That is an overview. In the absence of Sara
3 Anderson Brenda Hull, who is special projects researcher
4 in our Center for Housing Research, Planning and
5 Communications, is here to answer any specific questions
6 that you all may have on our five-year strategic plan.

7 MR. CONINE: Move for approval.

8 MR. BOGANY: Second.

9 MS. ANDERSON: Discussion?

10 (No response.)

11 MS. ANDERSON: Hearing none, I assume we're
12 ready to vote. All in favor of the motion, please say
13 aye.

14 (A chorus of ayes.)

15 MS. ANDERSON: Opposed, no.

16 (No response.)

17 MS. ANDERSON: Motion carries. Thank you.

18 MR. CONINE: That concludes my report.

19 MS. ANDERSON: Thank you, Mr. Conine.

20 Now we're ready to move on to Item Number 4,
21 presentation, discussion and possible approval of
22 multifamily mortgage revenue bonds and four percent (4%)
23 housing tax credits With TDHCA as the issuer.

ON THE RECORD REPORTING

(512) 450-0342

1 Mr. Gonzalez.

2 MR. GONZALEZ: Proposed issuance of
3 multifamily mortgage revenue bonds for Tranquility Bay in
4 an amount not to exceed \$14,350,000 and issuance of
5 determination notice.

6 Requested amount of \$650,675 and recommended
7 amount of \$649,023 for housing tax credits for Tranquility
8 Bay, Number 04-420.

9 MS. ANDERSON: We will have the Staff
10 presentation on this item and then there's a lot of public
11 comment on the item.

12 MS. CARRINGTON: Thank you, Madam Chair.

13 In the Board's book behind tab 4-A, the
14 Tranquility Bay Apartments is a proposed new construction
15 development that consists of one-, two- and three-bedroom
16 units in Pearl and. It's actually in Brazoria County,
17 right outside of the City of Pearl and.

18 It would be 246 units. It is a priority 1-C
19 development, which the Board has seen before.

20 That is the new category that was created last
21 session by the Legislature which does encourage the
22 development of affordable housing in census tracts that
23 have a higher median income than the surrounding area.

ON THE RECORD REPORTING

(512) 450-0342

1 In this particular census tract that the
2 development is proposed, the median income is \$96,290.
3 And the AMFI, the average median family income, for this
4 Brazoria County area is about \$62-, \$63,000.

5 The financing structure on this particular
6 transaction -- the tax-exempt bonds would be four-year
7 bonds with a rate fixed. They would be privately placed.

8 No credit enhancement. With approximately 6.5 percent
9 interest rate on the permanent financing.

10 We'd like to call your attention next to tab 3,
11 which is the housing tax credit profile and Board and
12 summary. The amount of the bonds on this transaction
13 would be \$14,350,000.

14 The amount of tax credits that's being
15 recommended for this transaction is the eligible basis
16 amount, which is \$649,023 in tax credits.

17 You will note, as we typically do for the
18 Board, on the summary at the bottom of this page and on
19 this one continuing over to the next page, we have the
20 summary of public comment.

21 Summary of public comment from citizens is on
22 the left-hand column. In support, 128; in opposition,
23 259. That was in Pearland.

ON THE RECORD REPORTING

(512) 450-0342

1 Outside Pearland you can see that there's
2 support; no opposition. Unknown location, one support;
3 zero opposition.

4 From legislators or local officials please note
5 that Senator Mike Jackson is opposed. Representative
6 Glenda Dawson is opposed. The County Judge had no
7 comment.

8 From Brazoria County -- Brazoria County does
9 not have a local consolidated plan. You all will remember
10 that we always look for consistency with the consolidated
11 plan. Pearland Independent School District is opposed.
12 City Council member Kevin Cole is opposed.

13 Going to the next page of this development,
14 there was a petition the Department has received. In
15 opposition on that petition there are 453 signatures and
16 then also a summary of comments in support and opposition
17 at the public hearing.

18 And is our practice, there is a copy of the
19 transcript of the public hearing in your materials.

20 Behind tab 5 is the underwriting analysis on
21 this particular development, which was performed by our
22 Real Estate Analysis Division.

23 There are very few conditions on this

ON THE RECORD REPORTING

(512) 450-0342

1 development. There are some above-ground storage tanks
2 that have been removed. And there's some stained oil on
3 the ground, and it's been recommended that that be removed
4 and cleaned up.

5 That was really the only condition that was
6 listed.

7 And behind tab 7, you'll see a map of where
8 this development would be located in relation to the
9 Houston area.

10 Behind tab 9 is the public comment summary from
11 the public hearing, from public officials on letters
12 received and general public letters and emails that have
13 been received by the Department. And at the bottom we
14 have also provided you a summary of the public comments.

15 Behind your transcript of the public hearing,
16 you also have -- so it's your first gold separation page.

17 You also have the letters that we received from Senator
18 Mike Jackson, from Glenda Dawson, from Pearland ISD and
19 others.

20 There's also a couple of presentations that
21 were provided to the Agency by the neighborhood group,
22 neighborhood organization.

23 And there's also a comprehensive plan from the

ON THE RECORD REPORTING

(512) 450-0342

1 City of Pearland. A moratorium, and ordinance that was
2 passed by the City of Pearland on the 23rd of February.

3 Again the development is located in the
4 Brazoria County, not in the City of Pearland, but this
5 ordinance was mentioned in several of the emails and the
6 information given at the public hearing.

7 You have a presentation from Ron Mayfield,
8 which is a request to the Department to reject Tranquility
9 Bay. You also have a presentation by the citizens of
10 Pearland, a request to reject.

11 There's also a community presentation from
12 Christy Chisholm. And then there's a presentation in here
13 from the developer of the project, who is Chris
14 Richardson.

15 So what Staff has worked to do is provide the
16 Board the information that we received in a timely manner.

17 When the Board books went on the web, as you
18 all are aware, and throughout this past week since the
19 Board book did go up, there has been additional
20 correspondence that has been presented to the Agency.

21 I believe that copies of that -- okay. So
22 maybe there has not been any additional inform.

23 One thing that was brought to the Department's

ON THE RECORD REPORTING

(512) 450-0342

1 attention several days ago, and that was the letters of
2 support that had been presented to the Department -- there
3 was some concern that those letters of support had not
4 been signed by the individuals whose names were on those
5 letters.

6 We were in contact with the developer. And
7 what the developer has provided for us is an affidavit
8 that came in late yesterday afternoon. And those letters
9 of support, I understand, are being withdrawn from
10 consideration.

11 And there's also a sworn affidavit on the part
12 of Chris Richardson, who is the developer of this
13 transaction, who indicates that he was not a party to the
14 securing of these support letters. It appears that at
15 least some of the support letters are fraudulent.

16 MS. ANDERSON: Ms. Carrington, I'm sorry to
17 interrupt you. Are the support letters in the book?

18 MS. CARRINGTON: No.

19 MS. ANDERSON: Okay. They're not in the book.

20 MS. CARRINGTON: They're not in the book.

21 MS. ANDERSON: And the affidavit from Mr.
22 Richardson is not in the book either.

23 MS. CARRINGTON: It came in late last night,

ON THE RECORD REPORTING

(512) 450-0342

1 late yesterday afternoon.

2 MS. ANDERSON: Okay.

3 MS. CARRINGTON: With that, I will conclude my
4 report in saying that the Staff is recommending the
5 transaction. It scored 15th out of a total of 45
6 applications.

7 And using our very objective scoring criteria,
8 which you all know looks at financial feasibility,
9 environmental concerns, track record of the developer,
10 quality of the housing, the social services provided.

11 That that is what the Staff basis their
12 recommendations on. For this development, for this
13 application, Staff is recommending both the allocation of
14 the 4 percent tax credits and the issuance of the
15 tax-exempt bonds.

16 MS. ANDERSON: Thank you. Okay. We have a
17 number of people who would like make public comment on
18 Tranquility Bay.

19 And the reason we're having this meeting here
20 in the Capitol Auditorium today was so that we would have
21 adequate space for everyone to be here, because this Board
22 invites public comment and takes it very seriously.

23 I want to thank Senator Todd Staples for

ON THE RECORD REPORTING

(512) 450-0342

1 securing the use of the auditorium for us today, so that
2 we could have this comfortable environment in which to
3 have this meeting. We really appreciate Senator Staples
4 doing that for us.

5 Because we have so many people who want to
6 speak to this project, I'm going to ask that we have a
7 three-minute time limit, and Ms. Groneck will monitor that
8 for us.

9 Now there're a couple of people who are
10 speaking for others who have yielded the time. So I will
11 tell Ms. Groneck what amount of time they have, as I call
12 on Mr. Mayfield and Mr. Dumont.

13 The first witness affirmation form I have is
14 from Holly Jeffcoat in Senator Jackson's office.

15 MS. JEFFCOAT: Hello. My name is Holly
16 Jeffcoat, and I'm here today on behalf of Senator Mike
17 Jackson from Senate District 11.

18 I'd like to take this opportunity to read a
19 letter Senator Jackson has sent to the TDHCA in voicing
20 his opinion to the proposed multifamily housing
21 development, Tranquility Bay Apartments, in Pearland,
22 Texas. This letter was dated May 24, 2004.

23 "Dear Ms. Carrington.

ON THE RECORD REPORTING

(512) 450-0342

1 I'm writing on behalf of my constituents to
2 express opposition to the Tranquility Bay Apartments
3 application proposed for County Road 91 in Pearland,
4 Brazoria County.

5 I've received many letters and phone calls
6 opposing this proposed development. I've also received
7 letters of opposition from the Lakes of Edgewater Estates
8 Homeowners Association, Silver Lake Homeowners
9 Association, Pearland ISD and Brazoria County MUD Number
10 1.

11 I believe from the negative interest this
12 project has generated and from the community groups who
13 are strongly opposed to this project, it would be a
14 disservice to pursue issuance of multifamily housing
15 development revenue bonds for the project at this present
16 time.

17 I hope if you have any questions or need any
18 additional information, you'll feel free to contact me.

19 Sincerely,

20 Mike Jackson"

21 MS. ANDERSON: Any questions?

22 (No response.)

23 MS. ANDERSON: Thank you for being here today.

ON THE RECORD REPORTING

(512) 450-0342

1 Chris Cron [phonetic] from Representative
2 Glenda Dawson's office.

3 MR. CRON: Good afternoon and thank you for
4 this opportunity to speak.

5 I'm speaking on behalf of Representative Glenda
6 Dawson. She's House District 29.

7 AS well I'm going to do the same. I believe
8 you guys have a copy of the letter that we submitted, I
9 believe, on May 23, 2004. And I'd just like to take this
10 time to read it.

11 "Dear Ms. Myer,

12 I would like to voice my opposition to the
13 multi-family housing revenue bond application for
14 Tranquility Bay Apartments proposed at County Road 91 in
15 Pearland, Brazoria County.

16 I've been contacted by many of my constituents
17 both supporting and opposing this proposed development. I
18 believe in the sincerity of those who are both proposing
19 and supporting the development and know that they have the
20 best intentions for our community.

21 However, the concerns voiced to me and myself
22 have shown that this development will not be in the best
23 interest of Pearland at this time.

ON THE RECORD REPORTING

(512) 450-0342

1 Thank you for you time to speak to me, and
2 thank you for hearing my concerns of my constituents.

3 Please call me if I have any questions, or if I
4 can be of any additional assistance.

5 Thank you.

6 Glenda Dawson."

7 MR. CONINE: Could I ask a brief question? The
8 statement of the representative says it would not be in
9 the best interests for Pearland at this time, although the
10 project is not located in Pearland. Could you shed some
11 light on that?

12 MR. CRON: Sure. Absolutely. Vaguely. I've
13 been informed that the transportation polling.

14 As you guys may well know, there's a lot of
15 transportation needs in the area as far as the vast many
16 people it's going to bring in -- in the high hundreds,
17 eight hundreds. Is that correct?

18 There's a lot of people coming in. Because the
19 transportation needs. They're going to be attending
20 Pearland ISD, so it will have an affect on Pearland.

21 MR. CONINE: Okay. Thank you.

22 MR. SALINAS: How far is Pearland away from
23 this project?

ON THE RECORD REPORTING

(512) 450-0342

1 MR. CRON: Half a mile.

2 MS. CARRINGTON: Fifty yards.

3 MR. SALINAS: Does Pearland have zoning?

4 MR. CRON: I believe so, but I'm not advised.

5 MR. SALINAS: When you're so close to the City
6 of Pearland, wouldn't the City of Pearland have
7 jurisdiction up to two miles for whatever gets developed
8 in that area?

9 And I see nobody from Pearland City Council
10 really looking at the development in that city. Sometimes
11 you have -- the city limits should be two miles away from
12 there.

13 They have up to five miles CTJ, which they can
14 control the development of any property outside the city
15 limits of Pearland. They have a City Council, and they
16 have a mayor. Right?

17 MR. CRON: That is correct. I do believe there
18 is a letter of opposition from a councilman.

19 MR. SALINAS: But I mean, the Planning and
20 Zoning in the City of Pearland did not have anything to do
21 with this?

22 MR. CRON: I'm not sure.

23 MR. SALINAS: Somebody needs to answer that,

ON THE RECORD REPORTING

(512) 450-0342

1 because it's their jurisdiction. And they would have a
2 say-so on what gets developed outside their city limits
3 which is inside the CTJ.

4 If it's on the county side, it would have to be
5 at least two miles outside the city limits for anything to
6 be approved by the county. The county has no building
7 codes, so I could understand how they could do that.

8 MS. CARRINGTON: Perhaps someone who is signed
9 up to speak to us on this matter will work that into their
10 discussion. We'd appreciate it.

11 MR. SALINAS: Is your representative a state
12 representative?

13 MR. CRON: That's correct.

14 MR. SALINAS: Okay. Well, somebody needs to
15 answer that because the city has the jurisdiction.

16 MR. CRON: Okay. Thank you. We can
17 definitely get back to you on that.

18 MR. SALINAS: I'm sure I'll find out in a few
19 minutes.

20 MR. CRON: If it doesn't get answered now, our
21 office will get back to you.

22 MS. ANDERSON: Okay. The next affirmation form
23 I have is from Peter Richard Dumont. And four people

ON THE RECORD REPORTING

(512) 450-0342

1 earlier today yielded their time to him, so that's 15.

2 You don't have to go for 15 minutes. And
3 oftentimes it does not serve you well with my colleagues
4 to go for 15 minutes.

5 MR. DUMONT: Members of the Board, as you may
6 know, we have a PowerPoint presentation prepared. First
7 of all, I'd like to thank you for the opportunity to
8 speak.

9 Although I'm allocated 15 minutes, I hope you
10 don't find that this 15 minutes is time that's not well
11 spent. In fact, you may compelled to have me speak longer
12 when you hear the true facts and data behind this project.

13 First of all, I'm a resident of Pearland. I've
14 lived there about four years. I'm a registered
15 professional civil engineer, graduate of the University of
16 Texas.

17 Worked for Tyco Thermal Controls as a special
18 projects director. And I'm on Tyco's chairman's council.

19 I mention all this because as a registered
20 professional engineer, I work every day under a code of
21 ethics that I take very seriously.

22 And I conduct all my business activities in a
23 very ethical, honest and fair way. And I expect that

ON THE RECORD REPORTING

(512) 450-0342

1 other people in the business community would do the same.

2 I know you've mentioned that there's an
3 affidavit from Mr. Richardson admonishing any involvement
4 in the support letters.

5 But I would also like to say that there is
6 perhaps somebody in his group of supporters working on his
7 behalf that created this.

8 And it has shed such a light of uncertainly and
9 doubt on the entire application and proposal. In fact
10 there's significant evidence of the misuse of data and
11 facts in his letter and in his application.

12 And I would be happy to go through a lot of
13 that with you. And I will cover some of that in the
14 presentation. But I would ask that you please take a hard
15 look at this before you allocate over \$14 million of
16 taxpayer money.

17 To answer some of your concerns, Mr. Salinas,
18 that you just asked, this property is actually 50 yards
19 from the city limits of Pearland. And Mayor Tom Reed say
20 Pearland does not have zoning authority over it. That's
21 why he has not come forward with a statement.

22 However on behalf of the entire City Council,
23 City Council member Kevin Cole has written an opposition

ON THE RECORD REPORTING

(512) 450-0342

1 letter. They have discussed it, and they are in unified
2 opposition of this as well.

3 Our mission here today is primarily to convince
4 you that the approval of this project is going to violate
5 your core mission statement which is, "To help Texans
6 achieve and approve qualify of life through the
7 development of better communities."

8 This will not help to improve the quality of
9 life of the Pearland community.

10 We're going to provide facts that demonstrate
11 that the location of this project is unsafe. It's unsafe.

12 It's unsuitable for the potential residents of the
13 Tranquility Bay Apartments. It is going to affect their
14 quality of life.

15 And we therefore ask that you reject it
16 wholeheartedly.

17 I'd furthermore like to say that I want to
18 thank the residents that took the day off to drive up here
19 to Austin to help support this and give this presentation.

20 We've been working pro grata for months,
21 nights, weekends, sacrificing time from family and
22 everything to help work on this issue.

23 So we feel passionate about this. There are

ON THE RECORD REPORTING

(512) 450-0342

1 literally hundreds of our residents that are absolutely
2 upset about the travesty associated with the proposed
3 project here.

4 And especially those residents whose signatures
5 have been forged in these supposed support letters. It's
6 ridiculous. I've got evidence here showing actual
7 opposition petitions with their true signature and support
8 letters with their feigned signature.

9 If something as basic as this is going to
10 constitute the means and methods by which this project is
11 trying to get passed, what else in here is suspect.
12 That's what I ask.

13 And in fact, for your information you may have
14 been contacted already. But the State of Texas Attorney
15 General's office and the Brazoria County district attorney
16 are both inquiring into this issue.

17 And they told me personally that if those
18 inquiries generate enough dirt, they may launch a
19 full-blown investigation.

20 So it's a big issue. It's a serious issue.
21 We've submitted over 12 affidavits already that have been
22 subject to the forged letters.

23 Is there a way to focus the projector a little

ON THE RECORD REPORTING

(512) 450-0342

1 bit? I don't want anybody in the audience to miss this.

2 The Tranquility Bay project would pose a danger
3 first of all to children walking to and from the school.
4 Pearland currently lacks the infrastructure to adequately
5 support this multifamily project.

6 The site is outside the Pearland police
7 jurisdiction. Therefore it has to be served by Brazoria
8 County police. Brazoria County, by the way, only has 12
9 squad cars throughout the entire Brazoria County.

10 This is in the very northernmost tip of that
11 county, kind of a little island, all surrounded by the
12 City of Pearland, a little island in Brazoria County.

13 This location will place an additional burden
14 on our volunteer fire department.

15 They've already seen an increased call volume
16 of 50 percent in 2003 alone, information that's in the
17 appendix for you to review, because of all the housing and
18 everything that's being built in the area.

19 There's also no public transportation in
20 Pearland. There's no metro bus service. There's no
21 park-and-ride -- anything within 15 miles.

22 There's a recent article in the Houston
23 Chronicle that said that a similar project by Mr.

ON THE RECORD REPORTING

(512) 450-0342

1 Richardson in Katy, Texas was rejected because there was
2 no public transportation within three miles. We don't
3 have anything within 15 miles.

4 Pearland's elementary schools are also over
5 capacity. Currently all the surrounding elementary
6 schools are over capacity. And I've got statistics in
7 here to go through with you as well.

8 And we're looking at adding possibly up to 500
9 pupils from this housing development, when you apply the
10 national average of 1.89 students per household to this
11 apartment complex.

12 Also the area around this site is prone to
13 flooding. And I've got photos in here to show you that we
14 have localized flooding commonly. We've had it four or
15 five times this year already, multiple times last year.

16 This is going to be taking away valuable
17 moisture-absorbing soil. And by the way, as a civil
18 engineer, I do understand drainage. I do understand all
19 the technical aspects around that.

20 Also experts in the Houston Chronicle had
21 clearly stated developers in the area need to stop
22 building apartments. There's been multiple articles. We
23 have one in here cited for you.

ON THE RECORD REPORTING

(512) 450-0342

1 The basic solution is we're an overbuilt
2 community. We're pretty close to Houston, about ten miles
3 from the city limits. And the entire region is booming in
4 population.

5 And right now the vacancy rates in the local
6 apartments are high. And there's numerous apartments in
7 the area that have dropped their rates to attract new
8 residents, because we're so overbuilt.

9 You've heard from Representative Dawson.
10 You've heard from Senator Jackson's office.

11 What was not in this docket are some other
12 letters though that you need to be aware of. The
13 superintendent of Pearland ISD opposes this.

14 You have the Brazoria County Sheriff's
15 Department that have stepped forward and said, we can't
16 cover the area. We're already strapped. We can't do it.

17 You've got your sheriff's department saying
18 that this project's a bad idea. I can't imagine that that
19 happens that often.

20 All three homeowners associations, many
21 prominent business leaders, people in the real estate
22 market and so forth have come forward opposing this.

23 Hundreds of residents. Hundreds of us have

ON THE RECORD REPORTING

(512) 450-0342

1 come forward and also say, we oppose this. We therefore
2 ask again you reject the proposal.

3 This here is an overview of the area. I won't
4 spend a lot of time on this. I know you have maps in your
5 book. Generally we're very close to Houston. We have
6 over 4500 homes in the area.

7 We already have over a thousand apartment
8 units. And we have about probably 4- to 5,000 more
9 apartment units that are on the books already.

10 So if we're in an overbuilt situation now, and
11 they're already looking at building another 4- or 5,000,
12 essentially doubling our capacity. Again this all just
13 data that's adding up to say this a bad deal. Again we're
14 only 50 years out the Pearland city limits.

15 What you see here on the next slide is, here's
16 Fite Road. This is the actual road that borders the
17 property on the south side. It's a rural two-lane
18 highway. You have no sidewalks. And you have steep
19 drainage ditches on this road.

20 This is the only means of access to the local
21 middle school, Rogers Middle School. You have no way for
22 students to walk to and from school.

23 And since the middle school is so close -- it's

ON THE RECORD REPORTING

(512) 450-0342

1 probably a quarter of mile -- busing doesn't serve the
2 area. So students either have to walk or be driven by
3 their parents, or their parents have to pay a premium to
4 get the busing.

5 So here you go. You have a student walking by
6 the side of the road. You can clearly see the cars have
7 to swerve around him. You've got some sort of SUV coming
8 at the other cars in the other direction.

9 Picture now you've got ten, 10, 50 students
10 trucking down to school every morning along this two-way
11 road.

12 Here you can see this is more construction
13 that's going on in the area. There's a picture of the
14 Pearland city limits sign 50 yards away.

15 Please, we've been begging no more traffic on
16 Fite Road. It's unsafe for children. It's unsafe for
17 pedestrians.

18 To add to this even on the north side -- the
19 highway that this abuts is Highway 518. Fifty mile per
20 hour speed limit. No sidewalks. Deep drainage ditches.

21 Again, there's no way for these people to walk
22 to the store, drug store, day care, grocery store,
23 anything. And there's no plans in here to build that

ON THE RECORD REPORTING

(512) 450-0342

1 infrastructure to help these people.

2 So you're taking all these people, and you're
3 throwing them on an island surrounded by a bunch of
4 dangerous access roads.

5 According to Margaret Dixon of Brazoria
6 County's Department of Welfare, we already have an
7 apartment complex for low-income housing. In fact we have
8 many of them.

9 And by the way, let me state, this is not a
10 NIMBY issue. We live in harmony with a lot of low-income
11 housing in our area. That's not our basis for arguing
12 this.

13 We're saying that low-income housing is good.
14 We support the efforts you do in the State. What we're
15 against is this project in this specific location. We
16 would request maybe you relocate it. Maybe you use the
17 land for something else.

18 But the point is this is a bad idea in a bad
19 spot. It's not against normal low-income issues that you
20 might think. That's not why we're here, and that's not
21 why we're against this.

22 Here is just an excerpt from a the Houston
23 Chronicle article. You have the University of Houston

ON THE RECORD REPORTING

(512) 450-0342

1 Director of the Institute for Regional Forecasting stating
2 in that article, we're overbuilt, market saturated. This
3 is not a good region for this type of project.

4 Brazoria County sheriffs. Okay. We talked
5 about it's out of the jurisdiction of the Pearland Police
6 Department. Police protection must be provided by
7 Brazoria County.

8 Captain Dorman Davidson of that sheriff's
9 department has written a letter, and it's in our appendix.

10 You should have it in your information.

11 He has stated, listen, we have 12 squad cars to
12 cover 1400 square miles of land, 12- to 1400. The ratio
13 is one car for every 119 square miles.

14 What that equates to is for the entire city
15 limits of Austin -- picture this, two squad cars for the
16 entire city limits of Austin.

17 That's the kind of diluted police force that we
18 have going on in Brazoria right now. So we're not serving
19 our residents today, let alone tomorrow when we go ahead
20 and add 248 more units.

