

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING
PUBLIC HEARING
2005 STATE OF TEXAS

Thursday, May 26, 2005
Waller Creek Office Building
507 Sabine Street, Room 437
Austin, Texas

PRESIDING OFFICER:

BETH ANDERSON

BOARD MEMBERS:

VIDAL GONZALEZ
C. KENT CONINE
PATRICK GORDON
MAYOR SALINAS

STAFF:

EDWINA CARRINGTON

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P R O C E E D I N G S

MS. ANDERSON: Good morning and welcome to the May 26 meeting of the governing board of the Texas Department of Housing and Community Affairs. The first order of business is to call the roll.

Vice-Chairman Conine?

MR. CONINE: Here.

MS. ANDERSON: Mr. Bogany?

(No response.)

MS. ANDERSON: Mr. Gonzalez?

(No response.)

MS. ANDERSON: Mr. Gordon?

MR. GORDON: Here.

MS. ANDERSON: Mayor Salinas?

MR. SALINAS: Here.

MS. ANDERSON: And I am here. We have four board members present. We do have a quorum. As is our custom, we take public comment both at the beginning of the meeting, really, on any topic, or if those who wish to testify prefer, they can speak at the agenda item.

In order to testify, please be sure that you have completed and given to the court reporter a witness affirmation form. So to open the meeting this morning, we will have public comment for those that ask to speak

during the public comment period. The first witness affirmation form I have is from Mayor Joe Wardy.

MR. GORDON: Madam Chair, if this is going to involve the Cedar Oaks project, I have had a potential conflict of interest, and have recused myself from any discussion involving this project. And with your permission, I would like to again make it abundantly clear that I am not going have any discussion involving this project, and would like to recuse myself with your permission.

MS. ANDERSON: Yes, sir.

MR. GORDON: Okay.

MR. SALINAS: I think you need to get the mike a little closer to you, because we can't record it, and we can't hear it.

MR. WARDY: Well, we'll do it rock star style then this morning, if that is all right. Is that all right? Can everybody hear me now? Good morning, Chairman Anderson and members of the Board. And it is a great honor and pleasure to appear before you today.

I want to begin by saying that tax credit housing in El Paso is a very welcome addition to our community that addresses both a void and critical housing stock, and provides necessary gap financing for this type

of housing development. As a community, El Paso is slowly establishing a relationship with the Texas Department of Housing and Community Affairs, and we look forward to fostering a positive relationship moving forward.

However, I am concerned that there are many checks and balances lacking in the current tax credit system, leaving much to be desired in terms of protections for municipal governments. Specifically the case of Cedar Oaks has left our city leaders in the unenviable stance of trying to address to address the concerns of our local constituents, only to find out from this agency, that our options are quite limited.

Due to a lack of sufficient notice about the activities of this agency, we now have to address a controversial issue with residents that may or may not have an appropriate outcome for this affected neighborhood. It is painfully obvious from where I stand, that the system is broken. There exists a fundamental disconnect between private developers making application to the TDHCA for tax credit application and the planning considerations of the City of El Paso.

When the Cedar Oaks project first began, both the developer and the City of El Paso were asked to live by a certain set of rules for the issuance of low-income

tax credits. I understand that after the applications for Cedar Oaks was originally denied by TDHCA, the U.S. Department of Housing and Urban Development changed the definition as to what constitutes a difficult development area.

This action lead to a new interpretation of the qualifications of Cedar Oaks to receive these tax credits.

Rather than viewing the application as a new application, as it should have been, because the original application was denied, TDHCA instead made a decision about the eligibility of Cedar Oaks based on the new HUD definitions.

Instead of allowing the project to undergo the scrutiny of a new application, TDHCA allowed a hugely controversial and contentious development to glide right under the radar, putting this project back on the table with no public knowledge or oversight. Now we are being asked to sit back and live with the consequences of this unilateral action for a project which my community for all intents and purposes, believed to be dead.

From my perspective, this is unacceptable. I am compelled to inform you today that our city council has taken a strong position on this issue, and we have instructed our legal department to look at any and all

possible solutions. In fact, we are awaiting documentation from TDHCA regarding what has transpired with this development. We intend to go over it in great detail to see just what took place.

And further, it is my understanding that all of the rules of this process were not followed. Specifically, after receiving a notice from myself in the form of a resolution, the TDHCA did not comply with Section 2306.6718 of the Texas Government Code. This Section requires the TDHCA contact my office and offer to conduct a physical inspection of the development site and provide a consultation about this project. The City never received such an offer.

If we had, we may not find ourselves here today before you. The City reserves any and all remedies to this situation pending a full and complete evaluation of the documentary evidence. And I believe the actions of TDHCA need to be explained, and that the project needs to be put on hold until this situation is resolved.

The difficulty in the relationship with TDHCA is that you are making arm's length decisions that have immediate and long term impacts in our cities' neighborhoods. When you approve seemingly benign tax credits, you are making policy decisions that have real

impacts to the makeup of the neighborhood and its schools.

As the city evaluates projects that are being considered for tax credits, we must consider factors outside of those traditionally considered for the tax credit program.