21 Sixty percent of the cars already patrol the
22 southern region of Brazoria County. So now you've got a
23 good amount of those 12 cars now not even in the area,

ON THE RECORD REPORTING

(512) 450-0342

1 because the lion's share of Brazoria County is in the
2 southern end near Angleton, the county seat and so forth.

3 Furthermore, it's an old fleet. They've
4 repeatedly been trying to get money passed for new squad
5 cars. Dorman Davidson told us this.

6 He also said that at least one car -- usually
7 two or three -- is unavailable because it's in disrepair
8 or somebody's sick or something like that. So again you
9 don't even have 12 cars to cover this.

10 Fire. Pearland is protected by a volunteer
11 fire department. So we have no full-time fire people on
12 staff. Okay. So what happens? A call comes. The
13 volunteers have to get their calls. They all drive to the
14 fire department, get suited up and take off.

15 What happens is, if you look at this graph, you
16 can see because of the area development, the calls have
17 increased significantly. In fact in 2003 alone, there
18 were 50 percent more calls than the previous five-year
19 average. They're getting over taxed.

20 The roadway to get to the fire department for
21 most of the fire people is another small two-lane road.
22 NO sidewalks. Steep drainage ditches. Typical Texas
23 rural highway.

ON THE RECORD REPORTING

(512) 450-0342

1 And they're already complaining that they have
2 a hard time getting -- because the traffic's backed at the
3 light. They can't get up to the firehouse. And they're
4 saying this apartment complex will merely aggravate that
5 situation.

6 And this was stated by a guy named Mr.
7 Richards. He's actually a volunteer fireman. He was at
8 the public hearing. He stated that, and it's actually in
9 your docket from that public hearing.

10 It's quoted in there where he said, no more
11 development in this area. Our response times are going to
12 increase.

13 Hospitals. There's no urgent care facility in
14 this area, although it does state there is in here. It
15 says it's within a short drive to hospitals. That's
16 untrue. The closest urgent care facility is about 15
17 miles away in the town of Alvin.

18 And in fact the demographic studies that made
19 up your plan included an area of four zip codes. Those
20 four zip codes span an area well beyond Pearland city
21 limits. And they encompass a couple of hospitals.

22 What the proposal says is that's the
23 demographic from which low-income residents are going to

ON THE RECORD REPORTING

(512) 450-0342

1 be brought to this apartment. So let me ask you.

2 You're going to take residents from areas that
3 have hospitals coverage 15 miles away and put them in an
4 area that doesn't. It doesn't add up. Doesn't make
5 sense.

6 MS. ANDERSON: You have about one minute left.

7 MR. DUMONT: We do have a few more things. Is
8 there a possible relaxation. Maybe five more minutes, if
9 you don't mind.

10 MS. ANDERSON: You need to ask somebody else to
11 cover this for you. Let's keep moving.

12 MR. SALINAS: You had five, but you need two
13 more. Anybody else there that you want --

14 MR. DUMONT: I'll finish up. These are
15 statistics showing the current overcapacity situation of
16 our elementary schools. They're over capacity now.

17 That's why the Pearland ISD superintendent has
18 said, please no more residents. Yes, we'll educate them.

19 Of course, we're a school. But you're killing us here,
20 folks.

21 We've talked about public transportation. Not
22 in the area. This just shows a photo of traffic on
23 Highway 518, how congested the area is.

ON THE RECORD REPORTING

(512) 450-0342

1 This is the main exit for the development here.
2 You have people having to make a left turn into this heavy
3 traffic to get out onto the main Highway 288 to get into
4 Houston. There's no light at the intersection.

5 Again, no sidewalks. That's what you have to
6 walk on to get to Kroger, Walgreens and so forth. It's
7 not right.

8 The other exit's on Fite Road, as we've
9 discussed. Here's a picture of a jack-knifed truck. It
10 happens about every week.

11 There's a business right next to where
12 Tranquility Bay's going to be built that has
13 eighteen-wheelers. Eighteen-wheelers are getting stuck at
14 these intersections. Police and fire departments,
15 towtrucks have to come out there and get them unstuck.

16 Again you want your students, your kids and so
17 forth to walk along this road.

18 Here's pictures of localized flooding. Again
19 you have those in your book. This project has no proposal
20 at all to do anything about the localized flooding other
21 than aggravate it and make it worse.

22 MS. ANDERSON: I need to ask you to wrap up,
23 please.

ON THE RECORD REPORTING

(512) 450-0342

1 MR. DUMONT: You got it. Here's a summary of
2 our points, and let's finally go on.

3 MS. JACKSON: I'd like to yield my time to Mr.
4 Dumont.

5 MS. ANDERSON: I'm sorry. Your name?

6 MS. JACKSON: Sondra Jackson.

7 MS. ANDERSON: Thank you, Ms. Jackson.

8 MR. DUMONT: Thank you, Sondra. I appreciate
9 it.

10 All right. Who else opposes Tranquility Bay?
11 As we've seen, you have all of these political groups.
12 You've got our three local homeowners associations, all
13 three surrounding it.

14 You've gotten 453 signatures on petition.
15 You've got hundreds of our residents that oppose this.
16 You've got three confirmed letters of support that we've
17 shown in our data of people that support this, outside of
18 the developer, himself.

19 The evidence, the data -- it's so compelling,
20 that says this is not a good project.

21 I'm an engineer. I work in data. I develop
22 estimates. I do this stuff for a living. I've never seen
23 something like this before. There's no way that my

ON THE RECORD REPORTING

(512) 450-0342

1 company would ever do any type of project associated with
2 this. And I say again, represent my code of ethics.

3 Thank you for your time and consideration. We
4 do appreciate this opportunity to speak to you and we do
5 appreciate you consideration very much.

6 I would like to maybe go through a couple of
7 the appendices. We have copies of some of the letters.
8 Just flip through them. I just want to show you some of
9 this evidence that we've already been uncovering.

10 You have residents that care enough about this
11 issue. We've been spending hundreds of hours, weekends
12 and nights to look at this and study it and try to take an
13 objective viewpoint.

14 And all of the data, all of the evidence,
15 points to that this is a bad project. It's a bad idea.
16 Again, it's not the concept of low-income housing. It's
17 this project at this location.

18 Thank you for your consideration. Appreciate
19 it very much.

20 MS. ANDERSON: Questions? Yes, Mr. Bogany.

21 MR. BOGANY: I didn't get your name. I'm
22 sorry.

23 MR. DUMONT: Peter Dumont. I like to say it's

ON THE RECORD REPORTING

(512) 450-0342

1 Dupont without the money.

2 MR. BOGANY: I truly appreciate your taking the
3 time to come here. And I think when citizens get
4 involved, things happen. And I really do appreciate you
5 taking the time to come up here.

6 I sit here listening to you. I'm wondering you
7 even live in this area. I will share with you --
8 yesterday I went out and took a look at this location. I
9 live in Houston. And went and looked at that location.

10 One of the concerns I've got -- you've got a
11 lot people. 518 is going. I never personally would ever
12 thought I would even want to live in Pearland, because I
13 wouldn't there wasn't anything at night there.

14 But now it's booming. It's doing exactly what
15 you said.

16 I'm also a realtor in Houston. And I know for
17 a fact that when people call me and say they want to live
18 in Pearland and they want \$1,000 month house note. I know
19 that's impossible to live there.

20 People at Wal-mart, all the shopping,
21 everything going to the service centers in the area.
22 Where do you expect those people to live?

23 MR. DUMONT: Well, it's interesting. I'm glad

ON THE RECORD REPORTING

(512) 450-0342

1 you asked that. We have a realtor who's also in our
2 community. He's run MLS reports on the apartments.

3 We've actually found 33 apartments in the
4 demographic zone that have rents that are either at lower
5 than what Tranquility Bay's proposing. Thirty-three
6 apartment complexes that already these residents can
7 reside at now.

8 We don't have homeless people sitting on the
9 street. It's not like there's people that do not have
10 places to live in your community.

11 MR. BOGANY: Okay. I guess the other point
12 that I have -- I know last month Brazoria County made a
13 proposal to us that they wanted to start running their
14 housing authority. And they're one of our biggest
15 customers for Section 8 vouching in Brazoria County.

16 And that kind of throws me off there, because
17 it seems like there must be a need there.

18 MR. DUMONT: I don't mean to interrupt, but you
19 don't understand, Brazoria County is mostly south of us.

20 MR. BOGANY: I'm very aware the area. Trust
21 me. Subsidized housing. Do you live in a house yourself?

22 MR. DUMONT: I live in a house. Yes, sir.

23 MR. BOGANY: Do you write off your taxes, your

ON THE RECORD REPORTING

(512) 450-0342

1 interest and everything?

2 MR. DUMONT: I do.

3 MR. BOGANY: Okay. That's the same as
4 subsidized housing that these people that are living
5 there. They're in subsidized housing. So are you, and so
6 is myself.

7 Another concern I have. You presume that all
8 these people are going to need public transportation.
9 They couldn't be a teacher. They couldn't be a divorced
10 parent. They couldn't be someone who wants to live in
11 this area.

12 They've had a tragedy, a death of a spouse or
13 something and need an affordable place to live. And that
14 concerns me.

15 If you go up to the front of the subdivision,
16 you've got Tranquility Oak and the Reserve at Tranquility
17 Bay. And I'm probably mispronouncing the other name, but
18 that's 518. That's a very busy street.

19 The kids that live in these apartment complexes
20 have a tougher time getting to that junior high than the
21 ones that live back here on this country road.

22 I walked the area when I went out there
23 yesterday and looked at. You talked about the 4500

ON THE RECORD REPORTING

(512) 450-0342

1 apartment units that are coming back in there now. My
2 concern is are you guys protesting those units, too.

3 MR. DUMONT: Well, I'd like to say one battle
4 at a time. Well, we're not pleased about those either.

5 MR. BOGANY: Did you protest Tranquility Park
6 and Reserve?

7 MR. DUMONT: We didn't know about them. They
8 were actually under construction when I moved to the area.

9 MR. BOGANY: Another question. Down that
10 country road, Fite. You've got mobile homes, manufactured
11 housing. You've got housing. Those kids are getting to
12 school. Seems to be working okay.

13 MR. DUMONT: By the way, I'm not saying that
14 these people don't have cars. Of course, a lot of them
15 do.

16 MR. BOGANY: I'm just hitting my point, because
17 I sit and listened to you for the last 18 minutes.

18 The other concern that I had was you presumed
19 that the police's going to have more crime. You've got
20 two apartment complexes. It is not unusual in Pearland to
21 have an apartment complex around a sandpit.

22 Down in Westin Oaks -- there's an apartment
23 complex there in Westin Oaks Subdivision. There's a

ON THE RECORD REPORTING

(512) 450-0342

1 sandpit with apartments around it also.

2 The thing I guess that concerns me is that this
3 developer -- I've seen his projects.

4 They're going to look just like the ones on
5 Cullen and 518 that I've seen and been in that apartment
6 complex there that's down on Cullen where it comes into
7 518. It may be right closer to 288. It's another
8 apartment complex. I don't know the name of it.

9 In my opinion, there's a need for affordable
10 housing there. I can't even sell people houses who are
11 looking for something under \$120,000, under \$100,00 in
12 that general area -- when we get calls for that area.

13 And just looking at it, and I'm hearing what
14 you're saying. You've got all these housing subdivisions
15 that are going on out there, and it's booming. Places are
16 there. But I don't seem the schools complaining about all
17 these subdivisions going up along that area.

18 Are you guys going to the developers --
19 Pearland, put a moratorium on single families in the area,
20 because there's a ton of single family going up in that
21 general area.

22 I'm just concerned. I listened to you.
23 Fortunately, I'm familiar with the area, and I walked it

ON THE RECORD REPORTING

(512) 450-0342

1 yesterday to make sure. The thing I didn't like. I
2 didn't like the sign.

3 And I told the developers over and over, those
4 signs you guys put out create this atmosphere. I didn't
5 like it. The sign that said it was coming -- it made it
6 seem like it is a problem. We need to be on guard.

7 The area is not that bad to me. And I walked
8 it, got out of my car, parked it. It is a narrow street
9 though. Fite Road is very narrow. But it just seems like
10 a great spot for a subdivision.

11 Actually I think the other two apartments are
12 more dangerous locations than this one here. So I just
13 wanted to give you my input based on what saw yesterday
14 when I went out there and walked the area.

15 MR. DUMONT: Well, I appreciate that, and I
16 respect your comments.

17 I would like to say that increased crime will
18 result from this development. We are presuming though
19 that some core amount of police protection must be
20 provided as in any other community.

21 And what the Brazoria County Sheriff's
22 Department has already said is, we can't cover what's
23 there already.

ON THE RECORD REPORTING

(512) 450-0342

1 MR. BOGANY: And the only thing I'm saying is
2 you've got to A-plus apartment complexes in the front
3 within a hundred yards of this complex. And if they can
4 cover them two, they're surely not going to have any
5 problem with the one on the side.

6 MR. DUMONT: It's possible, but why would they
7 have written the letter?

8 MR. BOGANY: Thank you, very much.

9 MR. DUMONT: Thank you, I respect your
10 comments.

11 MR. CONINE: Can I follow up? Thank you. By
12 my calculations, Mr. Dumont, the Brazoria County will
13 receive in tax revenue from this particular project some
14 \$62,000 a year.

15 And my question would be when you talked to the
16 sheriff's department, did you contemplate asking them
17 about the additional income, whether that could afford to
18 buy them another car or two?

19 MR. DUMONT: Actually we did. And I'm glad you
20 brought that up, because one thing I forgot to mention is
21 that we've also run numbers that, yes, even though there
22 may be some additional income coming in, there's also
23 going to be a tax drain.

ON THE RECORD REPORTING

(512) 450-0342

1 Because the residents don't pay as much of a
2 tax amount as people that would be living in, let's say
3 Habitat for Humanity, low-income single family dwellings.

4 And the calculations run to be about a \$1.7
5 million shortage that the overall community is going to
6 have make up for educating the students, dealing with
7 expanding the roads, dealing with the drainage and the
8 flooding and the runoff and so forth.

9 So it's net in the red on the taxpayers in the
10 area.

11 MR. CONINE: Again. Schools don't have
12 anything to the county. They have their own -- I didn't
13 even mention that number. I was just talking about
14 specifically the county revenue.

15 It seemed to me that \$62,000 a year would be
16 attractive to a sheriff's department that's little bit
17 short.

18 Let me ask another question. On bullet 5 of
19 your executive summary, which is on page 3, you talk about
20 the Tranquility Bay area being prone to flooding.

21 Of course you said you were an engineer at
22 first, and then you said you were a civil engineer. You
23 do have a civil engineering degree. Is that correct?.

ON THE RECORD REPORTING

(512) 450-0342

1 MR. DUMONT: Two. Actually.

2 MR. CONINE: And it says here, the last phrase
3 of this says, there are no plans to improve drainage in
4 the area. Mr.

5 Richardson has provided us documentation from
6 his engineer, talking about improving the drainage on the
7 site and putting a pump station in to make sure the lake
8 doesn't overflow and so forth.

9 Isn't that in direct opposition to this
10 statement right here?

11 MR. DUMONT: Well, no, because that actually
12 only deals with the flooding issue within this actual
13 physical plot of land. It doesn't deal with the flooding
14 issue in the surrounding communities that are older and
15 built at a lower elevation.

16 MR. CONINE: But that's a separate issue.
17 Anybody that develops this land, even if it's for single
18 family, wouldn't have to fix all the flooding in the whole
19 area, would they?

20 MR. DUMONT: What's going to happen though is
21 this lake, all the water -- you're basically taking this
22 rain-absorbing land, covering it with concrete. All of
23 that runoff runs into the lake.

ON THE RECORD REPORTING

(512) 450-0342

1 The lake has to pump it out into the
2 surrounding roadways and ditches. And I believe the plan
3 is to pump it north to the 518 drainage area.

4 MR. CONINE: Is there not some detention
5 allocated in the underground storm water system of the
6 project itself?

7 MR. DUMONT: I don't know. I'm not sure if
8 there's an underground storm water system --

9 MR. CONINE: Well, normally there would be to
10 get the approval process. Isn't that your experience?

11 MR. DUMONT: Well, the approval process with
12 the MUD #1 district was very sketchy at best. I think
13 there's a representative here from MUD #1 that's even
14 going to speak to that.

15 And there's a lot of confusion about how the
16 application went through, how the studies were done. And
17 again, this is a big cloud of doubt. That along with
18 those letters and so forth that have just led to a lot of
19 uncertainty around this.

20 But what I can tell you is the community
21 directly to the south, called South Glen, currently has
22 localized flooding.

23 And the water from this property, from the

ON THE RECORD REPORTING

(512) 450-0342

1 southern tip edge of this property runs southward, drains
2 southward into that community.

3 MR. CONINE: Is it your experience that with a
4 raw piece of dirt, and the way the Houston area gets
5 deluged on occasion, that when the ground is totally
6 soaked, that you get sheet runoff, just like you would if
7 it was a solid sheet of concrete?

8 MR. DUMONT: Sure. But it's obviously worse if
9 you've got a concrete place --

10 MR. CONINE: So some if some detainage
11 represented within the design of this project -- then that
12 would actually be better to build the project than it
13 would be to leave it as a raw piece of land, would it not?

14 MR. DUMONT: Well, it -- you know, there is
15 detainage there now, as a bare piece of land. You've
16 got -- you know, rain-absorbing soil --

17 MR. CONINE: Well, I'm asking your opinion as
18 an engineer. If you designed sub-terranean detention
19 within the system, is that not better than a flooded piece
20 of land that gets another ten inches of rainfall upon it?

21 MR. DUMONT: I guess if there is a -- if there
22 is some sort of means of removing that water and putting
23 it in an area that is not prone to flooding, or won't

ON THE RECORD REPORTING

(512) 450-0342

1 aggravate flooding in other areas, yes. But that's not
2 the case here. The case is that the water will aggravate
3 the flooding in the other areas. That's the main concern.

4 And the wording here is the area around the
5 site that is prone to flooding, not the site itself.

6 MR. CONINE: Okay. All right. Do you have any
7 specific criticisms of the market study that was done?
8 You're talking about Houston being vacant when everybody
9 is saying Houston's got too much vacancy.

10 Have you looked at the market study, rather
11 than having just a generic, you know, complaint? Have you
12 looked at the market study to have specific issues with
13 that?

14 MR. DUMONT: Yes. I looked at the market
15 study. Like we said, it covers four zip code areas. One
16 is -- two are in Pearland, two are in the tip of Pearland
17 and touching other parts of Houston and Friendswood,
18 stretching -- it says in here, I believe, it covers a
19 certain square mile area, which is equivalent to a 4.8
20 mile radius.

21 Mathematically that may be true, but in reality
22 it's not. The truth is that this property is at the far
23 end of this oblong shape demographic. And the far edge of

ON THE RECORD REPORTING

(512) 450-0342

1 this demographic is about 15 to 20 miles away. So it's a
2 bit misleading in that respect. Yes. Absolutely.

3 It also references later on in here that the
4 market study included the City of Houston. Okay. So
5 where are they getting the residents from that are going
6 to come to this? Pearland? Friendswood? Houston? It's
7 very confusing. It's not worded very clearly.

8 It -- to me, that, combined with
9 misrepresentation of school district statistics and things
10 like that, has led again to this overall doubt around the
11 whole legitimacy of this proposal and this project.

12 MR. CONINE: You talk about the school district
13 being overcrowded already, but you don't talk about the
14 fact that the school district is planning on building a
15 couple of new schools over the next couple of years.

16 MR. DUMONT: I'm glad you asked that too,
17 because that's really not true. We actually have a
18 follow-on letter in our PowerPoint presentation, because
19 we sent in this proposal that we got off the internet the
20 other day, to the superintendent's office.

21 They read the proposal and said, You know, this
22 isn't true. The truth is, there is one elementary school
23 planned to be constructed, not two. There is only one.

ON THE RECORD REPORTING

(512) 450-0342

1 And it's going to be located on the far other side of
2 Pearland behind the Lowes. Okay. That is probably well
3 over ten miles away, certainly not within the elementary
4 school zoning for this apartment complex.

5 The other piece of property that's reference in
6 here on Old Manville Road, is not even -- the school is
7 still in negotiation to buy it. They don't even own it
8 yet, let alone figure out something to do with it.

9 So there is one school planned, one elementary
10 school. That's it.

11 MR. CONINE: Okay.

12 MR. DUMONT: And there is a letter in here from
13 the assistant superintendent that's -- that says that. So
14 those are his words.

15 MR. CONINE: Then you reference to the danger
16 to kids walking to and from whatever school they may end
17 up going to.

18 MR. DUMONT: Correct.

19 MR. CONINE: What's your experience about how
20 many kids actually walk to school nowadays, percentage-
21 wise?

22 MR. DUMONT: Well, maybe not many today in this
23 area. But I don't know how the students are going to get

ON THE RECORD REPORTING

(512) 450-0342

1 to Rogers Middle School, which is too close to be within
2 the normal busing area, unless you pay to have your
3 students bused.

4 So fine, if you want all the parents to pay
5 whatever it is, \$40 a month, or whatever it is, to have
6 their students bused, it's not an issue.

7 MR. CONINE: Okay.

8 MR. DUMONT: But they still have to walk to the
9 store -- again, this is presuming some of them don't have
10 vehicles. And that's probably a fair assumption.
11 Certainly not all of them, but I'm sure some of them
12 don't.

13 MR. CONINE: Well, I would say it's a small
14 minority of fans that we service with these projects
15 actually don't have cars. Very small. Most of them do,
16 and I'd be willing to bet that most of them drive their
17 kids to school before they go to work nowadays.

18 MR. DUMONT: Maybe so. And if so, that's
19 great, because of the safety issue.

20 MS. ANDERSON: Questions? Any other questions?

21 MR. SALINAS: Let me ask you. The size of
22 Pearland is what? 20,000? The size of Pearland?

23 MR. DUMONT: It's bigger than that, actually.

ON THE RECORD REPORTING

(512) 450-0342

1 I have the statistics in here. 49,500 as of the end of
2 2003, projected to be 106,900 by 2010.

3 MR. SALINAS: You have a mayor, and what? Four
4 city councilmembers?

5 MR. DUMONT: I believe there is four. But
6 there is -- you know, I don't know how many -- like four
7 or five.

8 MR. SALINAS: Well, who would know today? I
9 would think five, no? Where are they in this project? Do
10 you know? Six?

11 MR. DUMONT: Six.

12 MR. SALINAS: Six plus the mayor?

13 VOICE: Sex plus the mayor.

14 MR. SALINAS: Seven. You've got seven people
15 living in the \$49,000 population -- I mean, 49,000 people
16 in Pearland. Fifty yards away they're building this
17 complex.

18 MR. DUMONT: Uh-huh.

19 MR. SALINAS: And they have no zoning at all?
20 They do not have the right to stop it? Well, I mean,
21 we've become here in the Houston area -- and I have to
22 criticize this every time we have this kind of project.
23 We've become drainage experts here. We've become -- we

ON THE RECORD REPORTING

(512) 450-0342

1 have to take care of their planning and zoning.

2 MR. DUMONT: Yes.

3 MR. SALINAS: We have to take care of their --
4 of the population growth. We don't know if TxDOT is doing
5 a project over there.

6 MR. DUMONT: Right.

7 MR. SALINAS: But still we have to approve a
8 project over there in Pearland.

9 MR. DUMONT: Right.

10 MR. SALINAS: Where you have seven people, they
11 should be obligated -- they should have the responsibility
12 of saying whether that project goes or not.

13 And every time we have the discussions, it's
14 always about that area. You know, they should have it
15 planned and zoned. They should have public hearings
16 within their own city.

17 They should have like two or three mile ETJ,
18 where they can control the growth, whether they're going
19 to have a construction of a road, whether they're going to
20 widen the street.

21 You know, here I am seeing you and hearing from
22 my colleagues here and from you that this is going to set
23 up a project there, and they don't tell us -- if we're

ON THE RECORD REPORTING

(512) 450-0342

1 going to be taking care of planning for this area, because
2 we hear it, who is going to widen the road?

3 Who is going to be taking care of the drainage?
4 Where are those elected officials that are supposed to be
5 here or supposed to have sent us a resolution saying they
6 don't want the project? We only have one.

7 MR. DUMONT: Well, you actually --

8 MR. SALINAS: Our job here -- and I was talking
9 to the coordinator from El Paso the other day, and he
10 said, Our job is only to say yes or no on the tax issue.
11 Not to take care of zoning and roads. But I can
12 understand that you all had public hearings, and you have
13 a lot of people that are concerned about having a project
14 like this.

15 And when you have, in a city of 49,000, a
16 project going fast, you want to have a master plan. Don't
17 you all have a master plan?

18 MR. DUMONT: Yes, there is -- they --
19 comprehensive plan. Yes.

20 MR. SALINAS: Things going? I mean, it sounds
21 to me like Houston is just going everywhere, and doesn't
22 have anybody controlling Houston roads. And they expect
23 this board to take care of everything for them.

ON THE RECORD REPORTING

(512) 450-0342

1 You know, I get upset because --

2 MR. DUMONT: That's what I'm saying --

3 MR. SALINAS: -- this is not the first time.
4 We have Katy. We've had other problems here. We had
5 1,600 people in the public hearing -- 1,600 people against
6 and nobody in favor. Now you have here 219 -- I mean, 197
7 opposed, and that probably 12.

8 You got a letter from your state senator saying
9 that he doesn't want the project. And your state
10 representative, which is -- Ms. Dawson, that says she
11 doesn't want the project. And that's three points there
12 and three points for Mr. Jackson. And then we have our
13 staff recommended the project.

14 I just don't understand it -- why you think
15 that we could get it together -- you know, why should we
16 be able to discuss the drainage, the flooding problems,
17 and when it's also supposed to be -- whether you needed --

18 How far is Orange County from Brazoria County?

19 MR. DUMONT: Quite a ways. Quite a long ways.

20 MR. SALINAS: Well, you have Orange County
21 saying they don't need it. And we gave them \$50,000 and
22 they want us to write it off. Did you hear that a few
23 minutes ago?

ON THE RECORD REPORTING

(512) 450-0342

1 MR. DUMONT: Yes, I was listening. Yes.

2 MR. SALINAS: Yes? Okay. They don't need it,
3 but they borrowed 50,000, and they want us to write it off
4 now. Now, here we have a problem that somehow I can
5 understand the people objecting in their own community
6 about what's going to happen there. And then we have
7 something that our staff has to do, whether we have to
8 follow the QAP, and we have to follow the rules.

9 MR. DUMONT: Right.

10 MR. SALINAS: But I can understand the people
11 that are objecting to this project. And you know, the
12 developer is going to build it and he's going to leave.
13 And I can understand that. But I just wanted to know that
14 this problem has come to us several times.

15 And I think the message should be sent to our
16 senators and our representatives and mayors. You only had
17 one person that had the guts to go ahead and send a letter
18 of opposition. Where are the other six?

19 MR. DUMONT: Well, he wrote it on behalf of the
20 overall council. He says, "We are all in agreement. We
21 want this proposal to be denied."

22 MR. SALINAS: And they do not have any
23 jurisdiction 50 yards outside the city limits?

ON THE RECORD REPORTING

(512) 450-0342

1 MR. DUMONT: It says in here, "The city,
2 apparently, cannot stop this development directly, due to
3 no zoning control in the ETJ. So we are asking the board
4 to help us. The proposed development will negatively
5 impact the roads, traffic and --

6 MR. SALINAS: Who does take care of the shores
7 and water in Pearland? Do they have it all? Or they have
8 to depend on the same MUD that is going to service this
9 apartment complex?

10 MR. DUMONT: I'm not sure how the MUD districts
11 are split up. We're not covered -- I live in Pearland,
12 and I'm not covered by a MUD. And I'm about two blocks or
13 so away from this development.

14 MR. SALINAS: But you can understand the
15 problem we're in? You know? We have --

16 MR. DUMONT: Oh, sure. And I feel for you. I
17 mean, you're in a tough situation.

18 MR. SALINAS: But see, you want us -- we do not
19 get elected. You know, people that get elected --

20 MR. DUMONT: I know. You're appointed.

21 MR. SALINAS: -- get voted out. We get
22 appointed. So we don't have the quality. You get --

23 MR. DUMONT: Can I have your job?

ON THE RECORD REPORTING

(512) 450-0342

1 MR. SALINAS: Yes, well, we don't -- the people
2 that are over in Pearland, they get elected. Those people
3 should be talked to.

4 MR. DUMONT: Yes, well, hey, I agree with you.

5 MR. SALINAS: You know --

6 MR. DUMONT: But you've got to understand --

7 MR. SALINAS: -- they send all the problems
8 over here, you know, and they want us to solve them. And
9 we have a state directive saying we have to follow the
10 rules here, and we have to do what's right and approve
11 this project.

12 MR. DUMONT: So you know, we only found out
13 about this two months ago. We've been spending all this
14 time, two months ago, and look at what we've been able to
15 accomplish in just two months.

16 If we would have had more time and more
17 notification and so forth, we would have probably been
18 able to get additional opposition letters and so forth.

19 MR. SALINAS: You know, and the other thing is
20 that the -- and I want to address the \$62,000 in value --
21 in tax fundings that the county is supposed to get. But
22 how about the other people that are going to inherit
23 \$62,000? Are they going to get 62,000? I think the

ON THE RECORD REPORTING

(512) 450-0342

1 percentage of the \$62,000 should be done as a tax break
2 also for the rest of the citizens.

3 You know? If you're going to get to officers,
4 well, where -- the rest of the taxpayers should get, you
5 know, a break on the growth. You know, it's not only
6 growing. You know, you're going to grow. You've got to
7 give the taxpayers a break on that growth.

8 So I can agree with some of the people that
9 live there, and -- but there is no control within your own
10 city. You all don't have a zoning ordinance, and you all
11 don't have a planning and zoning commission.

12 MR. DUMONT: Well, we do have a comprehensive
13 plan, is one thing you mentioned. And you know, I'm not
14 so, you know, intimately involved in our city politics to
15 know how they work. I do know that they -- our mayor is a
16 pretty incumbent mayor. He's been there for years. You
17 know, might be classified as Good Old Boy kind of guy,
18 nearing retirement, and so --

19 But in the comprehensive plan of Pearland, it's
20 interesting. It states that all future multi-housing
21 developments need -- their -- they have a term for it,
22 TDH, or something like that. And the analogy they make is
23 to have these developments with a lot of green space and

ON THE RECORD REPORTING

(512) 450-0342

1 theaters.

2 They use the Arboretum here in Austin as an
3 analogy. This is what we mean going forward in Pearland,
4 as the type of multi-family development that Pearland
5 needs going forward. Not high-density.

6 MR. SALINAS: Well --

7 MR. BOGANY: I'd like to make one comment, Mr.
8 Dupont. And I've been real --

9 MR. DUMONT: It's Dumont. Dumont.

10 MR. BOGANY: Dumont. You got me. We have a
11 requirement with Priority 1C. And Priority 1C has to do
12 with the census tract having an higher average income.
13 Now, the state representatives wrote these letters. They
14 told us this is what they wanted done.

15 So all we're doing is following the rules. We
16 did not pick this piece of land. All we're doing is
17 that -- does it meet our criteria as affordable housing.
18 And if staff has recommended it, then it meets our
19 requirement.

20 And what the state has told us, that our
21 representatives have told us, said, Hey, we want you to
22 stop putting them all in poor neighborhoods. We want you
23 to spread them out, disperse them. Scattered housing.

ON THE RECORD REPORTING

(512) 450-0342

1 It's -- they found through studies, because
2 somebody is in an area that has higher income, they tend
3 to do better. They tend to see that life is not all about
4 being poor.

5 And so we're just following the mandate that we
6 were told. We didn't create this rule. All we're doing
7 is following this mandate. And the last thing I'd like to
8 say -- I voted for one next door, down the street from my
9 house. Okay.

10 And so my values of my home have not gotten --
11 gone through. And if any realtor out there in Pearland
12 tell you your value is going to go down, they're lying to
13 you. It is no economic -- there is no facts anywhere says
14 that this is going to bring your property values down.

15 And if you don't have a MUD, then you must live
16 in Eastwater or Eastwood, or the -- and you live in Silver
17 Lake, but you must live in a subdivision over there that
18 does not.

19 MR. DUMONT: Lakes Of Edgewater.

20 MR. BOGANY: Lakes. Okay. Edgewater. I can't
21 remember them all.

22 MR. DUMONT: There's a million of them.

23 MR. BOGANY: Okay. I'm just letting you know,

ON THE RECORD REPORTING

(512) 450-0342

1 we're not -- all we're doing is following Priority 1C,
2 that the state representatives and the state senator told
3 us we needed to do.

4 So we're -- you know, so where do we go from
5 here? You've put us under a rock and a hard place. We
6 hear you. We -- you know, and we feel you. But we've
7 also got other people who do vote too. And that we need
8 to put them in a place.

9 And so I'm just saying we're just following
10 Priority 1C. And that's the only -- and we've been told
11 by your representatives who wrote the opposition letters
12 to follow Priority 1C. And I just wanted to let you know
13 that we're just following the rules.

14 We didn't pick the land. We didn't determine.
15 You know, we're just following the rules.

16 MR. DUMONT: And I respect and appreciate that.
17 And again, we believe you do a good thing for the state.
18 We're not opposing this on property value issues or crime
19 issues, or anything like that.

20 But isn't it interesting that the state senator
21 and representative who helped drive Priority 1C now have
22 looked at the facts and the data, added it all up, and
23 said, You know, this isn't a good location. This isn't a

ON THE RECORD REPORTING

(512) 450-0342

1 good project. This is a bad idea in a bad spot at a bad
2 time.

3 MR. BOGANY: The only problem I've got with
4 that is that there are apartment complexes up and down
5 that area that are around sandwater pits. And you've got
6 two that are right in front that surround --

7 And I'm willing to bet that those apartments --
8 they rent for more, if you're looking at the water. I'm
9 willing to bet. I just would think that they are probably
10 leasing for more money. The one down farther street in
11 West Oaks, same situation.

12 And I know this area. So I'm just sharing with
13 you. I would love to be in subsidized housing and being
14 able to go out and look at a lake every day, and I just
15 would like to be able to do that. And I don't -- I see
16 this as not being Voucher 8, Section 8. I just see this
17 as being people just got out of school, just got out of --
18 people at WalMart. They can't --

19 You know, I see the people down at Target, the
20 people at Starbucks. All these people needing a place to
21 stay. And in Pearland, where do you go? You drive to
22 Houston, and then you drive back. Or you go out 518 to
23 League City or Friendswood, and some of those areas where

ON THE RECORD REPORTING

(512) 450-0342

1 you have other apartment complexes.

2 And to be able to live close by where my job
3 is -- I think everybody deserves that opportunity. And
4 just as, you know, you feel Pearland's a great area,
5 that's why you're there. I don't think this is going to
6 have any effect but make Pearland a great area. That's
7 just my own personal feelings.

8 MR. DUMONT: I appreciate that.

9 MS. ANDERSON: Thank you for your testimony.

10 MR. DUMONT: And thank you for your time and
11 consideration.

12 MS. ANDERSON: The next witness is Ronald
13 Mayfield. And three people ceded their time to him. So
14 that's four times three. And again, you do not need to
15 feel compelled to use all of your --

16 MR. MAYFIELD: Jenna, we'll go pretty quickly.

17 But I'm sure you're going to have questions based on what
18 has happened.

19 Yes, just -- my name is Ron Mayfield. I've
20 lived in the South Glen Subdivision for almost 17 years.
21 I raised all three of my kids in the area. To address
22 some of your questions about the city and how its zones
23 and the master plan -- if you look at how the city is

ON THE RECORD REPORTING

(512) 450-0342

1 annexed over the last ten years, there has been a lot of
2 gerrymandering going on.

3 And there has been a lot of, I believe,
4 developers who influenced that process. So you get
5 situations where you have annexed land all around a small
6 island. And a developer has that and is able to develop
7 without being influenced or controlled by the city. We're
8 seeing a lot of that.

9 And you're talking about, you know, have we
10 tried to stop other apartment complexes? We don't have a
11 way of doing it as far as I know, other than going through
12 elected officials.

13 If someone is in the County of Brazoria, like
14 this one, it's just 50 yards outside of Pearland City
15 limits, they build pretty much whatever they want without
16 concerns from the city, and without the city being able to
17 stop them.

18 I've lived in that area, like I said, for
19 almost 17 years. I have not been annexed by the city yet.

20 The annexation goes all around my little part of Silver
21 Lake Subdivision. But they haven't been able to annex us,
22 because of, I believe the issue is with MUD district. And
23 we're going to have someone from MUD district up here in a

ON THE RECORD REPORTING

(512) 450-0342

1 little bit.

2 But my presentation is primarily about child
3 welfare. Now, you've already stated that there are
4 several apartment complexes and subdivisions around sand
5 pits in the area.

6 And that's true. Sand pits in this area are
7 very, very common. I've lived in the area about 40 years.

8 Go ahead and flip it. First of all, just -- it only
9 takes a few minutes for a child to drown. That's the main
10 point of that slide.

11 Go to the next one, please, Jason. I've lived
12 in the area for 40 years. I'm an avid fisherman, and I'm
13 a locally-known fly fisherman. You can go down to Austin
14 Angler and buy some of my flies. I won an international
15 fly-tying contest.

16 I work for two companies: Umpqua Feather
17 Merchants, which is the largest fly-tying company in the
18 world. I also work for Oracle Corporation, which is the
19 second-largest software company in the world. And I cover
20 the state and local division, which means you're actually
21 one of my customers.

22 I've worked extensively with, you know, the
23 Secretary of State, Insurance, Texas Parks and Wildlife,

ON THE RECORD REPORTING

(512) 450-0342

1 TDCQ, HHSC, DHS. I've worked on the Tiers Project, which
2 some people said I shouldn't mention, based on what's
3 happened in the paper recently.

4 I also worked on Medicaid. So I'm quite aware
5 of what these state agencies do. I work with them on a
6 day-to-day basis. And like we stated before, this is not
7 an if question. Low Income Housing is necessary, period,
8 end of story.

9 This is a where question. This is not the
10 right place to put this project in, basically because
11 of -- well, my presentation is child welfare, or -- and
12 child safety.

13 I've been fishing in these sand pits since I
14 was about, you know, five or six years old, and with my
15 parents, of course. You know, these things are dangerous.

16 And we've got, you know, Christy Chisolm
17 [phonetic] sent in the information from Briar Glen
18 Management, Department of Labor, all of these federal
19 agencies, saying these sand pits are dangerous.

20 If you would go on to the next slide. So I
21 went and -- now, my eight-year-old son, he's a great
22 swimmer. He's on the swim team. When he was six years
23 old, he won the Kamikaze award in a swim team. And we

ON THE RECORD REPORTING

(512) 450-0342

1 went up to the sand pit. And the soil in there is
2 primarily clay, and it's very slippery.

3 So I had him just walk out into the water. And
4 right now the lake, because of the rain, is about four
5 feet above when they did the initial study. And that's
6 also the concern I have too.

7 These sand pits -- you know, they're talking
8 about drainage into the sand pit. These sand pits go down
9 below the water table and are spring-fed. These sand pits
10 fill up even if there is no rain, because they pull in
11 from the water table. So the actual depth of the lake
12 will vary anywhere from four to six feet, depending upon
13 what the water table is doing, and how much rain we've had
14 in there.

15 So right now, the lake, because we've had so
16 much rain in the spring and the water table is up, is
17 actually about four feet above the original study. So
18 what you see there is, you know, a sand pit is just -- you
19 all ever seen a sand pit while it's being dug?

20 They dig as much sand out as possible so the
21 banks are very, very steep. So usually they're about a
22 45-degree angle, sometimes a 60-degree angle on the sides.
23 Then the developers will grade them out to about a 45-

ON THE RECORD REPORTING

(512) 450-0342

1 degree angle, which is here.

2 So when the water comes up above where they've
3 graded, you've got this little shelf. And right now the
4 shelf is about four feet. Then after that shelf, it drops
5 off at a 45-degree angle or greater.

6 So then you go to the next slide. Here is my
7 son. He got to that part where it dropped off, and he
8 just slid and fell into the water forward. Next slide,
9 please.

10 Now, getting back up is even more fun because
11 of the slippery clay. And imagine what would that be like
12 if that was a four-year-old child who was unattended going
13 down into the sand pit.

14 Now, we had -- my wife and I had a similar --
15 or I had an opportunity to move into Crystal Lake
16 Subdivision, which is a couple miles down the road, and we
17 chose not to because of child safety, because these sand
18 pits are dangerous.

19 And what you're doing is by putting this
20 apartment complex around the sand pit -- and it's -- I
21 would love to be able to walk out my back door, jump into
22 my kayak and go fishing for a couple hours every evening.

23 But I didn't do it. Even though I could have afforded

ON THE RECORD REPORTING

(512) 450-0342

1 to, I didn't do it. And you're right. In a subdivision,
2 they charge 20 to \$40,000 premium to have a lot on the
3 lake. And I'm sure they do in the apartments too.

4 So we chose not to do it because of child
5 safety. But you -- if you put a low-income housing on
6 that sand pit, some of those people may not have a choice.

7 Anyone who has had children knows how well they
8 can climb. You're going to put a fence up around the
9 lake. Correct? Right? Now, this is actually at the club
10 at Tranquility Bay, at Tranquility Lake area.

11 And I took my eight-year-old over there into
12 the playground to see if he could climb the fence. He
13 climbed over like nothing was going on. Go back, please.
14 You're getting ahead of me, Jason.

15 My five-year-old daughter was standing there
16 saying, Hey, Daddy, my brother did it. Can I try and do
17 it? I had no idea she could do this. Next slide. Next
18 slide. Next slide. My five-year-old daughter -- it took
19 her 25 seconds to climb over a six-foot fence.

20 How many people here would think they would
21 have problems going over a six-foot fence? Yes. My five-
22 year-old daughter can do it without much effort. Next
23 slide. Next one.

ON THE RECORD REPORTING

(512) 450-0342

1 Then, as you can tell, this picture is a little
2 closer. I was running toward her, because frankly, she
3 scared the BeJeezus out of me climbing over that fence. I
4 was going to run up and make sure she didn't climb over
5 without assistance. She went through the fence in 30
6 seconds.

7 The next time you get a cell phone bill, look
8 and see how many of your cell phones are over three
9 minutes. Can you imagine a single parent with two kids,
10 their apartment is right up against the lake. They get a
11 cell phone call. They're distracted for a minute or two.

12 Their kid is through the fence. They are down at the
13 lake. They are physically not able to climb over the
14 fence.

15 Now, if -- that fence had six-inch gaps. I
16 don't know what the developer has planned. But if you
17 know child safety, if you're going to keep a kid -- and
18 those fences are designed to keep people out -- keep the
19 bad guys out. They're not designed to keep kids in.
20 Right? You need three-inch centers on the fence, which is
21 going to double the cost of the fence for child safety.

22 And if you really want to get into it, you need
23 to have possible some barbed-wire over the top, because

ON THE RECORD REPORTING

(512) 450-0342

1 that six-foot fence won't even slow down a small kid. So
2 do you want to put -- you know, if you really want to make
3 this place safe, do you want to have to put up a chain-
4 link fence with barbed-wire on it? How is your view of
5 the lake now?

6 Okay. Here is an actual view of -- where is my
7 laser, Peter? Here is an actual -- this is the -- yes,
8 excuse me, map of the complex. And I want to point out a
9 few things about the design of the complex when it comes
10 to the child safety.

11 The playground areas are right here. There is
12 a, I think, about an 80-by-35, maybe 40-foot playground
13 here that the corner of it comes right up to the lake.
14 You have your learning center here. You have a swimming
15 pool here. You have your child daycare here. And you
16 have the child daycare playground right up against the
17 lake.

18 This is one of the reasons this is such a bad
19 piece of property for this kind of development. There is
20 nowhere you can put a playground that's not butting up to
21 the lake, pretty much.

22 Now, I would have guessed that this whole
23 complex should have been centrally located back over in

ON THE RECORD REPORTING

(512) 450-0342

1 this area, and away from the lake, back down in here. But
2 it was chosen -- you put it up here so there was easy
3 access to 518.

4 Once again, the fence. What's the fence going
5 to be around the lake? To keep it safe. And if you look
6 at the southern corner -- southwest corner of the complex
7 is just almost exactly a quarter of a mile walk all the
8 way around, up to the playground and swimming pool.

9 So how many parents are going to walk their
10 kids a quarter of a mile. All these kids are going to be
11 in the lake. Next slide, please. See, in the
12 summertime -- now, according to the developer, his
13 estimates, there will be at least 267 kids in this
14 complex.

15 I think that's kind of an underestimate. I bet
16 there's going to be over 300 kids, if we go with the
17 national average of 1.89 kids per unit.

18 So where are those kids going to play in the
19 summertime? There's no soccer field. There is no
20 baseball diamond. There is a small swimming pool. There
21 is not enough room to play a game of kickball or baseball,
22 unless you get out onto the street.

23 Especially those kids that are ten to 15 years

ON THE RECORD REPORTING

(512) 450-0342

1 old. I teach Sunday School class at my church -- the
2 junior high Sunday School class. That's such an important
3 age for their development, ten to 15 years old.

4 Those kids are not going to be out on the
5 playground. They're going to be looking for something to
6 do. And they're probably not going to be in the complex.

7 They're probably either going to be on the lake, or
8 they're going to be on their bicycles on Fite Road, or
9 heaven forbid, they're on 518.

10 I took that picture of 518 with the traffic. I
11 was standing on the guardrail. Traffic was about four or
12 five feet away from me going 50 miles an hour. In
13 hindsight, that was actually pretty stupid. Some guy in a
14 delivery truck honked his horn. I almost jumped out of my
15 shorts into the ditch.

16 You cannot have kids going up and down 518.
17 And you've walked Fite Road. You know how dangerous that
18 is. Oh, and kids -- oh, we'll talk about Fite in a little
19 bit.

20 So the question is, how are you going to secure
21 this property for the children? And it seems ridiculous,
22 but the only thing I can think of is put lifeguards out
23 there. You can have full-time lifeguards out at the lake.

ON THE RECORD REPORTING

(512) 450-0342

1 Next side, please.

2 MS. ANDERSON: You have about two minutes.

3 MR. MAYFIELD: Okay. Actually, go back to the
4 next slide. Here is something else that I added that's
5 not on your slides. The nearest park is 2.3 miles east on
6 Fite Road. So for a kid to get to a baseball diamond, a
7 basketball court, a soccer field, they would have to get
8 on their bicycles or have their parents take them 2.3
9 miles down Fite Road.

10 Otherwise, like Peter said, what we're
11 developing here is an island, a low-income island where
12 kids are going to be stuck. You like that statement,
13 right? I wanted to say low-income prison, but they
14 wouldn't let me say that.

15 Next slide, please. Okay. I don't think there
16 was a lot of thought put into this development when it
17 comes to child safety. I really don't. There is going to
18 be several hundred children living in this complex. And
19 the sand pit lakes are dangerous. That's the bottom line.
20 The next slide.

21 And they've already shown a history of not
22 really looking at child safety. Someone who owns a piece
23 of property has a custodial duty to secure that property,

ON THE RECORD REPORTING

(512) 450-0342

1 especially when you have something like a sand pit.

2 Here's some slides of a retention pond. And
3 that sand pit there -- that's been there longer than I've
4 lived in Pearland. And there's always been a six-foot
5 chain-link fence and three strands of barbed-wire across
6 the top.

7 Next slide. This is what has been done at
8 Tranquility Lake. Four strands of barbed-wire, cheapest
9 fence possible. Kids go in through the fence all the
10 time. Next slide.

11 Southwest corner, there's not even a gate, and
12 there never has been as far as I know. Kids in four-
13 wheelers go zooming up and down around the lake. People
14 drive their pickups in there and go fishing. That
15 property is not secured.

16 So there hasn't been any, I guess, forethought
17 on how we're going to keep the neighborhood kids out of
18 the lake to keep them from drowning. Next slide.

19 Okay. Fite Road -- we've already talked about
20 Fite Road. Now, to answer your questions about how many
21 kids are on Fite Road, let's go ahead and go to the next
22 slide.

23 Here is a map of the area. I live right about

ON THE RECORD REPORTING

(512) 450-0342

1 there. Just right there. You've got -- this is the South
2 Glen subdivision. You've got three roads here, Ash, Oak
3 and Covey, that are primarily trailer houses, low-income.

4 And all of these kids that live in this area
5 are less than two miles from Rogers. So you either have
6 to pay for the busing, or your kid walks. Now, most all
7 the people -- I was talking to all the people who live in
8 South Glen pay the 40 bucks a month to get their kids
9 bussed.

10 There are a few kids that live in this area
11 that cannot afford it and walk to school. So there is
12 only a handful of kids that actually have to walk to
13 Rogers Middle School right now. How many --

14 MS. ANDERSON: Let's keep it at one now.

15 MR. MAYFIELD: Okay. How many people have seen
16 kids walking on Fite Road to enter Rogers Middle School?

17 Okay. Just a few kids. This is what Fite Road looks
18 like in the morning. This is a typical morning. There
19 are six buses backed up and over 20 cars backed up going
20 down Fite Road.

21 And Tranquility Bay Apartments are going to be
22 just right on the other side of that residence. And this
23 is looking just right near the Pearland City Limits west.

ON THE RECORD REPORTING

(512) 450-0342

1 Next slide. This is from approximately the same place.
2 And you'll see there is the Pearland City Limits right
3 there. Looking east, Rogers Middle School is back there.
4 There is a single-family home subdivision going up right
5 there with construction.

6 And you notice -- you can see the ditches.
7 This drops off very steeply on both sides. And that --
8 usually there is mud in the bottom of the ditch. So you
9 have a choice. You get your shoes muddy, or walk right
10 alongside the road.

11 Now, this is actually my child walking down.
12 He doesn't go to Rogers Middle School yet. He will in a
13 year. And frankly, I would go hungry before I'd let him
14 walk down that road. We did this on a Saturday morning,
15 because there was no way I would have my kid out there
16 during rush hour traffic. We did it, and it was a
17 controlled -- go to the next slide. Next slide.

18 We did this in a very controlled way so that he
19 was not in danger. But there will be kids -- you know,
20 you miss the school bus, you have to stay after for
21 tutoring or sports or clubs. Your parents can't come get
22 you. You're going to have to walk down Fite Road. And
23 there are no plans right now to widen or improve Fite

ON THE RECORD REPORTING

(512) 450-0342

1 Road. Okay. Go ahead. And that's pretty much it.

2 MS. ANDERSON: You'll have to wind up.

3 MR. MAYFIELD: Yes. That's pretty much my
4 presentation. It's all about child safety. Now, go back
5 up on, Jason, please.

6 MS. ANDERSON: Sir.

7 MR. MAYFIELD: Okay.

8 MS. ANDERSON: Thank you for your testimony.

9 MR. MAYFIELD: Any questions, please?

10 MS. ANDERSON: Do you all have any questions of
11 Mr. Mayfield?

12 MR. BOGANY: I have one. Go ahead, Mayor.

13 MS. ANDERSON: Go ahead.

14 MR. SALINAS: Who is in charge of the road
15 system? Is it the county road system, or --

16 MR. MAYFIELD: Let me tell you a story. I had
17 a wreck at the corner of Fite Road and County Road 89.
18 Pearland police showed up. Sheriff's county showed up,
19 and DPS showed up. And it took them an hour to decide
20 whose jurisdiction it was.

21 MR. SALINAS: Well, I mean, who is in -- do you
22 all have a road district?

23 MR. MAYFIELD: No, there is no road district.

ON THE RECORD REPORTING

(512) 450-0342

1 MR. SALINAS: How do you maintain and upgrade
2 the system?

3 MR. MAYFIELD: It's either county or city.

4 MR. SALINAS: County or city.

5 MR. MAYFIELD: Correct.

6 MR. SALINAS: The other question is, does the
7 City of Pearland have any jurisdiction outside at all?

8 MR. MAYFIELD: None.

9 MR. SALINAS: How do you all know that?

10 MR. MAYFIELD: Because there is -- we've
11 tried -- well, I personally haven't tried. But there has
12 been so many complexes go up, people have complained.
13 There is no way to stop them that we can find.

14 You're right. There is an extraterrestrial
15 [sic] area, and I'm actually living in that area right
16 now. But the city --

17 MR. SALINAS: Let me tell you. Every city --
18 at least my city -- I'm the mayor. And nobody can build
19 anything outside our city limits, up to five miles,
20 without coming to our zoning commission and our city
21 council.

22 MR. MAYFIELD: Uh-huh.

23 MR. SALINAS: We control the growth five miles

ON THE RECORD REPORTING

(512) 450-0342

1 out of our city limits.

2 MR. MAYFIELD: Okay.

3 MR. SALINAS: I don't know what is the
4 difference between our city, which is 48,000 population
5 and your city is 49,000.

6 MR. MAYFIELD: Mission. Correct?

7 MR. SALINAS: Mission.

8 MR. MAYFIELD: Uh-huh.

9 MR. SALINAS: And we control everything. We
10 could not approve anything that is not in the best
11 interest of the City of Mission.

12 MR. MAYFIELD: Correct.

13 MR. SALINAS: So why is Pearland different from
14 our community in South Texas?

15 MR. MAYFIELD: I don't know. You'd have to
16 compare the two city charters to find out. But what we've
17 seen from city council is they cannot stop this project.
18 And believe me, if they could --

19 MR. SALINAS: They can't, or they have not
20 tried?

21 MR. MAYFIELD: They cannot. The letter sent
22 to --

23 MR. SALINAS: In the courthouse -- is there a

ON THE RECORD REPORTING

(512) 450-0342

1 courthouse in Brazoria County?

2 MR. MAYFIELD: Yes. It's in the county seat of
3 Angleton.

4 MR. SALINAS: Okay. Well, there's always a
5 solution to all these problems. That's why they built the
6 courthouse. And the lawsuit, I think, cost about \$187 to
7 go fight it.

8 MR. MAYFIELD: Uh-huh.

9 MR. SALINAS: I guarantee you that another --
10 you know, this is where you could -- if you don't have
11 zoning in your city, then the next bet is to file a
12 lawsuit. And you go into the courthouse and then you have
13 a public hearing. And then the district judge will say,
14 Well, it's in the best interest.

15 I'm always in favor of public hearings. And
16 I'm always in favor of local people deciding their own
17 destiny in their own city. You know, this is why when you
18 have public hearings, and you have so many people opposed
19 to it, I don't see how state representative for that -- I
20 think the destiny should belong to the people that live in
21 that city -- and the arguments.

22 But what I see here is that nobody has tried,
23 other than to come to this commission --

ON THE RECORD REPORTING

(512) 450-0342

1 MR. MAYFIELD: I will beg to differ. Yes, we
2 have tried.

3 MR. SALINAS: The other question I have is
4 for -- certainly, if somebody would approve this plan, and
5 someone -- some kid would cross that -- go over that fence
6 and go into that lake and get drowned, is this agency in
7 any way liable for approving this project, in that we are
8 being told that this is -- can happen, and being the
9 people that are going to be approving it?

10 MR. WITTMAYER: Chris Wittmayer, the
11 department's general counsel. The answer is no. This
12 department would have no liability for an injury at this
13 location if we approve the development.

14 MR. MAYFIELD: So legally you don't have an
15 issue with it?

16 MR. CONINE: Mr. Mayfield, I appreciate your
17 concern for kids. I don't think any of us here would
18 disagree with that. In your pictures with the chain link
19 fence and the barbed-wire, is that around Tranquility Lake
20 itself currently?

21 MR. MAYFIELD: No, this is sand pits, that's
22 about two, two-and-a-half miles away, behind the Wal-Mart.
23 And that sand pit has been there longer than I have lived

ON THE RECORD REPORTING

(512) 450-0342

1 in the area. Actually in South Glen.

2 MR. CONINE: So -- but Tranquility Lake
3 currently doesn't have anything like that around there?

4 MR. MAYFIELD: No, around the two apartment
5 complexes, they have those six-foot wrought-iron fences.

6 MR. CONINE: Right.

7 MR. MAYFIELD: But all the way around, from
8 what I've seen, it's strictly a three or four-strand
9 barbed-wire fence.

10 MR. CONINE: And Tranquility has been around
11 since you were a kid. Is that right?

12 MR. MAYFIELD: Tranquility Lake is only about
13 three years old. It's the most recent sand pit in the
14 area, which is why it hasn't been developed yet.

15 MR. CONINE: Oh.

16 MR. MAYFIELD: I've seen it -- actually, it
17 filled up -- they dug it. It filled up with spring water
18 and rainwater. Then they drained it, I don't know why,
19 out on Fite Road, with a couple of big pumps. And now
20 it's filled up again.

21 MR. CONINE: Well, then on these others, with
22 the chain-link and the barbed-wire, but with holes in them
23 where the kids can get in there, are there any documented

ON THE RECORD REPORTING

(512) 450-0342

1 deaths in those sand pits?

2 MR. MAYFIELD: No. I was not able to find any
3 documented deaths, because no one keeps statistics on
4 those. To find that information, you would have to go to
5 all the local newspapers. As far as I know, I couldn't
6 find anybody that kept statistics on drownings in sand
7 pits in the area.

8 You'd have to go to every single local
9 newspaper and do research, and we didn't have time to do
10 that.

11 MR. CONINE: All right.

12 MR. MAYFIELD: It's common knowledge. It only
13 takes a kid, you know, a minute or two to drown. Everyone
14 in here, I'm sure, has heard of a tragedy of a small child
15 drowning, whether it was in a bathtub, a swimming pool, a
16 sand pit, at a river.

17 I have a good friend at my church, Ken
18 Phillips. He's a Title Real Estate lawyer. One of his
19 best friends went to the hardware store and bought one of
20 those little goldfish -- little fountain things you put in
21 your back yard. The two-year-old drowned in it.

22 MR. CONINE: I mean, I -- we -- I think we all
23 understand and appreciate that. I have young kids as

ON THE RECORD REPORTING

(512) 450-0342

1 well. But there is no directly-related historical deaths
2 related to sand pits in the Pearland area that you can say
3 that have occurred?

4 MR. MAYFIELD: No. And there are several
5 subdivisions and apartment complexes around sand pits.
6 But if you look at the demographics around those, if you
7 go to Crystal Lake, if you go to the Oday sand pit, which
8 is Westwood, or West Lake, and you look at -- you just
9 drive through. I mean, you drove through there.

10 I drove through within the last couple of days
11 all those complexes. And when I went to the club, when we
12 shot those pictures that Saturday morning, do you know how
13 many kids we saw in that complex? One.

14 We went to West Oaks, the apartments that were
15 over on West Oaks. Do you know how many kids we saw?
16 Two. We went over to Park Place -- I did this last night.
17 Went over to Park Place at six o'clock, during dinner
18 time. There were ten kids out playing around that
19 apartment complex.

20 So the demographics of high-end -- because the
21 apartments at the Club -- a two-bedroom apartment cost
22 more than my house now, by several thousand dollars.
23 Okay. So you're -- what you get is a lot of

ON THE RECORD REPORTING

(512) 450-0342

1 professionals, a lot of young couples, a lot of retired
2 people who are on fixed income -- you know, get a fixed-
3 income.

4 You don't get that many young people,
5 especially single parents that can afford those apartments
6 with kids. So the -- if you go to Silver Lake, we have a
7 22-acre lake. And it's not a sand pit. It was a -- you
8 know, dug by the developer, and it's bulk-headed all the
9 way around it.

10 Twenty-two acres. There is dozens and dozens
11 of homes. I counted four homes that had playground
12 equipment in the back yard. People just know better
13 than -- most people know better.

14 MR. CONINE: So have you had a chance to
15 observe Tranquility Lake over the three years it's been
16 there?

17 MR. MAYFIELD: Oh, yes. I drive by it almost
18 every day.

19 MR. CONINE: You see kids out there swimming in
20 it any?

21 MR. MAYFIELD: I have seen kids swimming. I've
22 seen kids on bicycles. I've seen kids on four-wheelers.

23 MR. CONINE: Would you call it a little bit, or

ON THE RECORD REPORTING

(512) 450-0342

1 a lot?

2 MR. MAYFIELD: Just a little bit.

3 MR. CONINE: Okay.

4 MR. MAYFIELD: The biggest deterrent to getting
5 to Tranquility Lake is the ditch on the side of Fite. The
6 ditch on the north side of Fite is about four or five feet
7 deep, and it's only about six feet across. So the fence
8 isn't the deterrent. It's actually the ditch. Getting
9 through the ditch is tough.

10 MR. CONINE: From the pictures we have in our
11 brochure, that looks like an island with a walkway out in
12 the middle of Tranquility Lake.

13 MR. MAYFIELD: Uh-huh.

14 MR. CONINE: Can you tell me a little bit about
15 that?

16 MR. MAYFIELD: This was a peninsula. And
17 someone told me about two or three years ago they're
18 planning on doing a restaurant out there. They can't.
19 Those pictures, like I said, were originally taken after
20 they had pumped out the lake, and now it's refilled. A
21 third of that peninsula is now under water.

22 MR. CONINE: Okay. But I guess my question
23 would be, is it a logical place for kids to go out and

ON THE RECORD REPORTING

(512) 450-0342

1 play, out on that island, and fish, or whatever they may
2 do?

3 MR. MAYFIELD: Yes, it would be. Excuse me.
4 Yes, it would be.

5 MR. CONINE: Have you ever seen anybody do
6 that?

7 MR. MAYFIELD: No, I have not. Yes, I have.
8 I'll take that back. Yes, I have. I've seen one or two
9 people --

10 MR. CONINE: Wasn't you, was it?

11 MR. MAYFIELD: No, it wasn't me. It wasn't me,
12 because my eight-year-old son is a voracious fisherman.
13 He's been fishing since he was three. And he keeps
14 asking --

15 MR. CONINE: Well, I'm just wondering if you
16 might have gone out there to fish in that lake?

17 MR. MAYFIELD: I've never fished in that lake,
18 nor will I, because I don't want my kids knowing that I go
19 out there, because I don't want them jumping on their
20 bikes, crossing Fite, and sneaking over to the lake and
21 going fishing.

22 MR. CONINE: Are there any fish in it?

23 MR. MAYFIELD: There are some perch that I've

ON THE RECORD REPORTING

(512) 450-0342

1 seen in it, but I don't think there are any bass that have
2 developed in there.

3 MR. CONINE: Okay.

4 MR. MAYFIELD: But there are other critters.
5 We found snapping turtles. I'm sure the water moccasins
6 are coming in.

7 MR. CONINE: Yes, they always attract those.

8 MR. MAYFIELD: And Autumn Lakes, which is two
9 miles away, used to have a seven-foot alligator in it, oh,
10 by the way.

11 MR. CONINE: Thank you.

12 MR. MAYFIELD: Any other questions?

13 MS. ANDERSON: Any other questions? Mr.
14 Bogany?

15 MR. BOGANY: I really don't have any questions.
16 I was there kind of in the middle of the day --

17 MR. MAYFIELD: Uh-huh.

18 MR. BOGANY: -- and I didn't see any kids out
19 there. I did see the ditch, but I didn't see any kids out
20 there playing. Apparently, like I said earlier, it's from
21 the sand pit lakes, or whatever you want to call them --

22 MR. MAYFIELD: Uh-huh.

23 MR. BOGANY: -- and I just think it's just

ON THE RECORD REPORTING

(512) 450-0342

1 amazing to be able to have a place that I could sit out on
2 the lake and watch.

3 MR. MAYFIELD: Do you have kids?

4 MR. BOGANY: Yes, I do. And actually, my
5 daughter was at a sleepover at Tranquility Park. That's
6 how I knew -- and there were about ten of those kids. And
7 the other day I asked her about --

8 MR. MAYFIELD: I'm sorry; Tranquility Park --
9 I'm not familiar with that.

10 MR. BOGANY: It was either the reserve, or one
11 of -- she was over --

12 MR. MAYFIELD: The club is the only one that's
13 open. The reserve is not open yet.

14 MR. BOGANY: Okay. Then it was the club. And
15 she was there. And there were about ten or 15 kids. And
16 I asked her the other day, Did you all have any thoughts
17 of going into that lake that sits there? No. No, we
18 played in the swimming pool, had no problems. She must be
19 one of those kids you all saw over there. But there
20 was -- so I mean, I'm familiar --

21 MR. MAYFIELD: Do you have any young boys?

22 MR. BOGANY: No. Well, boys are a little bit
23 different.

ON THE RECORD REPORTING

(512) 450-0342

1 MR. MAYFIELD: Boys are real different. You
2 get -- like I said, a ten to 15-year-old kid -- a boy,
3 they're not going to be stuck in their apartment. They're
4 going to be down on the lake, because they can't get on
5 their bicycles and go anywhere else.

6 MR. BOGANY: Thank you. I appreciate it.

7 MR. MAYFIELD: Any other questions? Thank you
8 all for your time and your patience.

9 MS. ANDERSON: Well, we're going to take a ten-
10 minute break, because we've been at this a long time. But
11 we will come back in ten minutes and resume the rest of
12 the public comment, about 1:30.

13 (Whereupon, a short recess was taken.)

14 MS. ANDERSON: Please. The next witness
15 affirmation form that I have is from Scott Lester.

16 MR. LESTER: Hello. My name is Scott Lester.
17 I'm a resident of South Glen. Have been for six or seven
18 years, but lived in that area for about since '91. I am
19 also a board member from Brazoria County MUD Number 1.

20 The proposed projects enter our boundaries
21 around here because of the elevated entries from the
22 residents there -- the rest of the residents to MUD 1.
23 I'll highlight the major points detailed in a letter dated

ON THE RECORD REPORTING

(512) 450-0342

1 June 8 to the board from our attorney Paul Philbin, who
2 represents the district.

3 First, the MUD board, per the Texas Government
4 Code, was entitled to receive notice of the filing of the
5 application by Blazer. We also believe the MUD board
6 should have received notice of the public hearings.

7 No notice of either the filing for the Blazer
8 application or for the public hearing was received by the
9 board.

10 Secondly, as it currently stands, the board has
11 not officially approved the project of water and sewer
12 capacity for the Blazer project.

13 The board originally allocated 604 single-
14 family connections for all the Tranquility Lake. Of
15 those, 400 have already been accounted for between the
16 apartments and a daycare facility.

17 The revised commitment request from Blazer
18 dated May 27 would use 176. That would leave
19 approximately 28 connections for the remaining eight acres
20 of property there. Since the original allocation was
21 issued to Views West Development for a different type of
22 project, the board will, before issuing any capacity to
23 Blazer requests the approval to Views West for their

ON THE RECORD REPORTING

(512) 450-0342

1 revised allocation numbers.

2 Third, the board and MUD will also require that
3 the drainage for the project comply with the approved
4 plan. This means an approved storm water pump needs to be
5 installed as acceptable and agreed.

6 I think you've indicated that Mr. Richardson
7 has agreed to put in the storm water thing. Regardless if
8 this project goes or not, we would pursue, from the
9 previous -- or the developer there previously, that that
10 would be done, and be done quickly.

11 So anyway, at this time, the board respectfully
12 requests that the department table any action until the
13 required notice of filing is issued -- the MUD board has
14 issued a water and sewer capacity commitment for the
15 project and, two, that the drainage issue regarding the
16 storm water pump is resolved satisfactorily.

17 As a resident now, I'd like to say, you know,
18 I've been in the commercial banking business for 20 years.

19 When I give out a commitment to do projects -- and I've
20 financed several apartment projects -- I don't let money
21 out the door until I know one of them -- conditions will
22 be they've got water and sewer capacity approval.

23 Well, at this time they don't. So I think you

ON THE RECORD REPORTING

(512) 450-0342

1 as a board member looking to have that would have to take
2 that into account if you are going to allow the bonds or
3 the credits to be issued without having that.

4 I can also say on your -- maybe to address you,
5 Mr. Salinas, in our letter dated May 28 to you guys, in
6 paragraph 6, it does address the MUD's interests regarding
7 how is it related to the City of Pearland. And I'll kind
8 of -- I'll read that paragraph.

9 The MUD believed that the City of Pearland's
10 adopted moratorium on apartment construction may apply.
11 Attached to this letter was a copy of our strategic
12 partnership agreement with the City of Pearland.

13 It was entered into by the MUD and the city.
14 Pursuant to the agreement, the city has already conducted
15 public hearings to annex the MUD, and has annexed the area
16 of the MUD but, pursuant to the SPAW [phonetic], put off
17 the effective date of the annexation. That's going to
18 happen on midnight, December 31, 2006.

19 MS. ANDERSON: We need you to wrap up.

20 MR. LESTER: Okay. The MUD district is in the
21 process of asking the city attorney -- and we've been
22 asking that -- whether or not the moratorium applies to
23 this, and do they have rights in that part?

ON THE RECORD REPORTING

(512) 450-0342

1 As of this date, we have not received anything
2 back from the city attorney. if it does apply, the MUD,
3 pursuant to the SPAW and the city's consignorries would
4 preclude us from serving this type of project. That's all
5 I have.

6 MR. SALINAS: Did they get a building permit?

7 MR. LESTER: I have no idea. We're not in the
8 zoning side of it, sir.

9 MR. SALINAS: You're with the MUD?

10 MR. LESTER: Yes. We have not approved their
11 application for water and sewer capacity at this time.

12 MR. SALINAS: Are you going to?

13 MR. LESTER: Don't know. We have not received
14 final --

15 MR. SALINAS: See, this -- you guys want us to
16 do --

17 MR. LESTER: No, sir. What happened is we
18 weren't given proper notice.

19 MR. SALINAS: Well, it's not and then you don't
20 want to do anything about it.

21 MR. LESTER: We have not provided sewer and
22 water capacity. We have not approved it at this time.
23 No.

ON THE RECORD REPORTING

(512) 450-0342

1 MR. SALINAS: If you really wanted to stop this
2 project, just tell them you're never going to give them
3 any sewer or water.

4 MR. LESTER: I can't tell what their final --

5 MR. SALINAS: You don't want to do it.

6 MR. LESTER: No, I don't. I want you to table
7 the request until that -- until we have given approval.

8 MR. SALINAS: That's not -- we're not in the
9 zoning business, you know.

10 MR. LESTER: I'm not either. Unfortunately,
11 I'm not in the zoning business. If you're familiar with
12 MUDs.

13 MR. SALINAS: Well, yes. But you can always
14 tell them that you're out of capacity.

15 MR. LESTER: Well, sir, again, if you just
16 heard what I was saying there, we do have -- there is
17 capacity. We are at limited capacity. There is no doubt
18 on that acreage we have limited capacity.

19 Views West Development owned the whole
20 property. Okay? Views West Development came to us
21 originally, having two apartment projects with a townhome
22 project in addition.

23 The townhome project would not require as many

ON THE RECORD REPORTING

(512) 450-0342

1 connections as they're going to utilize. Thus, for us to
2 go ahead and issue that capacity letter at some point in
3 time, we would require Views West Development to
4 acknowledge that, hey, when this is all said and done to
5 your remaining eight acres, you're only going to have 28
6 connections. Obviously, to develop that property is going
7 to be much more expensive if she has to go somewhere else
8 to provide that capacity.

9 At this time, I don't know if we are or not.
10 We have not provided it. I can tell you, I personally --
11 me as a board member -- I will not vote on the project
12 until I do get a response from the city attorney.

13 MR. SALINAS: The county gave them a permit to
14 build? That's what I hear.

15 MR. LESTER: Brazoria County Drainage District
16 4 did.

17 MR. SALINAS: The county commission this
18 quarter, or --

19 MR. LESTER: I don't know who gave them the
20 capacity to build. We have not received it from our
21 standpoint. Nor have we given them capacity to -- for
22 water and sewer. At this time, I can tell you we have
23 not.

ON THE RECORD REPORTING

(512) 450-0342

1 MR. CONINE: Mr. Lester, as a banker, I can
2 appreciate you saying that you research projects, and make
3 sure all the stuff's in place before you fund the loan.
4 However, you're probably used to -- and you can tell me
5 this, the way you may be or not, issuing loan commitments
6 that have a lot of Subject 2s.

7 MR. LESTER: No doubt about it. Yes, sir.

8 MR. CONINE: And so we're basically in that
9 same position. This would be a Subject 2, you guys making
10 sure the project with water and sewer -- or it wouldn't go
11 forward. So --

12 MR. LESTER: I can understand that.

13 MR. CONINE: I appreciate that. Thank you.

14 MS. ANDERSON: Any other questions? Thank you,
15 sir, for your testimony. The next form I have is for
16 Chris Richardson. And Joyce Bennett also signed a form
17 yielding to Mr. Richardson.

18 MR. RICHARDSON: Thank you, Madame Chairman. I
19 would also be taking Bob Coe's minutes if needed. But
20 I'll try to make it very quick.

21 My name is Chris Richardson, one of -- the
22 developer of Tranquility Bay. I'd like to confirm that
23 there was neighborhood opposition and neighborhood support

ON THE RECORD REPORTING

(512) 450-0342

1 at the TEFRA hearing. I do have a copy -- you know, not
2 copies. I've got the original letters. I would like to
3 confirm that, you know, I verified these letters as
4 support.

5 They are part of the exhibit that I will give
6 to the secretary. The other letters in question that were
7 discussed earlier are these letters. There are people
8 here today that have signed up to talk that will address
9 those and how they got the letters, et cetera. So I think
10 that issue is up to them. They are local Pearland
11 residents, one of which spoke at the hearing.

12 We passed out booklets for your review, and I'd
13 like to address several of the items. I also have David
14 Brown, the civil engineer for the property, Mark Mucasey,
15 Bob Coe, all professionals that --

16 Mark MuCasey is the architect and land planner.
17 Bob Coe is the market analyst, and Karen Joel is an
18 attorney here that's been involved with some of the
19 utility situations, et cetera.

20 First of all, in your booklet, I would like to
21 refer you to Tab Number 7, regarding the safety. This tab
22 shows several areas and lakes in the subdivision adjacent
23 to Tranquility Bay, and shows the fences that are in the

ON THE RECORD REPORTING

(512) 450-0342

1 area.

2 The very first picture is of Silver Lake
3 Elementary, which is the elementary where we had the TEFRA
4 hearings. This elementary is open to an open lake, with
5 absolutely no fence between the elementary school and the
6 lake shown in the first picture in Tab 7.

7 If a child wanted to walk straight across the
8 street and go into the lake, they could certainly do that.

9 Other pictures in there show the subdivision with the
10 numerous lakes. It shows the 42-inch and 48-inch fences
11 that are there. Most of them have six to eight-inch
12 pickets, which are similar to the pictures that were shown
13 to you earlier.

14 The -- and then the last pictures in that tab
15 show pictures of what we will build around the lake. The
16 code calls for a four-foot fence, pickets four inches on
17 the center. We plan to build a five-foot fence. The
18 pickets will be four inches on center.

19 That's an actual affordable housing property
20 that you see there, in all the pictures that are after
21 that in the back part of the tab. And that is the type
22 fence we will build. All the way around the lake, we'll
23 be treating it just like it's a swimming pool, and it will

ON THE RECORD REPORTING

(512) 450-0342

1 be secured similarly.

2 Regarding letters in Tab Number 8, if you could
3 look at that tab. I notice that Mr. Peter Dumont was one
4 of the speakers. We addressed a letter to Mr. Dumont
5 earlier in the process, prior to the TEFRA hearing. There
6 were several comments that Mr. Dumont has included on his
7 letter, one of which is at the bottom of the second page.

8 I think it's very interesting, which reflects
9 the attitude that was portrayed at the TEFRA hearing
10 for the -- toward the Tranquility supporters, and toward
11 the future residents.

12 With regard to the elementaries, and under Tab
13 10, if you'd turn to the very back page, this chart -- and
14 I have a full copy of the Beauregard demographic survey
15 done for the Pearland Independent School District, which
16 shows their school capacity for each school in the last
17 several years, and their projections going forward.

18 With the tremendous amount of growth you've
19 heard about in Pearland, they project that their school
20 district is going to double in the next seven years. And
21 it shows at Tab 10 in the very last page is a good
22 synopsis of what Beauregard puts in their report.

23 It shows 15,000 capacity, and then you can look

ON THE RECORD REPORTING

(512) 450-0342

1 at the years and see the number, totals, and by the school
2 of each section. It shows them becoming full in 2006, and
3 then there is an elementary school, elementary number
4 nine, I think it is, reflected there that comes on line in
5 time for them if they get to capacity.

6 Permits are addressed in number two, plat is
7 addressed in number 15. We do have Brazoria County
8 permits. We have approval from the drainage district. In
9 the course of obtaining our utilities, the owner
10 transferred to us the taps to build 19.36 units per acre
11 on 16-and-a-half acres, which comes out to 319 total
12 units. Our first phase here is 246 units.

13 So the -- and the district has confirmed
14 capacity. There are several emails that have gone back
15 and forth that basically conspire to try to slow us down
16 on our utilities.

17 With regard to the moratorium, the moratorium
18 is included in tab number 13. I know I'm going fast, but
19 we don't have very many minutes.

20 The moratorium is included. This moratorium
21 was put in place in February. This moratorium expires
22 June 21 of this year. And there is a note from my
23 attorney in there wehre she discussed with the city

ON THE RECORD REPORTING

(512) 450-0342

1 attorney their plans for the moratorium. At this point
2 there is no plan to reinstate the moratorium.

3 Mobility and drainage -- Tab 11, we've
4 highlighted the extension of Cullen Boulevard. This is --
5 at the TEFRA hearing was a complaint about Farm Road or
6 Rural Road 89, which is part of that site plan that you
7 see. The city has confirmed Allen Mueller, assistant city
8 manager, has confirmed that the extension of Cullen is
9 scheduled for later this summer or early fall to begin.

10 This will give more access out to 518 from the
11 Silver Lake area. Basically it branches. Right now one
12 of those yellow Ys -- part of the yellow Y on the right
13 goes to 518 now. The new road is the portion on the left.

14 If traffic does back up at 518, if you're on
15 this Cullen extension, they've made a cross-over, where
16 you can go back over to 89. So it basically gives you a
17 couple of different options, depending on which way you
18 want to go.

19 That's to start in conjunction with our
20 construction, and should relieve some of the concerns of
21 Silver Lake back in the subdivision that comes down Fite.

22 I find it interesting that in the TEFRA and in
23 correspondence with the residents, they complained about

ON THE RECORD REPORTING

(512) 450-0342

1 our sign that we're required to put on the property. They
2 complained that we put it on Fite Road, so nobody would
3 see it, because nobody goes down Fite Road. Everybody
4 goes up 89 to 518. So that's a conflicting statement that
5 they've given you.

6 With regard to affordable housing and the
7 safety issues, we concentrate our effort on youth and
8 education programs on our properties. That's why they are
9 very successful. I take it as an insult and a slander
10 that the statements were made that we don't take the
11 safety of our children into consideration. And I think
12 I've got other items in there that may come up later.

13 If you've got any questions about any of the
14 items that we need to refute regarding this application,
15 this would be an excellent affordable housing property,
16 and I ask for your approval.

17 MS. ANDERSON: You still have two minutes,
18 because I got a fourth form from Matt Fuqua yielding time
19 to you.

20 MR. RICHARDSON: Okay. We do have a site plan
21 showing the -- that we included. I think it was just the
22 handout that the architect brought over this morning. He
23 may want to speak regarding some of the highlights of the

ON THE RECORD REPORTING

(512) 450-0342

1 property. They're here just as a backup.

2 There were some concerns about the distance
3 between the water and the buildings. They're basically 57
4 feet, on average, from the buildings to the water. Just
5 like the pictures you see under the tab, for the fences
6 under Tab 7, this is a similar situation as to what you
7 see on the -- in the yards, where there is a fence shown
8 about 19 or 20 feet away from the buildings. Then there
9 is a nice green area that we will landscape down to the
10 water's edge, making it a very attractive situation.

11 You've got your accessible route on that side
12 of the building also. So all the accessible route will be
13 out to the parking lots and in front of the building, in
14 the front door looking onto the water view, and not on the
15 parking lot side. So that's a big plus for the design
16 too. Mark MuCasey is here to discuss that with you.

17 With regard to the utility situation, we're
18 applying for 246 units. We also own an acre and a half on
19 this west end of the property that currently is not
20 planned for development right now. On some of our other
21 projects we have extra property like that. One has a
22 soccer field.

23 You know, in the meantime, while we decide what

ON THE RECORD REPORTING

(512) 450-0342

1 to do with that, we will most likely make that a
2 recreation area. And it will be a benefit to the
3 residents on this end that go all the way down, you know,
4 to the playground.

5 People will be able to choose, the age of their
6 children, where they feel best to live on site. Just as
7 was discussed between some of the previous speakers, there
8 is interior units, if they feel like their children might
9 be too small to be over close to the water. You know,
10 then there's units for others that feel that they want the
11 amenity of the view of the water.

12 I think my two minutes is probably up.

13 MR. CONINE: Mr. Richardson, I'm a little
14 confused, and I think you may have just clarified it, but
15 I want to make sure I'm right, on the MUD issue and
16 utility issue.

17 Mr. Lester testified that you didn't get final
18 approval from them. But in his math, you were short some
19 units. And what I'm hearing you saying, you're long some
20 units, but you're probably long because you own another
21 piece of property that has some capacity to it that you
22 just have to shift over to this property. Is that --

23 MR. RICHARDSON: No, actually the contract with

ON THE RECORD REPORTING

(512) 450-0342

1 the seller gave us 19.36 units per acre for 16 acres,
2 which came out to 300-plus units. That's our contract
3 with -- and there is capacity for that amount left on the
4 site.

5 The project has been approved for, I think it's
6 165 unit -- come up and help me with this a little bit,
7 David. David Brown, the project civil engineer, might be
8 better to address this.

9 MR. CONINE: Okay. Great.

10 MR. RICHARDSON: But we have been through. He
11 can give you comments from the --

12 MR. BROWN: The original project that was
13 pursued by the previous owner of the property, which had
14 approval by all the jurisdictional entities, included
15 approximately 165 single-family townhome-style units.

16 Our project will include 246 units, but because
17 they're apartments, historically, the data indicates that
18 water and sewer use will be less for this type of unit at
19 a ratio of about 71 percent of what you would normally
20 expect for a typical single-family household.

21 So our equivalent single-family number of
22 connections is 176. It's certainly not to indicate that
23 we don't intend to build the 246 units. It's just from a

ON THE RECORD REPORTING

(512) 450-0342

1 standpoint of the way jurisdictions compute capacity in
2 the system, it's based on equivalent single-family
3 connections.

4 So we have approximately ten or 12 more
5 equivalent single-family units on this particular first
6 phase of the development than the previous development
7 that had approval was pursuing.

8 At the same time, I think you heard previously
9 from Mr. Lester that not only is capacity available to --
10 for them to be able to provide us with a commitment for
11 that number of units, there is also excess capacity
12 available above and beyond that for other developers who
13 still own property within the area to be able to
14 adequately develop their tracts.

15 MR. CONINE: Is there capacity associated with
16 the excess land that --

17 MR. BROWN: No, sir. We're not requesting any
18 capacity on the excess.

19 MR. CONINE: No, that wasn't my question. Is
20 there currently approved capacity on the other acre and a
21 half?

22 MR. BROWN: There is --

23 MR. CONINE: On the MUD?

ON THE RECORD REPORTING

(512) 450-0342

1 MR. BROWN: The MUD is currently approved.
2 When Mr. Lester spoke about the 604 connections, this land
3 was all at one time under one ownership, and it would
4 include this additional acreage here that's -- that Mr.
5 Richardson owns, but not currently planning to develop.

6 So there is, if you will, an allocated capacity
7 of the whole tract. The way the utility district, though,
8 typically treats allocations, an allocation is not a --
9 is -- the capacity is allocated to the tract, but as you
10 develop, you chop away at that, and so if you end up with
11 some property that becomes unusable because there isn't
12 any available capacity at the time you choose to develop
13 it, you would have to wait for either the utility district
14 to increase the capacity in the plant, or somewhere within
15 the confining portion of the system that's limiting that
16 capacity in order for you to be able to move forward with
17 development of that balance of the property.

18 MR. RICHARDSON: From an engineering
19 standpoint, too, it's not the capacity at the plant that
20 has any issue with it. It's the capacity at the lift
21 station on site. And when -- part of our design is to
22 increase the capacity of the lift station to give plenty
23 of capacity there for the whole tract.

ON THE RECORD REPORTING

(512) 450-0342

1 MR. CONINE: We heard some testimony from Mr.
2 Dumont earlier that the drainage and the -- you know, the
3 fact that this project won't help the surrounding area --
4 can you, as an engineer, can you speak to the drainage
5 design on the property, and what it's -- what it is and
6 isn't going to do?

7 MR. BROWN: Yes, sir. The -- I think as Mr.
8 Dumont stated, and everybody is aware, the drainage will
9 be directed toward Tranquility Lake itself. At the time
10 we began the development of the project and our
11 engineering portion of the work, our field surveys
12 indicated the water level in the lake was approximately
13 ten feet below the high bank of the lake.

14 Now, this is a lake that is some 33 acres in
15 size. If you do a quick computation of the 33 surface
16 acres of the lake at the ten-foot of depth, there is
17 reasonably 33 times ten -- 330 acre feet of capacity
18 the -- within that lake to handle the drainage from the
19 area tributary to that lake.

20 The area tributary to the lake is approximately
21 118 acres, and that makes up the balance of these other
22 two apartment complexes that we know are there, some
23 commercial development up on 518, and in addition to that,

ON THE RECORD REPORTING

(512) 450-0342

1 of course, the Tranquility Bay Apartments.

2 The statistical data would indicate to us that
3 the hundred-year rainfall -- statistical hundred-year
4 rainfall event for this part of the State of Texas is 12.9
5 inches of rainfall in a 24-hour period of time. The
6 available storage capacity in that lake would be such that
7 we could achieve approximately 30 inches of rainfall over
8 the entire watershed for this lake, which it's a whole 118
9 acres -- forget about that we're only developing 16 acres
10 of that, before the capacity of the lake would be
11 exceeded.

12 The State of Texas has granted a permit to
13 discharge water from this sand pit into 518, and across
14 518 on up to Hickory Creek. That discharge -- allowable
15 discharge rate is only five cubic feet per second. That's
16 a very, very minimal rate.

17 We expect that under the hundred-year storm,
18 the peak discharge rate from the hundred-year -- from the
19 118 acres tributary to this whole lake is in the order
20 about the magnitude of 350 to 400 cubic feet per second.

21 So a statement that development of this project
22 and draining the property into this lake would aggravate
23 flooding conditions in the area is just totally untrue,

ON THE RECORD REPORTING

(512) 450-0342

1 because we will have very little, if any, discharge from
2 the lake.

3 And the discharge will only occur once the
4 capacity of the lake gets to -- diminished down to a point
5 where it appears that, you know, it may be critical to try
6 and discharge some of that water to bring the level of the
7 lake back down so that it can continue to accept more
8 water the next time it rains.

9 But -- and this discharge doesn't go back to
10 the south -- to the South Glen area, where you've seen
11 photographs. This discharge goes to the north, across 518
12 to Hickory Creek, in an area that's totally different than
13 this area that they're saying they have flooding issues.

14 We certainly don't diminish the fact that there
15 are flooding issues in that particular subdivision. But
16 as you've so stated before, Mr. Conine, it's not
17 necessarily the responsibility of this board or our
18 developer to cure the drainage problems within the area.

19 Now, one thing I will say to you is that our
20 project has been reviewed and approved by Brazoria
21 Drainage District Number 4. They are the ultimate
22 authority over all the public drainage structures that
23 aren't either handled by the city, which are the city

ON THE RECORD REPORTING

(512) 450-0342

1 systems are typically the pipe systems underneath the
2 roadway, or the utility districts.

3 And the utility districts -- they have a
4 relationship with drainage there, but they usually
5 acquiesce to the drainage district for the approval
6 authority on most of these projects.

7 The county handles the main systems, the
8 streams, the bayous, the major ditch systems. And we do
9 have approval from Brazoria Drainage District Number 4 for
10 this project.

11 MR. CONINE: Chris, there have been some
12 comment referred to about the playground area and the
13 facilities provided for kids to play that would be, you
14 know, eight to 18 years old. Can you comment on what
15 you've provided for, and some of your experience, how you
16 see it stacking up against other projects?

17 MR. RICHARDSON: Our projects will have as many
18 activities as, you know, as any of them can possibly have.

19 I mean, the older kids usually are involved in activities
20 in the area, either at the schools --

21 Another point with the school district, I
22 think, that's in your packet, is that there is a new YMCA
23 becoming a partnership with the school. This is -- will

ON THE RECORD REPORTING

(512) 450-0342

1 be located between Silver Lake Elementary, Silver Crest
2 Elementary. The school district owns eleven acres there.

3 It takes 15 acres to build an elementary.

4 So they've decided to go use that as a YMCA
5 facility. That's not far from our property. So there is
6 activities for older children real close to our site. On
7 site, there are computer connections, high-speed internet
8 connections with activities from Phoenix Outreach, that is
9 involved in that.

10 Also, going down Fite Road, Phoenix Outreach
11 and education-based housing have agreed to fund anyone
12 that needs to pay and doesn't have free transportation to
13 the schools. The middle school is the only one that is
14 within the three miles that was mentioned earlier.

15 That's just two grades of our children. And
16 they've agreed to aid with the -- with anyone that needs
17 help with bus transportation.

18 MR. CONINE: The -- are there any soil problems
19 associated with this site at all?

20 MR. RICHARDSON: Yes. There is the -- the
21 situation is, you know, they excavated sand. We built one
22 around a lake in Pearland in 1999. It's just a mile or so
23 from this called West Lake. It's the same situation,

ON THE RECORD REPORTING

(512) 450-0342

1 where you've got a lake that was a sand pit.

2 The design would show some extra footing on the
3 lake side, just for potential slough-off of the lake.
4 They've done their geotech, and we had to do more at the
5 other one. This bank does slope more than the one that we
6 had at the other lake.

7 But they are concerned with shear, and they've
8 done their test to take that into consideration. There
9 are some fatty clays that were brought out and scattered
10 on the top layer. We do have to overexcavate. We plan to
11 lose those along the bank and bring in slag fill from
12 another sand pit in the area.

13 There is excellent soil down there. So there
14 is not a lot of heave, but the concern with the fatty
15 clays that were excavated and just kind of lost as spoils
16 on the top little bit of land will be overexcavated to
17 compensate for the foundations.

18 MR. CONINE: You've got another project a mile
19 or so from this one?

20 MR. RICHARDSON: We were a minority owner of
21 that. We don't own it. We -- it was primarily as a HUD
22 contractor. We were a bonded contractor --

23 MR. CONINE: Yes.

ON THE RECORD REPORTING

(512) 450-0342

1 MR. RICHARDSON: -- on that property. So we're
2 not an owner of that property. It's a -- we were just the
3 builder.

4 MR. CONINE: Do they have any kids swimming in
5 the sand pit?

6 MR. RICHARDSON: Yes, they've got boats, and
7 lock the gates just like there. They have a 48-inch fence
8 around there. Haven't had any problems. They've got a
9 gazebo, palata, and paddleboats that they've had
10 supervision, that goes out in the lake and uses that as a
11 great amenity.

12 MR. CONINE: I'm finished.

13 MS. ANDERSON: Good questions. Thank you.
14 Gene Horr?

15 MR. HERR: My name is Gene Horr. I'm the
16 contractor for -- controller for Blazer. And originally I
17 was going to come up and -- I had a handout of excerpts
18 from the transcript to try to present the attitude of the
19 residents during the TEFRA hearing.

20 Unfortunately, time is running a bit short.
21 And I think you do have the -- all of the TEFRA hearing
22 transcripts in front of you. And I'm sure you can draw
23 your own conclusion of what the true worries of the

ON THE RECORD REPORTING

(512) 450-0342

1 residents were.

2 MR. CONINE: Could you -- can I -- excuse me.
3 Did you guys meet with any of the neighborhood
4 associations, other than at the TEFRA hearing?

5 MR. HERR: I'd like to defer to Mr. Richardson.

6 MR. CONINE: Sorry. I meant to ask that when
7 you were up here, Chris.

8 MR. RICHARDSON: Part of the tab that I didn't
9 point out, since it had been discussed a lot -- we did --
10 we sent out a letter to every attendee at the TEFRA.
11 Invited them to go see other properties with us. We
12 arranged a bus tour. We got about four or five letters
13 back that were undeliverable.

14 But we had email contact with about six
15 residents. The day we took the trip, one person showed up
16 to go on the bus tour to see it. And her comment
17 primarily was, It's very nice. It's pretty. And it
18 belongs in that part of town.

19 MR. CONINE: Thank you.

20 MS. ANDERSON: Mark Mucasey?

21 MR. MUCASEY: Hi. I'm the architect for the
22 project, and I'll be available, really, if there are any
23 questions. One thing I'd like to go through is that we

ON THE RECORD REPORTING

(512) 450-0342

1 are creating a separate bus shelter that is right in front
2 in our amenity center package, that will be designed
3 specifically for the buses to come all the way up Oak Road
4 and our front door, and stop in a sheltered area to pick
5 up the children and take them to schools.

6 We've got an accessible route to all of the
7 units in the project to get to the bus, as well as all of
8 the other amenities in our project. Just wanted to make
9 one comment. We see this -- this site is really a jewel.

10 In terms of the lakefront property, we've tried
11 to design a lakefront community. And the first view of
12 this project going down Oak Road is a view through our
13 amenity center of the lake. So we feel that that is just
14 a tremendous asset to the project. I'm available for
15 questions.

16 MR. BOGANY: I have a couple. Well, I really
17 only have one question. On the drawing I have here, it
18 has a four-foot fence. And I heard Mr. Richardson say
19 it's going to have a five-foot fence.

20 MR. MUCASEY: Yes. That is correct. It's --
21 we meant to say it's a four-inch picket spacing.

22 MR. BOGANY: Okay.

23 MR. MUCASEY: And Chris is correct. We're

ON THE RECORD REPORTING

(512) 450-0342

1 proposing to do a five-foot tall, which is more than a
2 pool fence would be required.

3 MR. BOGANY: Okay.

4 MR. MUCASEY: So we are going over the standard
5 of any swimming pool in the project.

6 MR. BOGANY: Okay. Is that typical of a lake
7 community, of having a five-foot fence versus a four-foot
8 fence?

9 MR. MUCASEY: I think a four-foot is the code,
10 and that's what people typically would meet. And
11 nowadays, as opposed to the pictures we saw previously,
12 you've got to have a four-inch picket so a small child
13 can't get through the fence, and much less over the fence.

14 MR. BOGANY: Okay. So your picket is going to
15 be a lot tighter than the ones we saw?

16 MR. MUCASEY: Absolutely. Yes.

17 MR. BOGANY: Okay.

18 MR. MUCASEY: Four inch on center, means that a
19 small child cannot get through the fence.

20 MR. BOGANY: Okay. Thank you.

21 MS. ANDERSON: Any other testimony here?

22 MR. MUCASEY: No. Thank you.

23 MS. ANDERSON: Thank you. Mr. Brown, do you

ON THE RECORD REPORTING

(512) 450-0342

1 have additional testimony? Thank you.

2 MR. BROWN: Madame Chairman, fellow board
3 members, I'd like to just kind of highlight on a few
4 things that I heard in some previous testimony to provide
5 clarification, if I could, on some of the statements that
6 were made.

7 We talked briefly a minute ago about whether
8 this project does or doesn't aggravate flooding. Of
9 course it doesn't. We're going to have to -- the
10 jurisdictional requirements for any development within
11 Brazoria County is if any other county adjacent to this
12 project are such that we have to meet the test, if you
13 will, that our project will not aggravate flooding, or we
14 can't obtain approval.

15 I also previously mentioned to you that we do
16 have approval from the primary drainage authority within
17 the area, which is Brazoria Drainage District Number 4.

18 The -- we also spoke briefly about the water
19 and sewer capacity issues. We've been working for several
20 months now with the drainage -- with the utility
21 district's engineer on this project. And from the very
22 beginning of those discussions with him, it's been made
23 very, very clear that capacity in their system is not an

ON THE RECORD REPORTING

(512) 450-0342

1 issue on this project.

2 We are meeting some stumbling and resistance,
3 if you will, of their board to work with us to grant that.

4 You can draw your own conclusions about what that's
5 really about, especially in light of the fact that this is
6 a resident board, and at least three of their board
7 members live immediately across the street from the
8 project.

9 I'd also heard a little bit earlier about
10 traffic concerns. We have worked with the City of
11 Pearland. And of course, the City of Pearland does have a
12 limited jurisdiction here with regard to platting. We do
13 have to satisfy their subdivision ordinance, but however,
14 their zoning requirements do not apply outside the city.

15 One of their requirements of the -- for
16 platting is that we have to prepare a traffic impact
17 analysis. On this particular project, that was waived
18 because a traffic impact analysis was previously prepared
19 on the project that was already approved for this site
20 just this last year.

21 In addition to that, as you've heard before,
22 you've heard testimony that the county is -- I mean, the
23 city, if you will, is improving the roadway infrastructure

ON THE RECORD REPORTING

(512) 450-0342

1 in the area by improving Cullen Boulevard to help the
2 people in South Glen and South Silver Lake to be able to
3 get better access to the major arterial, which is Farm to
4 Market Road 518.

5 We -- I also heard previously concerns about
6 fire protection to the area. I would like to make sure
7 the board understands that we have met with the City of
8 Pearland fire marshal, understanding that at some point in
9 time, this area will be annexed into the city.

10 And we have satisfied and have approval from
11 the City of Pearland fire marshal for our planning as it
12 relates to fire protection for this particular project.

13 We are --

14 MS. ANDERSON: Mr. Brown, I need to ask you to
15 wind up.

16 MR. BROWN: Yes. Okay. Thank you. I guess
17 really, those are the other issues I wanted to highlight.

18 And if you have any particular questions about any of the
19 utility aspects, roadway aspects, or drainage aspects,
20 I'll be more than happy to address those.

21 MR. SALINAS: TxDOT -- did you all have a
22 meeting with TxDOT?

23 MR. BROWN: No, sir.

ON THE RECORD REPORTING

(512) 450-0342

1 MR. SALINAS: Public meeting, May 4 and 6?

2 MR. BROWN: I have not -- excuse me?

3 MR. SALINAS: Was that on a handicapped -- you
4 all had a meeting on May 6, 2004.

5 MR. RICHARDSON: There was a 288 Corridor
6 feasibility study. And they had a series of meetings. I
7 think that may be what you're looking at there.

8 MR. SALINAS: None of the highways or TxDOT
9 public meeting that --

10 MR. RICHARDSON: I didn't hear you, sir?

11 MR. SALINAS: No commitments at all from TxDOT
12 as far as the monies?

13 MR. RICHARDSON: Yes. There is one in the --

14 MR. SALINAS: Is that 518?

15 MR. RICHARDSON: -- program there. The 518
16 improvements and there's some crossovers over to 288 as it
17 goes back and forth from there to Houston. They
18 identified the 610/288 intersection, the 518 intersection;
19 McCard [phonetic] Road -- several intersections that need
20 to be improved. They took public comment, and are
21 planning their -- you know, their program there. But
22 they're well on their way to doing their study on what
23 they're going to do with the corridor there. And that may

ON THE RECORD REPORTING

(512) 450-0342

1 be what you're looking at.

2 MR. SALINAS: Yes. We don't have it here, but
3 I'm sure the -- TxDOT is looking at --

4 MR. RICHARDSON: Right.

5 MR. SALINAS: -- widening some of those.

6 MR. RICHARDSON: Oh, yes. They're looking at
7 overpasses, exits, you know, expanding some of those for
8 years. 288 was a straight shot down, you know, down to
9 Freeport. And the study includes a 58-mile stretch from
10 Houston all the way down there, and where the areas need
11 to go.

12 This area is growing so fast. There is the --
13 the Alvin School District is also right up against 288
14 right there at this intersections of 518 and McCarr.

15 MR. SALINAS: So TxDOT is looking at this whole
16 area for improvement?

17 MR. RICHARDSON: Right. Improvement. That's
18 right.

19 MS. ANDERSON: Thank you. David Smith?

20 MR. SMITH: My name is David Smith. I'm
21 currently a resident at Pearland. I'm a fourth or -- I'm
22 a senior communications major at Texas A&M University. I
23 live at -- Corps of Cadets, Parsons Mounted Cavalry.

ON THE RECORD REPORTING

(512) 450-0342

1 I'm living at -- I'm currently trying to work
2 three jobs during the summer, part-time all three of them.

3 But I do live with my folks. These types of homes have
4 interest to me, because these are the select types that I
5 hope to, I guess, enjoy.

6 I don't consider myself a bad person, but yes,
7 low-income housing is, I guess, kind of my target. I'm an
8 Eagle Scout, and I like to live -- I do like to live in a
9 nice home, as with all my other friends and everything.

10 I don't have any kids. I have a dog. But
11 like, these child centers that they -- that I'm told that
12 they have, it's like a child care area, which that would
13 prove to be useful for single parents.

14 I know when traffic's bad in Pearland. I've
15 lived there for 13 years. And so I know when to leave and
16 when not to leave in order to get -- not hopefully run
17 over any kids or heading in traffic.

18 I don't normally travel down Fite Road. I
19 normally take 518. But I've seen these homes. And
20 they're very beautiful. I live in the Westwood Village
21 area down McLean. And I've seen those houses are pretty
22 nice, too.

23 But these townhomes look very nice. And I

ON THE RECORD REPORTING

(512) 450-0342

1 would really like -- I'd -- if I had my choice to live in
2 a place like that, which is affordable to me, hopefully
3 when I do graduate from college, I would really appreciate
4 to live in a place like this.

5 So -- but I guess I'm just speaking for myself,
6 and some of my other friends here have seen this place,
7 who are in the same boat I am, in college, paying off
8 college loans. And hopefully, to start a family soon, but
9 I guess that's much further down the road.

10 But I guess just kind of speaking my mind and
11 saying, you know, I see this as a great opportunity for
12 the young people in Pearland. I don't see it in any way
13 how it downsizes Pearland's land value, because I know
14 land -- Pearland is booming with commercialism and
15 industry and stuff.

16 But there is also a lot of young folks who
17 would like to make Pearland a good place to live. And so
18 I hope to be one of those some day. So I guess I'm
19 backing this project. So that's just me. Any questions
20 for a resident?

21 MS. ANDERSON: We appreciate your testimony.

22 MR. SMITH: Thank you.

23 MS. ANDERSON: Valerie Rodriguez?

ON THE RECORD REPORTING

(512) 450-0342

1 MS. RODRIGUEZ: Good afternoon, ladies and
2 gentlemen. My name is Valerie Rodriguez, and I live in
3 Pearland, Texas. And I'm also a native Houstonian.

4 I moved to Pearland six years ago. And I have
5 son who is here with me today to see how Government works
6 in progress. I am here today addressing the committee on
7 an important issue of affordable housing for Pearland,
8 Texas.

9 Pearland is a suburb outside of Houston, where
10 country meets city living. This is one of the attractions
11 of Pearland being nominated as one of the America's most-
12 attractive cities to live in. In doing so, we must be
13 able to accommodate all walks of life, despite their
14 socio-economic backgrounds.

15 I have heard a lot of negative comments, and
16 read emails pertaining to crime and lowering property
17 values. As a realtor in Pearland, I beg to differ. The
18 common term, what my fellow neighbors using as low-income
19 housing, is demeaning.

20 The criteria that has been set before does not
21 constitute low income. So let's ask ourselves what does
22 low income? Is it our teachers, who start off roughly at
23 26,000? Or maybe our police officers and dispatchers?

ON THE RECORD REPORTING

(512) 450-0342

1 Maybe our store managers? Maybe those who do our
2 landscaping or clean our homes?

3 Is it our realtors who sell the homes? We are
4 all tied together in one form or fashion. We have roughly
5 648 young adults that have graduated in Pearland High
6 School as of this year. Some will go off to college, and
7 some will go to junior college.

8 Others will go off to work, trying to make
9 their way in life. The average college student working
10 out of -- excuse me, the average college student walking
11 out of college, not guaranteed a job, but could make as of
12 this year maybe \$33,000 according to the national average
13 of salaries.

14 As a college student, most will walk away with
15 some type of debt, having to repay it before they even
16 acquired a job in their major or profession. Some of the
17 young adults may not finish, or will return because they
18 fell in love, or started a family.

19 Affordable housing is something that's needed
20 for our young adults trying to get a start. I move to the
21 elderly, who are on a fixed income. The fortunate that
22 have pensions with or along with their Social Security, or
23 maybe just their Social Security alone. That alone, to

ON THE RECORD REPORTING

(512) 450-0342

1 have the expense of having a home sometimes is not
2 something that they would always need.

3 These are seniors that may or may not have
4 family that visit, or does not visit them often. The
5 opportunity that the elderly would have and be able to
6 contribute would be a win/win situation. The enormous
7 wisdom that the elderly have to mentor the young and help
8 thy neighbor is priceless.

9 And not to mention how they could volunteer and
10 stay productive in their golden years. A great mind is a
11 terrible thing to waste, young or old. Between the young
12 adults in their 20s and the elderly, not to offend anyone
13 in their 60s, there are those in their 30s, 40s, or 50s.
14 And all the groups -- people change, things happen,
15 divorce, death within families.

16 People have to start over. People downsize.
17 Single parents with children, siblings as caregivers -- we
18 are susceptible to these in many situations in our lives.

19 The need of affordable housing is necessary in Pearland
20 to grow as a whole.

21 MS. ANDERSON: I need to ask you to wrap up.

22 MS. RODRIGUEZ: Okay. I would prefer that my
23 son would have a nice, clean affordable housing somewhere

ON THE RECORD REPORTING

(512) 450-0342

1 that he can come to after he finishes college, should he
2 not want to move back home, within Pearland, where his
3 family and friends are there to support him until he buys
4 his first home.

5 I always tell my son and young people, as well
6 as those I speak to, Knowledge is power, and also without
7 power -- I'm sorry, I speak to knowledge as power, and
8 without it we are powerless.

9 I stand before you as a part of Pearland
10 community in full support of Tranquility Bay project. And
11 I urge you to listen to those before me as well as after,
12 and consider all the important facts presented to you
13 today.

14 And one last note. Chris Richardson had some
15 letters for you that was presented to you all. I had some
16 of those letters. I had seven or eight that I can vouch
17 for that was given to me by my family and friends in
18 support of this. Thank you. Do you have any questions?

19 MS. ANDERSON: Thank you. Vincent Helms,
20 Heims?

21 MR. HEIMS: Heims. I believe I have a couple
22 of people that wanted to concede their minutes to me. Joe
23 and Heather.

ON THE RECORD REPORTING

(512) 450-0342

1 MS. ANDERSON: Who? I'm sorry.

2 MR. HEIMS: Heather -- Joe.

3 MS. ANDERSON: Joey Tapp?

4 MR. HEIMS: Yes.

5 MS. ANDERSON: And Heather Arnold?

6 MR. HEIMS: Yes.

7 MS. ANDERSON: Okay. Great. You have nine
8 minutes.

9 MR. HEIMS: Thank you.

10 MS. ANDERSON: You don't have to use them all.

11 MR. HEIMS: Good afternoon. I'm a Pearland
12 resident, and you're timing me, right? And I have been in
13 the Pearland area since 1990. I appreciate the
14 opportunity to get up and speak on behalf of support for
15 Tranquility Bay.

16 I came in under the initial town meeting for
17 Blazer Residential. And the reason why I started to help
18 Chris was he wasn't getting a fair shake there. And I
19 know you know the transcripts and so forth. I don't know
20 if you've reviewed them.

21 But that's why. It made me want to come here
22 today and try to help, because the need for this in the
23 ever-increasing market values is paramount in Pearland.

ON THE RECORD REPORTING

(512) 450-0342

1 I want to make a comment about the flooding,
2 the way the community is designed, with all the waters
3 being there, rainwater or what have you, that they do not
4 affect the southern boundary properties that the gentleman
5 had mentioned earlier today. And that's the way it had
6 been designed as well.

7 The school district -- it talks of capacity for
8 there -- the schools right there at Silver Lake, which is
9 at or near capacity. However, there is a large amount of
10 capacity that is allocated for other schools that are not
11 in Silver Lake, if need be.

12 Another comment was made concerning substandard
13 housing. Actually, as you well know, because you've been
14 a part of Chris's communities before, you know that it's
15 not substandard. It's every bit as nice as the
16 surrounding homes there.

17 The educational programs are designed for the
18 children, for the adults. I feel like that that would be
19 a fantastic opportunity for young folks and older folks
20 alive, simply because they would have the opportunity to
21 become better citizens, if you will.

22 And obviously, we've talked about the traffic
23 issue. The development has designed a main entrance to

ON THE RECORD REPORTING

(512) 450-0342

1 come off of 518, as you've seen earlier, the Oak Road.

2 So the traffic in itself is -- would not be as
3 clearly changed because the main entrance being there, I
4 would think the majority of the people would come off of
5 Fite -- or excuse me, come off of 518.

6 My understanding is that with this -- you know
7 more than I do about this. But I understand that they
8 have to have good credit. They have to be actually
9 employed. They do get a criminal background check on all
10 of these apartments to qualify to be a part of this
11 affordable housing project.

12 So I really feel like it's not going to bring
13 anybody else as far as criminals, or those kind of people
14 that has been presented in so many emails and at the town
15 meeting. Many emails have been read concerning the
16 development.

17 I'd like to point out that an email was brought
18 up that a senior citizen community would be fine. I
19 submit to you, what's the difference between a senior
20 citizen and a graduating college student, you know, who is
21 in the same salary range, versus retirement? I don't
22 think there is a difference in the crime at all.

23 I don't have a problem with those kind of

ON THE RECORD REPORTING

(512) 450-0342

1 people in my back yard. There is 21 percent of the people
2 that live in that same zip code, which is 77581, are in
3 that salary range that is the qualifying range for the
4 affordable housing project.

5 Lastly, the TDHCA website, which is a wonderful
6 website -- it shows where property values are not
7 directly -- or the actual side notes, where you can pull
8 up many things about the property values, as we had
9 pointed out earlier.

10 And I believe that this website is accurate.
11 That there isn't an issue. I think that's non-existent.
12 Along with the professional management company that's been
13 working with Blazer for many years, I believe it's
14 important for us to look at the whole picture.

15 Number one, there is a true need for it.
16 Number two, there is not a crime issue, because of all the
17 checks and balances. Number three, with an A-plus quality
18 project -- development, along with security systems in
19 each and every one of the units, they also have a long-
20 standing management group.

21 We would have a community atmosphere that would
22 not bring down property values and so forth. As pointed
23 out by the HOA member in the nearby community, to -- when

ON THE RECORD REPORTING

(512) 450-0342

1 they sent a letter out to the other people to ask them to
2 come up, they said this was a sham.

3 Well, this is a worthwhile development, as you
4 folks will know. It does not give people a -- any people
5 that have a different socio-economic level -- it gives
6 them an opportunity that they otherwise may not have.

7 With the utmost respect, I ask you to please
8 know that it is only fair to give Blazer Residential the
9 community approval and nothing else. One of the best
10 parts about this country is that anyone like myself -- and
11 I just consider myself a regular person. I don't get up
12 and do these kinds of things, can do anything they want,
13 you know?

14 And I think this gives them an opportunity to
15 do that. And as a couple of side notes, I've never seen
16 anyone swimming in the lake the seven years I've been in
17 Pearland, which is -- and I live real close, over on West
18 Oaks Subdivision.

19 Please, I ask you to not let one bad egg that
20 had some bad letters come to these people for support to
21 you know, to deter us from a very good and worthwhile
22 development. And I think it's desperately needed in our
23 market in Pearland.

ON THE RECORD REPORTING

(512) 450-0342

1 And I'd like to ask Mr. Mayfield and Mr. Dumont
2 and anybody else that wants to talk about that -- in fact,
3 I would like to speak with you or anybody else in that
4 matter to try to help you in regards to who gave you those
5 bad letters.

6 I wanted to make sure that you know, and I can
7 vouch for all the letters that I did, and so can other
8 people. But I want to also let you all know that as well.

9 So if I can help, I would be more than happy to, because
10 that put a cloud on something that shouldn't have been
11 there. And that's for sure.

12 And one of the prerequisites -- I'm not sure if
13 this is true, but I thought one of the prerequisites is
14 didn't the people have to have a car as well, for them to
15 live on-site, or not? And I believe that's all I have to
16 say. And thank you very much for the opportunity.

17 It's a privilege to meet with you all, and I
18 hope that I said something that was a little bit different
19 than other people. And I just feel like this is something
20 really, really wonderful, that would be something good for
21 Pearland.

22 MS. ANDERSON: Any questions? Thank you very
23 much.

ON THE RECORD REPORTING

(512) 450-0342

1 MR. HEIMS: Thank you.

2 MS. ANDERSON: Vernice Hendon.

3 MS. HENDON: Good afternoon. I'm Vernice
4 Hendon. I'm going to present a few points in support of
5 the development, Tranquility Bay Apartments.

6 Number one, a master plan for Pearland for --
7 which has frequently been referred to -- thank you, by the
8 opposition, is a non-existent document. There is a
9 comprehensive plan, but the master plan is still, as I was
10 told, in the works.

11 Number two, HUD has been encouraging affordable
12 housing, some with rental and later option to buy, to
13 replace the projects, quote, that we -- that have been
14 built in past years. Affordable housing is not Section 8.

15 I am the parent of an adult deaf son. So I am
16 aware that young adults and people with disabilities, even
17 with college degrees, do not attain thoroughly in their
18 work life, and some during their entire work life, the
19 high-salary jobs that living in exclusive, quote,
20 subdivisions require.

21 The taxes alone in some of these subdivisions
22 are almost one-half of the annual salaries of these
23 people.

ON THE RECORD REPORTING

(512) 450-0342

1 Number four, in the past much has been said
2 that is racist and elitist. For example, those people
3 won't fit in. Number two, apartments in general are
4 usually a breeding ground for criminal activity. More
5 negatives. Unsupervised children, behavior of teens,
6 vandalism issues, trash collection issues, tendency to not
7 respect the local environment by way of increased litter.

8 Noisy and excessively-polluting vehicles. Also
9 this type of housing tends to be constructed quickly with
10 substandard building materials relative to nearby non-
11 subsidized construction, and with an overall low-cost
12 approach.

13 It has been stated by some of the opposition
14 that seniors would be preferred. Well, are not many
15 seniors on fixed incomes, such as Social Security? Many
16 were employed when today's wages were unheard of.

17 Also, don't they need transportation, police
18 and fire protection? As a retiree from the Federal
19 Government, I worked 34 years, I am appalled that a
20 citizen would publish in a local newspaper an article of
21 opposition, and give as the author, an employee of the
22 agency which will ultimately make a decision in this
23 matter.

ON THE RECORD REPORTING

(512) 450-0342

1 MS. ANDERSON: Ma'am, I need to ask you to
2 finish up, please.

3 MS. HENDON: Okay. To my knowledge, this is
4 totally unacceptable. Also, to those people who oppose,
5 let's face it. The builder is going to utilize his land
6 and my experience is that sometimes the usage of the land
7 goes for what you consider bad, that is affordable
8 housing, to something worse. Thank you.

9 MS. ANDERSON: Any questions? Thank you,
10 ma'am. The last witness affirmation form I have on this
11 agenda item is Karen Jewell. Okay. Okay. That is the --
12 I don't want to miss anybody. I want to make sure
13 everybody that wanted to testify on this agenda item has
14 testified. Thank you. Okay.

15 So we've heard the staff presentation, and the
16 public comment on agenda item 4(a). What's the board's
17 pleasure?

18 MR. BOGANY: Move for approval on Housing Tax
19 Credits for Tranquility Bay, Number 04-420.

20 MR. GONZALEZ: Second.

21 MS. ANDERSON: Discussion?

22 MR. CONINE: Do you need to include the
23 resolution -- the bond resolution?

ON THE RECORD REPORTING

(512) 450-0342

1 MS. ANDERSON: Yes, I do.

2 MR. BOGANY: And I'd like to include the bond
3 resolution, number 04-028.

4 MR. SALINAS: Is Ms. Boston going to make the
5 presentation?

6 MS. ANDERSON: Edwina made it before we had all
7 the people comment.

8 MR. SALINAS: I was going to ask Edwina if the
9 mobility plan and the construction of these roads by TxDOT
10 were included in the presentation and the application.

11 MS. CARRINGTON: I'm sorry, Mayor. Would you
12 repeat your question, please?

13 MR. SALINAS: The mobility and drainage program
14 plan that they -- was that submitted in the application?

15 MS. CARRINGTON: I don't believe it's a
16 requirement in the application stage. Mr. Gouris, could
17 you answer that, or is there someone else that --

18 MR. SALINAS: Developer? It would really be --
19 it's clear in my conscience that if somebody is really
20 moving on the roads that -- road improvements that are
21 being planned, but I did not hear anybody talk about it,
22 and the old Alvin Road and Broadway.

23 MR. RICHARDSON: Yes. The -- my understanding

ON THE RECORD REPORTING

(512) 450-0342

1 is that the 288 feasibility study being carried on by
2 TxDOT is well underway. They've had three, you know, area
3 meetings up and down the 288 corridor. And they -- there
4 is -- they have zeroed in on specific areas that they plan
5 to improve. Don't have a definite schedule for when work
6 will start.

7 There is -- I think -- I picked up that two of
8 the overpasses, 58, 59 I think are the numbers -- are
9 imminent and supposed to start pretty soon.

10 MR. SALINAS: This would probably be some
11 solution to some of the traffic problems that --

12 MR. RICHARDSON: That's right, along with the
13 Cullen extension that I gave you the plan on, that would
14 relieve a number of the issues in there. There is a
15 big -- the school board has gotten behind a -- the
16 Bailey -- what's called the Bailey 101 Route. Pearland
17 has opened Pearland Parkway, which is more on the east
18 side.

19 That's eventually to tie in all the way over to
20 288. It's just like all the road work. It will be
21 ongoing. When you've got a population that's gone from in
22 1990, 17,000 -- in 2000 it was 37,000. Now it's in the
23 40s, and expected to be close to 100,000 in seven or eight

ON THE RECORD REPORTING

(512) 450-0342

1 years. I mean, the roads will be in process.

2 But TxDOT recognizes -- they've been very
3 responsive to -- in their feasibility study, and know that
4 work needs to be done to keep the traffic moving.

5 MR. SALINAS: That answers my question.

6 MR. LESLEY: If I may, my name is Patrick
7 Lesley. And regarding TxDOT --

8 MS. ANDERSON: Sir, have you signed a witness
9 affirmation form?

10 MR. LESLEY: Yes, ma'am. I did.

11 MS. ANDERSON: Oh, did you defer to someone?

12 MR. SALINAS: I think he would answer my
13 question --

14 MR. LESLEY: The opportunity -- right now, the
15 feasibility stage is going to last for another two-and-a-
16 half years before they do anything. And the problem is
17 it's four lanes right there at 518 and 38. Then it goes
18 to three lanes once you reach Mead Road. And then it goes
19 to two lanes from 288 to 610.

20 So they don't know what to do and how to deal
21 with that from 518 going north on 288.

22 MR. SALINAS: But they're talking about it?

23 MR. LESLEY: They're talking about it, but they

ON THE RECORD REPORTING

(512) 450-0342

1 don't --

2 MR. SALINAS: They're talking. That's all you
3 need is -- you see the road. You know they will try to
4 get money from TxDOT. That's all I need for that.

5 MS. ANDERSON: Okay. Thank you.

6 VOICE: If I may interject something too.

7 MS. ANDERSON: Sir, the public comment period
8 is completed on this transaction. Thank you for your
9 understanding. Unless a board member has a -- a board
10 member can always ask a question and --

11 MR. SALINAS: No, that was my question, as far
12 as the feasibility and master plan that was not mentioned
13 before, and the roads that are being looked at, which
14 is -- took TxDOT three or four years to look at. So that
15 answered my question. So --

16 MS. ANDERSON: Discussion? The board --
17 questions? 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 MS. ANDERSON: Opposed, no?

21 (No response.)

22 MS. ANDERSON: The motion carries. Next, Item
23 4(b), Selection of Underwriters for the Multi-family Bond

ON THE RECORD REPORTING

(512) 450-0342

1 Program.

2 MR. GONZALEZ: Yes.

3 MS. ANDERSON: Mr. Gonzalez, do you want Ms.
4 Carrington to --

5 MR. GONZALEZ: Okay. We'll call on staff for
6 the recommendation.

7 MS. CARRINGTON: Thank you, Mr. Gonzalez. Item
8 4(b) is the renewal, basically, of three underwriters for
9 the Multifamily Bond Program. Board will remember in
10 April of last year we did a request for qualifications, an
11 RFQ, that is basically an open RFQ.

12 And we currently have 13 senior managers and
13 three co-managers on the approved Multifamily list. And
14 we've provided that list for you.

15 The three that we are asking you to approve
16 today were three that were previously on the list, but had
17 rotated off. Their time had expired, and they have
18 reapplied to be on the list. Estrada Hinojosa would be
19 co-manager. Raymond James and Associates would be a
20 senior manager. And Red Capital Markets, Inc. would be a
21 senior manager. And staff is adding that all three of
22 these organizations be added to either the co-manager or
23 the senior manager list for Multifamily.

ON THE RECORD REPORTING

(512) 450-0342

1 MR. CONINE: Move for approval.

2 MR. BOGANY: Second. All those in favor.

3 MS. ANDERSON: Okay. So we're ready to vote.

4 All those in favor, say aye.

5 (A chorus of ayes.)

6 MS. ANDERSON: Opposed, no?

7 (No response.)

8 MS. ANDERSON: Motion carries. Next item for
9 your consideration, Item 4(c), is a Consideration of
10 possibly addition Zion First National Bank to the list of
11 approved trustees.

12 In April of last year the board did a request
13 for qualifications to serve as trustee in our Multi-Family
14 Bond Program. We tell you in your write-up that the
15 department currently has five approved trustees on the
16 list. We really have four approved trustees on the list
17 with the merger of BankOne and JP Morgan/Chase.

18 We did have an application from Zion First
19 National Bank to be added to the list. They have no
20 Multi-Family housing experience in Texas. They do not
21 have an office in Texas, and staff is not recommending
22 that they be added to the trustee list for Multi-Family at
23 this time.

ON THE RECORD REPORTING

(512) 450-0342

1 MR. BOGANY: So moved.

2 MR. CONINE: Second.

3 MS. ANDERSON: Mr. Conine, would you -- I need
4 to recuse myself on this item.

5 MR. CONINE: Any other discussion?

6 MR. SALINAS: This is what? The First National
7 Bank of what?

8 MS. CARRINGTON: Zion First National Bank is
9 the name of the entity. And they are located in Salt Lake
10 City, Utah.

11 MR. SALINAS: Okay.

12 MR. CONINE: Motion is to -- and my
13 understanding, motion is to agree with staff's
14 recommendation to not recommend them to go on the list?

15 MS. ANDERSON: Correct.

16 MR. CONINE: And it's been properly seconded.
17 Any other discussion? Seeing none, all those in favor,
18 signify by saying aye.

19 (A chorus of ayes.)

20 MR. CONINE: All opposed?

21 (No response.)

22 MR. CONINE: The motion carries.

23 MS. ANDERSON: Ms. Carrington, I believe Item

ON THE RECORD REPORTING

(512) 450-0342

1 4(d) has been removed from the agenda?

2 MS. CARRINGTON: That is correct. Item 4(d)
3 has been removed from the agenda.

4 MS. ANDERSON: Okay. We'll move on to Item 5
5 on the agenda, with regard to Housing Tax Credit Items.
6 Item 5(a) are -- we have two board appeals for Pineywoods
7 Community Development in Orange, and Brentwood Apartments
8 in Aldine City. And I do have some -- you make your staff
9 presentation, and we'll hear public comment.

10 The first one is a termination -- and this is a
11 termination of a 2004 Tax Credit Allocation. So what has
12 happened is the department sent a letter to the applicant
13 telling them that they were terminated. The applicant
14 could then appeal to the department first. That was their
15 first process.

16 And to lay out the case of why they believed
17 they should not be terminated. And then in both of these
18 cases, although both of them are very different, so we are
19 going to be taking them separately, in the first case, the
20 Pineywoods Community Development, the executive
21 director -- I did deny their appeal.

22 And so the next road -- the next avenue for
23 these applications -- applicants is to appeal to the board

ON THE RECORD REPORTING

(512) 450-0342

1 the termination of the department and the decision of the
2 executive director.

3
4 In the situation with the Pineywoods Community
5 Development application, our 2004 Qualified Allocation
6 Plan requires that initial approval of zoning must be in
7 place by April 1, 2004. And the department must receive
8 written notice from the local entity that's responsible
9 for this initial approval of zoning that they have
10 approved the appropriate zoning, and that that body is
11 going to recommend approval of appropriate zoning to the
12 city council or the county commissioner -- or the county
13 commission.

14 In the case of Pineywoods Community Development
15 application, the department did not receive by April 1 the
16 approval of -- the initial approval of the zoning by the
17 appropriate body, typically Planning and Zoning.

18 And because this development did not meet the
19 requirements of the 2004 Qualified Allocation Plan, as you
20 will see on page 2 of three, the staff recommendation --
21 the executive director denied the original appeal, and
22 staff is recommending that the board deny the appeal of
23 the termination to the board.

ON THE RECORD REPORTING

(512) 450-0342

1 MR. BOGANY: So moved.

2 MR. SALINAS: Second.

3 MS. ANDERSON: Okay. I have Mr. Doug Dowler.

4 MR. DOWLER: Madame Chairman, board members, my
5 name is Doug Dowler. I'm the executive director of
6 Pineywoods Home Team. I appreciate the opportunity to
7 address you today. I want you know first of all, we had
8 nothing to do with the \$50,000 that the City of Orange
9 got. We didn't receive a single penny of that money in
10 the pre-development monies for this tax credit
11 application.

12 The -- we did receive the termination notice on
13 May 6 from the department concerning our application,
14 which was submitted on March 1. Included in that
15 application, in Volume 3, Tab C(3), was evidence of our
16 readiness to proceed, and the zoning letter from the City
17 of Orange.

18 That letter, dated February 12, was in our
19 application. And I'll read only a small portion of that,
20 of which the reissue -- the issue concerning the zoning --
21 this letter is written by Jimmy Lewis, who is the Director
22 of Planning and Community Development.

23 But he states in this letter that he is making

ON THE RECORD REPORTING

(512) 450-0342

1 recommendations to the city council for approval of the
2 zoning. According to the QAP, it is required that we
3 submit by April 1 evidence that there is a recommendation
4 to the approving authority for the zoning. This letter so
5 represents that authority.

6 We received a deficiency notice on April 19.
7 The deficiency notice noted in there under issue one, that
8 we were to submit evidence that the zoning change was
9 approved by the Zoning Commission. There was nothing in
10 that deficiency notice to state that we had not met the
11 requirement of the QAP 50.9, I believe.

12 We so submitted the evidence that we had
13 reached the zoning. The city council did approve the
14 zoning on March 28. They so let us know on April 2, and
15 we submitted that evidence that zoning was approved by the
16 city council.

17 It might also be noted that it was not -- this
18 is kind of an unusual -- this is not a multi-family
19 single-site development. This is 36 individual single-
20 family houses on 36 sites. Twenty-five of those 36 sites
21 were already zoned correctly. It was only those other
22 eleven sites that were not correctly zoned.

23 The city has strongly recommended approval of

ON THE RECORD REPORTING

(512) 450-0342

1 this application, and its commitment to make this
2 application work.

3 As I said in our response to the deficiency
4 letter of April 19, a letter again from Jimmy Lewis,
5 Director of Planning for the City of Orange, addresses
6 that he did recommend that the zoning be approved, and
7 that he did have the authority and was the entity
8 responsible for the approval. And that he had submitted
9 it to the city council for their approval.

10 I also have, after we followed the appeals
11 procedures and we were denied our appeal, a letter from the
12 Mayor of Orange, dated May 27, again reiterating that it
13 was the intent of the letter of February 12 to meet the
14 50.9 requirement of the QAP.

15 The letter of February 12 clearly states again
16 that it recommended and it was the entity responsible for
17 recommending, which meets the requirement of the QAP. And
18 it was submitted on March 1 with our application.

19 So I hope that you can consider that maybe the
20 letter is not written the way the department wants it
21 written, but it does clearly say that they recommend
22 approval of the zoning, and therefore, meets the
23 requirement of the QAP.

ON THE RECORD REPORTING

(512) 450-0342

1 I appreciate it. I hope you can see your way.
2 We'll be happy to answer any questions you may have.

3 MS. ANDERSON: Mr. Bogany.

4 MR. BOGANY: A couple of questions. What's the
5 price range of the homes that you're building on this
6 site?

7 MR. DOWLER: Well, these are single-family
8 rentals.

9 MR. BOGANY: Rentals. Okay.

10 MR. DOWLER: And they'll be 70 to \$90,000,
11 roughly.

12 MR. BOGANY: Okay. And the other question --
13 are you saying that the city gave you the okay April 2
14 versus April 1, which was point of what we told you was
15 the requirement?

16 MR. DOWLER: The city council did not meet
17 until March 28.

18 MR. BOGANY: Okay.

19 MR. DOWLER: That council -- that was the
20 second reading of the ordinance. It was approved at that
21 reading. We did not receive the official letter from them
22 until April 2. But the letter dated February 12 was
23 submitted with the March 1 application deadline, which

ON THE RECORD REPORTING

(512) 450-0342

1 meets the QAP requirement that all we had to meet was that
2 the entity responsible for recommending so did so on
3 February 12. And it was submitted March 1, before the
4 April 1 deadline.

5 MR. BOGANY: Okay. Thank you.

6 MR. SALINAS: If that's the case, I'll go ahead
7 and remove my second. If that's the case that the meeting
8 was on the 28th, and the second reading --

9 MR. DOWLER: And approved.

10 MR. SALINAS: Okay. So I'll remove my second.
11 I have no problem with that.

12 MR. CONINE: I have some questions. Mr.
13 Dowler, I'm still confused, which is not too unusual for
14 this east Dallas boy sometimes. The letter you referred
15 to that says February 12 --

16 MR. DOWLER: Yes, sir.

17 MR. CONINE: -- says that the P&Z will hear
18 your case on March 2, 2004, very clearly. And then says
19 the city council will take it up on March 23.

20 You're telling me that the city council met on
21 March 28, I think. Normally when folks go to a city
22 council meeting on March 28, they are there that night,
23 and they hear the outcome of the decision. But you're

ON THE RECORD REPORTING

(512) 450-0342

1 saying you didn't get a letter until April 2.

2 But the fact -- I think the way the QAP reads
3 it, that a letter from the city council is moot at this
4 point --

5 MR. DOWLER: That is correct.

6 MR. CONINE: What we needed was indication that
7 the P&Z and the minutes from the March 2 P&Z meeting,
8 where it would have considered this as an appropriate item
9 on their agenda, as is stated in this letter, would have
10 said, We recommend this to the city council. What
11 happened on March 2?

12 MR. DOWLER: The QAP says that the entity
13 responsible for making the recommendation must make that
14 approval. That's in the QAP.

15 What the letter from the director of planning
16 and zoning --

17 MR. CONINE: No, I don't think so.

18 MS. ANDERSON: It doesn't quite say that.

19 MR. CONINE: I don't think it says that. I
20 think it says you have to have an actionable item from the
21 planning and zoning commission. When we put this together
22 in the QAP -- let me give you a little background here.
23 Nine times out of ten, you don't own the property.

ON THE RECORD REPORTING

(512) 450-0342

1 MR. DOWLER: That is correct.

2 MR. CONINE: So we wanted to make sure that the
3 rezoning on somebody else's property did not take place
4 until a decision on the credits were decided, because a
5 lot of times landowners who don't get credits don't want
6 that new zoning on their property.

7 So we needed in indication from the planning
8 and zoning commission that they were going to recommend to
9 the city council.

10 What this is is a letter from the Director of
11 Planning Community Development, which is an entity of the
12 city. It's not the P&Z, as I understand it. And what I
13 need to hear from you is what happened on the P&Z meeting
14 on the agenda item on March 2?

15 MR. DOWLER: It was approved.

16 MR. CONINE: Where is that evidence?

17 MR. DOWLER: Right here. I have a copy of the
18 ordinance from the Planning and Zoning Committee where it
19 was approved.

20 MR. CONINE: Let me see.

21 MS. BOSTON: That was not submitted to the
22 agency on or before April 1.

23 MR. CONINE: Okay. So therein lies the

ON THE RECORD REPORTING

(512) 450-0342

1 problem.

2 MR. DOWLER: But again --

3 MR. CONINE: No, no, no, no. Wait a minute. I
4 was trying to get the facts here.

5 MR. DOWLER: Okay.

6 MR. CONINE: It was approved. You're saying it
7 was approved at P&Z to get the rezoning you need for your
8 application on March 2. And well -- just give me the
9 vote, just out of curiosity. Do you remember what it was?

10 MR. DOWLER: Unanimous.

11 MR. CONINE: Unanimous. Okay. And so why
12 didn't that particular document get to the agency by April
13 1?

14 MR. DOWLER: Because it was after April 1 that
15 it was approved.

16 MR. CONINE: How could that possibly be when
17 the March 2 occurred before April 1?

18 MR. DOWLER: Well, I take it back. It was
19 approved on March 23. The second reading was March 23.

20 MR. CONINE: Which body?

21 MR. DOWLER: By order of the city council, the
22 City of Orange.

23 MR. CONINE: That's not what I want. I want

ON THE RECORD REPORTING

(512) 450-0342

1 the P&Z.

2 MR. SALINAS: Well, if the city approved it,
3 that means that the recommendation of planning and zoning
4 was --

5 MR. CONINE: That's true. You're exactly
6 right, Mayor. But I'm trying to figure out what happened
7 at the P&Z meeting, because that's where it goes first.

8 MR. DOWLER: Well, the P&Z basically approved
9 it when Jimmy Lewis wrote us the letter.

10 MS. ANDERSON: No, it says -- his letter says,
11 "This issue of rezoning will be heard at the March 2 --

12 MR. DOWLER: March 2.

13 MS. ANDERSON: -- P&Z." So was it on the
14 agenda?

15 MR. DOWLER: That is correct. What happened --
16 it was approved. Yes.

17 MR. CONINE: And where is that evidenced? Do
18 you have the minutes from that meeting?

19 MR. DOWLER: Not with me today. But I have the
20 city council minutes where it was finally approved.

21 MR. CONINE: So then what ultimately happened
22 is the council met on, still, the 23rd or the 28th, and
23 the council approved it. Right?

ON THE RECORD REPORTING

(512) 450-0342

1 MR. DOWLER: That is correct.

2 MR. CONINE: And passed an ordinance and you
3 got it on April 2, and got it to us shortly thereafter?
4 Is that what the issue is?

5 MR. DOWLER: That is correct.

6 MR. CONINE: Okay. I think I understand.

7 MR. SALINAS: Planning and Zoning is just a
8 body appointed by the city council. They approved this
9 recommended it to the city council. It got approved on
10 the 28th. It was your fault not to get it that day and
11 bring it to HUD. That's what it is. And I think it's
12 unfair. I mean, I think you should get the application.

13 I mean, just -- it was approved on the 28th,
14 period.

15 MR. DOWLER: That is correct.

16 MS. CARRINGTON: I'd like Ms. Boston to address
17 any questions that the board might have about what
18 staffers -- when we received that and what we received.

19 MS. BOSTON: We have not received documentation
20 that P&Z -- we don't have proof that P&Z ever passed it.
21 We do know -- of course have proof that if all the zoning
22 has been approved. But it was received after the deadline
23 that we would have given it.

ON THE RECORD REPORTING

(512) 450-0342

1 MR. CONINE: When?

2 MS. BOSTON: It would have been after April 1.
3 On or before April 1 we went through every file and made
4 sure did they have the --

5 MR. CONINE: Okay.

6 MS. BOSTON: -- at least the preliminary P&Z,
7 yes or no? And in this case, even though -- I mean, we
8 had the letter from February, which we didn't feel like
9 was sufficient to meet the requirement. And it's
10 unfortunate, because it seems like through the evidence it
11 actually was totally approved by the April 1 deadline.

12 MR. CONINE: All right.

13 MS. BOSTON: But unfortunately, it just wasn't
14 provided to us. And so technically, it doesn't meet our
15 requirement for the rule.

16 MR. SALINAS: No, it's not. You know, it's
17 very funny. We have cities that do not have zoning. And
18 here we are trying to punish people that have zoning and
19 have rules. And we go by the rules. And just because
20 they didn't give it to you after the 28th, but it was
21 approved, and then we -- and you have citizen's input.

22 It went through the whole process. They it got
23 approved on the 28th. You didn't get it. It doesn't get

ON THE RECORD REPORTING

(512) 450-0342

1 done. Then you have people that we just heard, that don't
2 have any rules.

3 MR. CONINE: I'd like to make a different
4 motion whenever the question on it is finished, because I
5 don't think we have a valid motion on the floor, because
6 he withdrew, so --

7 MS. CARRINGTON: We do not.

8 MR. SALINAS: No. I pulled it out because I
9 think he's right.

10 MR. CONINE: So whenever the discussion is
11 finished.

12 MS. ANDERSON: Who has a motion?

13 MR. SALINAS: I remove my second.

14 MR. BOGANY: I withdraw my motion.

15 MS. ANDERSON: Okay.

16 MR. CONINE: I'd like to make a motion that we
17 approve the appeal on the -- what project is it?
18 Pinewoods -- Orange, Home Team, and allow the application
19 to go forward.

20 MR. SALINAS: Second.

21 MS. ANDERSON: Discussion? Any more questions?

22 Hearing none, I assume we're ready to vote. All in
23 favor, please say aye.

ON THE RECORD REPORTING

(512) 450-0342

1 (A chorus of ayes.)

2 MS. ANDERSON: Opposed, no?

3 (No response.)

4 MS. ANDERSON: Motion carries.

5 MR. DOWLER: Thank you very much.

6 MS. CARRINGTON: May I ask the general --

7 MS. ANDERSON: Yes. Would you ask --

8 MS. CARRINGTON: I would like to ask a followup
9 question to our general counsel. Basically the action
10 that the board has just taken waives a requirement in the
11 Qualified Allocation Plan.

12 MR. WITTMAYER: Yes.

13 MS. CARRINGTON: And I would like to ask our
14 general counsel under what provision of the Qualified
15 Allocation Plan he believes the board can take that
16 action?

17 MR. WITTMAYER: Chris Wittmayer, the
18 department's general counsel. Under the 2004 QAP, we have
19 a provision, the Section 50.23, which states the board, in
20 its discretion, may waive any one or more of the rules in
21 the QAP if the board finds that waiver is appropriate to
22 fulfill the purposes or policies of Chapter 2306, or for
23 other good cause, as determined by the board.

ON THE RECORD REPORTING

(512) 450-0342

1 MR. CONINE: That's the right answer. I would
2 agree.

3 MS. ANDERSON: Okay. Brentwood Apartments, Ms.
4 Carrington?

5 MS. CARRINGTON: I think I'd just like to ask
6 Ms. Boston to come on up and talk about Brentwood.
7 Brentwood is a termination that has basically gone through
8 the same kind of process. They appealed initially to the
9 executive director. The executive director denied the
10 appeal. And so they are pursuing their right to come to
11 the board and to appeal the termination of the
12 application.

13 The situation on the Brentwood Apartments
14 application, again, a 2004 Tax Credit application, are
15 very different than the one that the board just looked at.

16 And it does involve a couple of different provisions
17 under the 2004 QAP.

18 So with that, I think I'd like to ask Ms.
19 Boston to walk through the scenario in this particular --
20 this request for reinstatement.

21 MS. BOSTON: And just for clarification, it's
22 actually not an appeal on a termination. They are still
23 active. We deducted ten points.

ON THE RECORD REPORTING

(512) 450-0342

1 MS. CARRINGTON: Oh. Thank you.

2 MS. BOSTON: And they are appealing the ability
3 to get the ten points back.

4 Interestingly, any appeal that --just to go
5 back through the appeals process, because we haven't had
6 some credit appeals before you all for a little while.

7 The process is, if we send out a notice of any
8 kind that takes action, either a termination or a point
9 deduction, the applicant is eligible to appeal that.

10 They first appeal to Ms. Carrington. And then
11 within 14 days of that, Ms. Carrington responds. If the
12 applicant is still unhappy with their response from the
13 executive director, then it can come to the board, and it
14 would not only be for terminations. People can definitely
15 appeal point reductions.

16 Interestingly, in this case we had not done a
17 full review of this application. We actually realized an
18 anomaly with one of the documents we had produced, which
19 made us realize they were ineligible for the points before
20 we had ever even really looked through the application at
21 all.

22 We had -- a new clause in the QAP this year,
23 was that you could give ten points if a development was

ON THE RECORD REPORTING

(512) 450-0342

1 located within what were -- what we casually call our
2 exurban areas. Basically, it don't meet the rural
3 definition, and it had a population of less than 100,000.

4 We released a list in our reference manual.
5 And in that list we generated it from a Census report,
6 with those population figures. Unfortunately, the error
7 that we made was we did it from all Census places. And
8 unfortunately, there are some things we call CDPs --
9 Census-designated places, that are indeed Census-
10 designated places, but are not incorporated.

11 And the QAP very specifically said it had to be
12 an incorporated place.

13 As soon as we realized the error, we looked
14 back through the list and compared the Census-designated
15 places that were on the list that were not incorporated,
16 and compared that to all the applications we had in, to
17 see if any of them met or fell in that area. And this is
18 the only application, unfortunately, that fell in that
19 scenario.

20 So without even looking at the application, we
21 issued a deduction of the ten points, because for us the
22 rule trumps any reference manual we would release. And we
23 had to be consistent with the rule.

ON THE RECORD REPORTING

(512) 450-0342

1 We definitely appreciate that applicants rely
2 on the manuals that we release, and so I can appreciate
3 the applicant's frustration on that.

4 As we've continued over the -- actually, up
5 until the past few days even, after the board book came
6 out, staff did continue to actually start going through
7 this application to actually evaluate all of his scoring
8 criteria.

9 He states that -- or he -- the applicant
10 indicates in the part of the application where they say
11 what city are you in? It says Aldine. And then in the
12 rest, most of the backup documentation that supports
13 zoning and notifications, Qualified Census Tracts,
14 indicates that he's in incorporated Houston.

15 We definitely have confirmed with Houston and
16 with the applicant that he is in incorporated Houston.
17 Interestingly, what has come to pass is the whole issue of
18 any error with the list is actually a moot point at this
19 point, because we have established -- we have a definition
20 from the Census of what a Census-designated place is,
21 which specifically indicates that it's a statistical
22 entity comprising a densely-settled concentration of
23 population that is not within an appropriated place.

ON THE RECORD REPORTING

(512) 450-0342

1 So you cannot be in Aldine and be in
2 incorporated Houston. And we actually had our Housing
3 Research Center map for us, you know, where the property
4 is, and where Aldine incorporated is, which does --
5 according to the Census, has very specific boundaries.

6 And the application -- the development --
7 proposed development location is not in that area. And so
8 kind of regardless of what had happened with the list, at
9 this point, the development is not in this area either
10 way.

11 So staff -- even though it's still the
12 recommendation that we feel like the points should not be
13 reinstated, it's actually kind of for a little bit
14 different reason than what was originally presented in the
15 book.

16 MR. BOGANY: I was just wondering --

17 MS. ANDERSON: We have some public comment too.

18 MR. BOGANY: Okay.

19 MS. ANDERSON: If you're ready for that.

20 MR. BOGANY: But I'm just wondering, Brooke,
21 where Aldine City was. Because I kept looking, and I've
22 never heard of the place. Are you saying that by
23 deducting the ten points they wouldn't have ever even

ON THE RECORD REPORTING

(512) 450-0342

1 gotten any tax credits, because they don't fit the exurban
2 and suburban or the elderly situation?

3 MS. BOSTON: At this point -- and we haven't
4 released a recommendation list. But at this point they
5 would be ineligible for the ten points.

6 MR. BOGANY: Uh-huh.

7 MS. ANDERSON: They're trying for this cycle
8 that comes up at the end of this month?

9 MS. BOSTON: Yes. They have an active
10 application. They will be competitively evaluated against
11 everyone else. We did not release the scoring notice for
12 this application.

13 MR. BOGANY: Uh-huh.

14 MS. BOSTON: We have maybe about 30 apps that
15 are still finishing out their deficiency periods. There
16 may be other items, or not, that still could be unresolved
17 scoring issues for this application. And I don't know off
18 the top of my head if that's the case.

19 But once the score is final, which will include
20 the board's decision on this --

21 MR. BOGANY: Uh-huh.

22 MS. BOSTON: -- then he will be evaluated in
23 his region, and based on his set-asides --

ON THE RECORD REPORTING

(512) 450-0342

1 MR. BOGANY: Okay.

2 MS. BOSTON: -- and may or may not be
3 recommended.

4 MR. BOGANY: All right. So we're not
5 terminating his application. We're just saying that the
6 ten points that we were going to give earlier -- that
7 we're taking away?

8 MS. BOSTON: Exactly.

9 MS. CARRINGTON: That is correct. Mr. Bogany,
10 I did misspeak. And these were not two terminations. The
11 first one was a termination, and this one is an appeal for
12 reinstatement of the ten points. So I was incorrect.

13 MR. BOGANY: So after the application had been
14 turned in, we found out that the site was in the City of
15 Houston?

16 MS. BOSTON: Correct. The actual development
17 location is inside the incorporated Houston City
18 boundaries.

19 MS. CARRINGTON: And all of the notifications
20 were also to elected officials and others within this --
21 the elected officials that were all within the City of
22 Houston. I believe that was correct.

23 MS. BOSTON: Yes. And I don't know at what

ON THE RECORD REPORTING

(512) 450-0342

1 point you'd like me to do this. We have two letters, and
2 I know actually Bob Cash from Kevin Bailey's office has a
3 letter that he wanted to read.

4 But I have another letter that I was requested
5 to read into the record from another entity who is not
6 here. Would you rather I do that now, or wait? However
7 you want it.

8 MS. ANDERSON: Why don't you read your letter,
9 and then we'll ask Mr. Cash and Mr. Lopez to speak.

10 MS. BOSTON: Okay. This is a letter from the
11 Greater Greenspoint Management District. It's not too
12 long. I'll try and read kind of quick. It's dated June
13 9. It's addressed to me. It's regarding File 04-267,
14 Brentwood Apartment, Appeal of Application Point
15 Reductions.

16 "Dear Ms. Boston, the Greater Greenspoint
17 Management District requests this letter to be read into
18 the record at the TDHCA Board of Directors meeting on June
19 10, 2004.

20 "This letter is to register our support for
21 TDHCA staff recommendation to deny an appeal of
22 application point reductions to Langwick Hardy LTD, the
23 developer of the Brentwood Apartments, located within the

ON THE RECORD REPORTING

(512) 450-0342

1 boundaries of the Greater Greenspoint District in Houston,
2 Texas, a political subdivision of the state.

3 "TDHCA guidelines state that an application can
4 be awarded ten points if the proposed development is
5 located in an incorporated city that is not a rural area,
6 but has a population of greater than 100,000.

7 "The applicant has indicated the development
8 should be awarded ten points for locating in Aldine City.

9 This is inaccurate. The proposed Brentwood Apartments
10 development is located in the City of Houston. Aldine
11 City does not exist. It is not and never has been an
12 incorporated city.

13 "This developer is familiar with the City of
14 Houston and the Aldine area. Consequently, the claim of
15 Aldine as a city wa, in our opinion, a purposeful attempt
16 to secure extra points without foundation.

17 "This claim raises questions in our view of the
18 credibility of the developer, and of the accuracy of the
19 entire application. We have other concerns with the
20 application regarding the notification of public meetings
21 and sufficient community input, all of which have been
22 submitted to TDHCA in a previous letter.

23 "We cannot support the Brentwood Apartments,

ON THE RECORD REPORTING

(512) 450-0342

1 given these circumstances. We believe the applicant
2 sought to bypass the rules and procedures established by
3 TDHCA in an effort to promote his application above other
4 developers who have submitted accurate applications.

5 "We respectfully request that TDHCA carefully
6 review the appeal of point reductions and deny the
7 request." And it's signed by Jack Drake, President of the
8 Greater Greenspoint Management District.

9 MS. ANDERSON: Thank you. Mr. Robert Cash?

10 MR. CASH: Good afternoon. My name is Robert
11 Cash. And I work for State Representative Kevin Bailey.
12 Representative Bailey had asked me to share a letter to
13 Director Carrington with the board, dated June 8, 2004
14 regarding Brentwood Apartments, as it states here, in
15 Aldine City.

16 "Dear Ms. Carrington, I am writing to request
17 an investigation of an applicant, and prosecution if
18 warranted, of what appears to be an attempt to commit
19 fraud by the applicant.

20 "The determination by TDHCA to challenge the
21 eligibility of the applicant to receive points for an
22 exurban location is recognized and appreciated, but does
23 not go far enough.

ON THE RECORD REPORTING

(512) 450-0342

1 "While it is right -- while it is the right of
2 community organizations, state representative and state
3 senator for that area to determine whether an affordable
4 housing development is needed in that location, I am
5 compelled to comment because of the larger issues raised
6 by this application.

7 "As a member of the Urban Affairs Committee, it
8 causes me extreme concern that the very integrity of our
9 competitive process is being attacked.

10 "If manipulative developers are allowed to make
11 a mockery of the process by submitting applications that
12 contain false information, it will lead to frustration and
13 anger from those who do abide by the rules.

14 "The facts in this case are clear and
15 unambiguous. The proposed complex is in the City of
16 Houston. Proposed Brentwood Apartments it to be located
17 at the northwest corner of Langwick and West Hardy. It
18 was clearly within the city limits of Houston. But the
19 applicants choose to list the location as the fictional
20 Aldine City.

21 "The Houston City Limits sign is visible a
22 short distance north of the property. The property being
23 acquired by the Texas -- being acquired from Texas

ON THE RECORD REPORTING

(512) 450-0342

1 Blackstar Investments is shown on the Harris County
2 Appraisal District website as having a City of Houston
3 property tax statement for 2003 of \$1,763.39.

4 "This is a clear indication that the property
5 is in the City of Houston. The proposed property is not
6 within the boundaries of the CDP Aldine. I understand
7 after reading your correspondence of April 19 that there
8 was some confusion caused by TDHCA mistakenly identifying
9 some unincorporated Census-designated places as eligible
10 for meeting the criteria for extra points as cities of
11 fewer than 100,000 residents. But this does not apply in
12 this case.

13 "The property is located in -- about two miles
14 from the nearest boundary of CDP Aldine. Furthermore, the
15 applicant contacted my district office on March 1, 2004
16 requesting demographic information on Aldine City, and was
17 told that there was no such incorporated city.

18 "My aide informed him that the area he
19 referenced was not even in the area commonly known as
20 Aldine, but did appear to be within Houston City Limits.
21 I would appreciate it if you would investigate this
22 matter.

23 "In addition, I would appreciate it if you

ON THE RECORD REPORTING

(512) 450-0342

1 would keep me informed as to the results of your
2 investigation. Thank you for your attention to this
3 request. If you have any questions or comments regarding
4 the matter, please do not hesitate to contact me. Kevin
5 Bailey, State Representative, District 140.

6 MS. ANDERSON: Do you all have the questions?
7 Thank you very much. Mr. Joseph Lopez.

8 MR. LOPEZ: I'm the developer. I was quite
9 surprised to hear some of those comments, which I haven't
10 heard before today. But from Jack Gray or from
11 Representative Bailey.

12 This development has always been referred to as
13 within the City of Houston. It's never been in a doubt in
14 my mind that this development, and in many documents that
15 exist in my application clearly identify it as being
16 within the City of Houston.

17 For example, public notice that you have in
18 your binder right here clearly indicates Langwick Hardy
19 LTD is making an application for housing tax credits for
20 the Texas Department of Housing and Community Affairs, and
21 it's located at the corner of Langwick and West Hardy
22 Road, Aldine City, Houston, Texas.

23 My point with filing this application is that

ON THE RECORD REPORTING

(512) 450-0342

1 because of the way, if you look at a reference manual
2 document, which is the second page over, it simply says
3 Aldine -- it's in the -- if you look in the first -- it
4 should -- under the column, Reference Manual Document,
5 there is a page that we are provided with the QAP, that
6 you're supposed to figure out where your property lands,
7 and if you're entitled to get extra in points or not.

8 So I looked down here and see Aldine, Harris
9 County, six exurban. And then in the last column, it
10 says, Yes, exurban points. And if you go up that column,
11 that's where I claimed my ten points.

12 And that's what everybody did that reviewed and
13 looked at these applications. So when I made my
14 application, I believed that my site right here is in an
15 area commonly referred to as Aldine, Texas. Everybody
16 that ever lived in Texas in that part knows that to be
17 Aldine. This black area is the Aldine Independent School
18 District.

19 This is not a -- there is nothing in this --
20 it was difficult for me to determine exactly where the
21 property boundaries of Houston was in the area around when
22 I submitted my application, of whether it would be Harris
23 County, or whether it would be in Houston.

ON THE RECORD REPORTING

(512) 450-0342

1 But there is certainly my view that this is --
2 this would be -- if you lived there, you would say this
3 was in Aldine. And there is no little incorporated area
4 called Aldine, that I subsequently found out.

5 But very early on this process -- for example
6 on February 25, we had to submit a letter from the --

7 MR. CONINE: Use the microphone, Mr. Lopez.

8 MR. LOPEZ: For example, I've included a
9 letter -- at the tab there is a letter from the City of
10 Houston, which I provided to the state on February 26.
11 Brentwood Apartments, 100 units, new construction for the
12 elderly, 1600 block of West Hardy Road, Houston, Texas.

13 I mean, this is not -- everybody who has been
14 familiar with this, who has just looked at the
15 documentation in the application realizes that, yes, this
16 is Houston, Texas. But within Houston, Texas there is an
17 area called Aldine. And I'm trying to claim exurban
18 points for that area, Aldine.

19 Now, maybe I can't do that. Maybe that the
20 plans don't -- or the QAP doesn't allow me to do that.
21 But the notion that I'm trying to deceive or be deceptive
22 about it to anybody -- I don't see how that would -- I
23 don't see how that flies.

ON THE RECORD REPORTING

(512) 450-0342

1 Other documents in the contract that clear --
2 in the application that clearly indicate it would be the
3 purchase money agreement for the land. Just -- sorry.

4 MS. ANDERSON: Sorry.

5 MR. LOPEZ: There is a list of things that
6 I've -- that -- concluding, the public notice that I just
7 gave to you clearly indicates Houston. Numerous places in
8 the application clearly indicate Houston. Our market
9 study prepared by Bob Poe, who is sitting right here, that
10 we submitted as part of our application, says Houston,
11 Texas on it.

12 The address of the property has always been the
13 northwest corner of Langwick and West Hardy Road. So
14 anybody who was doing research at the state on where that
15 address is -- it's only in one place. It's in Houston, or
16 it's in Harris County, or it's in Aldine. So I can't -- I
17 didn't move the address around trying to -- it is what it
18 is now.

19 MS. ANDERSON: I need to ask you to wrap up.

20 MR. LOPEZ: Yes. Okay. Sure. Further, again,
21 the real estate property contract we originally submitted
22 with this application -- it identifies -- just the title
23 commitment identifies exactly the location of the

ON THE RECORD REPORTING

(512) 450-0342

1 property. And that it's in Houston, Texas.

2 In closing, I think that there is a confusion
3 in this document that she indicated there was a confusion
4 or a mistake, that I have fallen into here with this
5 Aldine, trying to claim ten points for my Aldine
6 application.

7 Now, if the ten points aren't available because
8 it doesn't qualify, then that's -- so be it. But I
9 thought that it did, filing this application because of
10 what this particular sheet says.

11 And anyway, in closing, I --

12 MS. ANDERSON: Thank you, Mr. Lopez.

13 MR. LOPEZ: Thank you.

14 MS. ANDERSON: Any questions from Mr. Lopez?

15 MR. CONINE: I've got some for Brooke.

16 MS. BOSTON: Can I make a comment --

17 MR. CONINE: Now that I -- yes, sure. Go
18 ahead.

19 MS. BOSTON: I just wanted to -- when we
20 released the department's reference manual, I know people
21 rely on it. And generally, what people tend to do is, for
22 instance, they would look at this list and say, Oh, a
23 given city on the list, you know, I can get ten points. I

ON THE RECORD REPORTING

(512) 450-0342

1 better go check to see where that place is, make sure that
2 my site is within it.

3 And so you know, that someone would just look
4 at it and get a general feel for where Aldine might be, I
5 don't feel like is in keeping with the general process
6 that people tend to follow in the development process.
7 And that when they do look through our reference manual,
8 it's as a guide. It's not a definitive -- you know --

9 MR. CONINE: Here comes counselor to save you.

10 (Laughter.)

11 MR. WITTMAYER: The requirements to get these
12 ten points in the QAP are very explicit. And it requires
13 that you be in an incorporated city. It is not a rural
14 area that has a population no greater than 100,000.

15 So if you're in the City of Houston, you
16 clearly do not meet this requirement for ten points.

17 MR. CONINE: All right. Pretty much open and
18 shut as far as I'm concerned.

19 MR. WITTMAYER: Yes.

20 MR. CONINE: But the question I -- with the map
21 and everything that's now been presented, are there parts
22 of what would be called Aldine that don't fall within the
23 City of Houston?

ON THE RECORD REPORTING

(512) 450-0342

1 MS. BOSTON: Aldine Census-designated place --

2 MR. CONINE: Yes.

3 MS. BOSTON: -- does not fall within Houston at
4 all. Aldine as a general area of town does --

5 MR. CONINE: Right.

6 MS. BOSTON: -- which is not a defined
7 Census --

8 MR. CONINE: But it's not a corporate -- it's
9 not incorporated city either?

10 MS. BOSTON: No. And Aldine ISD, obviously,
11 has some areas within Houston. And so, you know, if we
12 were talking about school districts, it might be a
13 different issue. But as a Census-designated place, Aldine
14 definitely is not inside Houston, and there is no overlap
15 of the two places.

16 MR. CONINE: Move to accept staff
17 recommendation to deny the appeal of point reduction.

18 MR. SALINAS: Second.

19 MS. ANDERSON: There is a motion on the floor.
20 It's been seconded. Discussion? Questions? Hearing
21 none, I assume we're ready to vote. All in favor of the
22 motion, please say aye.

23 (A chorus of ayes.)

ON THE RECORD REPORTING

(512) 450-0342

1 MS. ANDERSON: Opposed, no?

2 (No response.)

3 MS. ANDERSON: ; The motion carries. Item
4 5(b) --

5 MS. CARRINGTON: Thank you, Madame Chair. I'd
6 like to recommend that the board take these two together.

7 These are two applications for tax exempt bond with local
8 issuers and the allocation of 4 percent tax credits by the
9 department.

10 The first is the Masters in Dallas. And this
11 is the Dallas -- the City of Dallas Housing Finance
12 Corporation, new construction, family, a total of 144
13 units. The amount of tax credits that the staff is
14 recommending is \$500,879.

15 The second one is Primrose at Pasadena
16 Apartments. This is located in Pasadena. This would be
17 an elderly development, Southeast Texas Housing Finance
18 Corporation is the issuer on this transaction. It's 248
19 units. And the recommended credit amount is \$783,565.

20 MR. CONINE: Did you check with these guys and
21 see if they wanted to be lumped in together? Just
22 kidding. Move for approval.

23 MR. BOGANY: Second.

ON THE RECORD REPORTING

(512) 450-0342

1 MS. CARRINGTON: Actually, no, I didn't.

2 MS. ANDERSON: Any discussion or questions
3 about either of these two deals? Hearing none, I assume
4 we're ready to vote. All in favor, please say aye.

5 (A chorus of ayes.)

6 MS. ANDERSON: Opposed, no?

7 (No response.)

8 MS. ANDERSON: Motion carries.

9 MS. CARRINGTON: Do you want me to go ahead?

10 MS. ANDERSON: Yes, you go ahead.

11 MS. CARRINGTON: Okay. The next item for the
12 board's consideration is Item 5(c). And these are two
13 requests for tax credit applications that are involving
14 material changes.

15 The first one is a 2003 application. It's
16 Lilac Gardens Apartments. This was an acquisition or is
17 an acquisition rehab development. And it is located
18 already in El Paso, and came out of the at-risk set aside.

19 And staff is recommending -- we have reviewed this.

20 Real Estate Analysis has looked at it also.
21 And they are fine that there would be no effect on the
22 underwriting of this particular development. And
23 basically, what it relates to is there are some threshold

ON THE RECORD REPORTING

(512) 450-0342

1 requirements in our QAP that really do not address -- they
2 don't adequately address rehabilitation or evaporative
3 coolers as we have in El Paso.

4 And so basically, what they are doing is
5 identifying these three items that were threshold, and
6 explaining to us how or why they are doing something other
7 than what was identified in those threshold requirements.

8 Staff is recommending that this request for a
9 material change be approved.

10 MR. BOGANY: So moved.

11 MR. SALINAS: Second.

12 MS. ANDERSON: There are two individuals signed
13 up for public comment. But you're free to waive or
14 answer --

15 VOICE: We waive.

16 MS. ANDERSON: Thank you.

17 MS. CARRINGTON: Thank you.

18 MS. ANDERSON: All right. We have a motion on
19 the floor. Is there a discussion or questions? Hearing
20 none, I assume we're ready to vote. All in favor, please
21 say aye.

22 (A chorus of ayes.)

23 MS. ANDERSON: Opposed, no?

ON THE RECORD REPORTING

(512) 450-0342

1 (No response.)

2 MS. ANDERSON: Motion carries.

3 MS. CARRINGTON: The second one for your
4 consideration requesting a material change is Hickory
5 Manor Apartments. This is a 2004 allocation for tax-
6 exempt bonds and 4 percent credits. A change in the site
7 plan, increasing the number of units by two.

8 They increased the size of the area from 18.95
9 acres to 24.31 acres. And because of that change, and
10 because of adding a couple of new units, it makes a
11 material change. Real Estate Analysis has looked at this.

12 They have no issues or concerns. And staff is
13 recommending that this material change to Hickory Manor
14 Apartments, an '04 bond and credit transaction, be
15 approved.

16 MR. BOGANY: SO moved.

17 MR. GONZALEZ: Second.

18 MS. ANDERSON: Any discussion? Hearing none, I
19 assume we're ready to vote. All in favor of the motion,
20 please say aye.

21 (A chorus of ayes.)

22 MS. ANDERSON: Opposed, no.

23 (No response.)

ON THE RECORD REPORTING

(512) 450-0342

1 MS. ANDERSON: The motion carries.

2 Mr. General Counsel?

3 MR. WITTMAYER: Chris Wittmayer, the general
4 counsel. If I could speak on some additional information
5 concerning the Pineywoods appeal.

6 It's been brought to my attention that a letter
7 from the City of Orange dated April 23, which is from the
8 Director of Planning and Community Development, and it
9 states that --

10 "This letter is a followup to a previous letter
11 pertaining to the subdivision of the two lots referenced
12 above. As I stated in the previous letter, a minor
13 variance would need to be granted in order to finalize the
14 resubdivision.

15 "I have spoken with the chairman of Planning
16 and Zoning. And she feels strongly your project is much
17 needed within the city, and would vigorously support your
18 approval of the variance. As the planning director, I
19 would recommend the variance be approved by the
20 commission.

21 "With these two actions, I can say with
22 confidence that the variance, and therefore the replat,
23 would be approved by the commission."

ON THE RECORD REPORTING

(512) 450-0342

1 The point is, is that as of the letter dated
2 April 23, that the rezoning had not been completed, and I
3 thought it was material to the board's decision that you
4 would want to have this information.

5 MS. ANDERSON: Norberto?

6 MR. SALINAS: But the city council approved it.

7 MR. WITTMAYER: Well, apparently as to two lots
8 in --

9 MS. ANDERSON: Just a minute, sir. One at a
10 time. Mr. Wittmayer, please.

11 MR. WITTMAYER: As I read this letter -- as I
12 understood the presentation, it was all approved in March,
13 prior to the April 1 deadline, even though that was not
14 communicated to us.

15 As I read this additional letter from April 23,
16 it seems to say that that's not the case. That as to
17 these two lots, additional action was necessary and it had
18 not been completed as of April 23.

19 MS. CARRINGTON: So a portion of the zoning was
20 in place for the majority of the lots, but there are two
21 lots that the zoning was not in place?

22 MR. CONINE: Could we hear from the applicant
23 again as to why the discrepancy is there, please?

ON THE RECORD REPORTING

(512) 450-0342

1 MS. ANDERSON: Thank you, Mr. Dowler.

2 MR. DOWLER: I don't think that there is a
3 discrepancy. The zoning was applied to the entire area
4 and lots that we were talking about.

5 MR. CONINE: Uh-huh.

6 MR. DOWLER: The two lots that he's referencing
7 there is one site that we are proposing to divide into two
8 lots. Obviously, we don't want to do the division of the
9 lots into two separate lots until after we know we're
10 going to get the tax credits or not to build the houses.

11 Obviously, we have an option to purchase that
12 lot. We don't even own it yet. And we'll not exercise
13 that option to purchase that lot until such time we know
14 that we have the credits.

15 But the zoning for that whole area and all of
16 the lots has already been approved as of March 23 or
17 eighth. Yes.

18 MR. SALINAS: Yes, so then you go back and then
19 divide whatever you want to. But the zoning is in place
20 as of March 28?

21 MR. DOWLER: That is correct.

22 MR. CONINE: And --

23 MR. SALINAS: Do you have minutes of that

ON THE RECORD REPORTING

(512) 450-0342

1 action that you all took on the 28th?

2 MR. DOWLER: You have the city council's -- I
3 just gave it to him. He came and asked me for my copy.
4 So I just gave him the actual ordinance passed and signed
5 by the city manager, attested to by the city secretary, of
6 the passing of the zoning.

7 MR. SALINAS: It can be five acres, it can be
8 100 acres. That area is zoned. Then they go back on
9 their own and see what they are going to divide. But you
10 have no design -- their area is zoned for apartments.

11 MR. DOWLER: That is correct. It's zoned.

12 MR. SALINAS: I can understand, but you know,
13 legal counsel?

14 MR. WITTMAYER: I just wondered if this
15 additional letter here had --

16 MR. CONINE: Yes. I think what I'd like legal
17 counsel to do is to research it, because you can't do it
18 sitting here on the fly.

19 MR. SALINAS: Yes. Legal counsel --

20 MR. CONINE: And send us an email as to your
21 evaluation of whether or not the full tract had zoning
22 March 28. And if -- you know, if in your opinion it
23 didn't and we can get some other opinions back and forth,

ON THE RECORD REPORTING

(512) 450-0342

1 we can move to reconsider this thing at the next meeting
2 if need be.

3 MR. SALINAS: It's very simple. You need to
4 call the city attorney. And he can give you the opinion.

5 MR. WITTMAYER: Excellent idea, Mayor. And
6 we'll bring it back at the next meeting, if that's
7 appropriate.

8 MR. CONINE: Yes, sir. You recommend two
9 attorneys talking to each other?

10 MR. SALINAS: They'll really get along. Once
11 you --

12 MR. CONINE: Okay. Thank you.

13 MS. ANDERSON: Thank you.

14 MR. WITTMAYER: You bet.

15 MS. ANDERSON: I'm going to -- we have a couple
16 of people that need to leave to get on airplanes shortly.
17 So I'm going to ask that we ask the questions we need to
18 ask. But I'll ask Ms. Carrington to take us through this
19 expeditiously.

20 MS. CARRINGTON: Okay. Will do. Item 5(d).
21 You had in front of you when the board was put together
22 nine requests for extension of the closing of the
23 construction loans. I have just been notified that one of

ON THE RECORD REPORTING

(512) 450-0342

1 these developments has closed their construction loan.

2 These are all 2003 tax credit applications. So
3 what you are looking at -- the first one, Arbor Woods, has
4 already closed their loan. So the next eight I will tell
5 you that they all paid their fee. That they all filed in
6 time.

7 The deadline for closing the construction loan
8 on these '03 tax credit transactions is tomorrow, June 11.

9 And they are all requesting extensions ranging from July
10 11 to September 10.

11 There are a variety of explanations on why they
12 need the extension, and staff is requesting that these
13 extensions be granted now on all eight of these requests,
14 with the exclusion of Arbor Woods.

15 MR. BOGANY: So moved.

16 MR. GONZALEZ: Second.

17 MS. ANDERSON: Ms. Bast, will you relinquish
18 your -- thank you. Any discussion, questions? Hearing
19 none, I assume we're ready to vote. All in favor, please
20 say aye.

21 (A chorus of ayes.)

22 MS. ANDERSON: Opposed, no?

23 (No response.)

ON THE RECORD REPORTING

(512) 450-0342

1 MS. ANDERSON: Motion carries.

2 MR. CONINE: Could I make a statement for the
3 record. I am disturbed by the trend, though. And would
4 like to encourage the development communities -- these are
5 projects that got credits almost a year ago. And to be
6 closing a construction loan, you know, in eleven months,
7 is a little bit excessive for me, and -- or 12 months or
8 13 months.

9 And I would love to see this trend reversed.
10 That's all I have to say.

11 MS. CARRINGTON: Item 5(e) is a request for
12 additional credits on two transactions, Roseland Gardens,
13 which was a 2001 allocation of tax exempt bonds and
14 credits, and a 2000 allocation, Carroll Townhomes. Both
15 of these were with the Dallas Housing Authority. They
16 were part of their HOPE 6 allocation or application.

17 Roseland would -- is requesting credits. And
18 they've submitted their cost certification to the
19 department. The department has determined that they are
20 eligible for additional credits.

21 Roseland would be \$3,188 in additional credits.
22 Carroll Townhomes would be \$13,587 in additional credits.
23 Now, in addition, Carroll Townhomes needs a waiver of the

ON THE RECORD REPORTING

(512) 450-0342

1 requirement in the 2000 -- they come under the 2000 QAP
2 initially.

3 But since the cost certification is being done
4 and we are allocating these additional credits in 2004, we
5 can technically say they are coming under the 2004 QAP.
6 And that 2004 QAP would give the board an opportunity to
7 grant this waiver.

8 In the 2000 QAP, basically the only way the
9 board could grant a waiver was fire, flood, natural
10 disaster. We did get a little bit more flexibility added
11 into the QAP. This does inadvertently have one building
12 that has a duplex in it, which is not going to be
13 eligible. It's an ineligible building type.

14 They are taking that they -- taking it out of
15 basis. Is that correct, Mr. Gouris?

16 MR. GOURIS: Correct.

17 MS. CARRINGTON: They are taking it out of
18 basis. The development is built. Even with that building
19 coming out of basis, they are still eligible for the
20 additional credits based on their cost certification.

21 And last month you did approve for the Dallas
22 Housing Authority a Lake West Townhomes, which was also
23 part of this group of four that they developed using HOPE

ON THE RECORD REPORTING

(512) 450-0342

1 6.

2 MR. CONINE: Move for approval of both
3 requests.

4 MR. GONZALEZ: Second.

5 MS. ANDERSON: Questions? Hearing none, I
6 assume we're ready to vote. All in favor, please say aye.

7 (A chorus of ayes.)

8 MS. ANDERSON: Opposed, no?

9 (No response.)

10 MS. ANDERSON: Motion carries.

11 MR. CONINE: Ms. Carrington's report?

12 MS. CARRINGTON: Nothing I have to say.

13 MS. ANDERSON: Nothing you have to say.

14 MS. CARRINGTON: Nothing I have to say.

15 MS. ANDERSON: Oh.

16 MS. CARRINGTON: Unless the board --

17 MR. CONINE: Looks like five items are on here.

18 MS. CARRINGTON: It wouldn't maybe have any --
19 in deference to the time -- your all's time --

20 We do not -- looking at Item Number 5, we do
21 not know yet the date of the next Urban Affairs Committee
22 hearing. We were told a few weeks ago it was going to be
23 in June. We do not have a date of that yet. We will

ON THE RECORD REPORTING

(512) 450-0342

1 communicate that date as soon as we hear it on the chair.

2 MR. CONINE: Move to adjourn.

3 MR. BOGANY: Second.

4 MS. ANDERSON: All in favor?

5 (A chorus of ayes.)

6 MS. ANDERSON: Opposed?

7 (No response.)

8 MS. ANDERSON: We stand adjourned. Thank you
9 all.

10 (Whereupon, at 3:45 p.m., the meeting was
11 concluded.)

C E R T I F I C A T E

1
2
3 MEETING OF: TDHCA Board
4 LOCATION: Austin, Texas
5 DATE: June 10, 2004

6 I do hereby certify that the foregoing pages,
7 numbers 1 through 227, inclusive, are the true, accurate,
8 and complete transcript prepared from the verbal recording
9 made by electronic recording by Penny Bynum before the
10 Texas Department of Housing and Community Affairs.

(Transcriber) 06/21/2004
(Date)

On the Record Reporting, Inc.
3307 Northland, Suite 315
Austin, Texas 78731

ON THE RECORD REPORTING

(512) 450-0342