We are investigating issues beyond the population being served by the development, and are also considering impacts on our public infrastructure, schools, public safety, and surrounding neighborhoods. Going forward, we also want to assure that any action is in conformance to our City's comprehensive master plan. From a municipal standpoint, we are making great strides to look at a housing development from a holistic perspective.

And what I am concerned about is that the decisions made by TDHCA are made in a vacuum as it relates to these specific City concerns. I am aware that other entities than the City of El Paso are asked for statements of support for many of these tax credit projects. However, you must realize that these entities have a core function of providing low income housing and do not have the broader spectrum of land use perspective, neighborhood planning and development in mind when evaluating these projects.

Now it is my belief that the City of El Paso, as many cities across the state have the best perspective

on this broader spectrum of issues that affect our neighborhoods. As such, I am recommending to the TDHCA that notification requirements be expanded to municipalities when projects will be considered for tax credit approval or placement on a waiting list.

I believe that notification requirements need to be expanded to include circumstances when there are any substantive amendments to an existing application and at every stage of the application process. I also believe that the legal department of any affected municipality should be notified as well. This would ensure proper documentation by municipalities. I also want to make a commitment to you today, to improve our internal procedures with regard to these projects.

I will be submitting to our city council suggested legislative changes that would expand the City's neighborhood notification ordinance to include notifying our neighborhood associations of any tax credit applications in their areas, and establish an internal process for tax credit notifications received by the City.

I will also ask for our neighborhoods' liaison to begin the process of making sure that our neighborhood associations are registered with the state and/or county to trigger notification requirements established by your

existing rules.

While I fully understand that testimony or evidence by the City of El Paso or neighborhood associations may or may not have an impact on the final decisions of this body, I do believe that they bring a level of transparency and accountability. If nothing else, these recommendations would ensure that the actions being undertaken by this body are not being made in a vacuum and that proper public comment is being given to municipalities and our citizens.

Upon first taking office, I encouraged and am still diligent in working to expand the influence of neighborhoods in our city. As our city grows, we encourage our neighborhoods to take an active role in ongoing development. I have worked diligently to establish a level of trust for neighborhood associations with their government, and this includes their state government.

This particular case has severely injured the gains we have made with the Las Palmas neighborhood association. It is difficult to tell our constituents that their interests are being represented when their voice falls upon deaf ears at the state level. I am hopeful that you will consider modifications to your

current practices that will allow both of us to serve our constituencies, the citizens of the State of Texas more effectively.

My office stands ready to assist this body in any way possible to improve the current state of affairs.

Thank you for allowing me time to address your board today, and I appreciate your attention in this matter. Thank you, Madam Chair.

MS. ANDERSON: Thank you, Mr. Mayor.

Ms. Vivian Rojas?

MS. ROJAS: Good morning. Can you hear me? Good morning, Texas Department of Housing and Community Affairs board. Here I am again. My name is Vivian Rojas, and I am the City Council representative for District 7 in El Paso, Texas.

I am here to express my opposition regarding the Cedar Oak Townhomes project 04070. And I am also here to express my concern regarding the way that this project has been revived, after it was rejected on July of 2004. This project was rejected on July 13, 2004, by the TDHCA's staff, and was recommended again for a rejection at the July 28, 2004, board meeting.

This project was not recommended for the following reasons. The market study was not self-

contained, and did not include a summary form or a rent comparison matrix. Did not calculate an accurate demand.

Did not calculate on stabilized supply.

The underwriter calculated an inclusive capture rate of over 25 percent. Within a one linear mile of this proposed development there are 611 apartment units at this time. There are several low-income housing units in addition to 236 units of Section 8, subsidized housing units. Therefore, more than half of the apartments within this one mile radius are low-income housing units.

The TDHCA staff rejected the Cedar Oak project for the second time in the July 28 board meeting, which was an appeal hearing for the Cedar Oak project. The market study indicated that there was too much low-income rental housing in that area, and a flat market study was presented, not once, not twice, but three times. At the July 28 board meeting of TDHCA, which I attended, Investment Builders appealed the staff determination and the appeal was denied by the board, due to too much of a supply of low-income housing in the sub-market, and not enough demand.

There is not a lack of low-income housing in that area, as I pointed out in the July 28 board meeting.

There are 53 scattered sites of public housing units, and

839 privately owned Section 8 houses or apartments in zip code 79936, which is where this proposed development is to be located. A need for additional low-income housing in that market area does not exist.

The market studies submitted have been flawed. And as I pointed out, three market studies have been submitted. The proposed development is to be built in the Ysleta Independent School District, not the El Paso Independent School District as stated in the market study.

Also two of the low-income housing units in the market area were omitted from the market study. Bienvidid and Meadowbrooks [phonetic] were not included in the market study, and they exist. There are numerous other errors and omissions in the market study pertaining to traffic safety, the slope of the lot, the types of zoning and businesses which surround the existing property where the proposed development is to be constructed.

Later, at the July 28, 2000, board meeting, Ms. Brooke Boston stated that the acceptable projects were approved to be placed on the waiting list. She did not mention that projects that were not recommended would be placed on the waiting list. Therefore Cedar Oak Townhomes was not placed on a waiting list because it was terminated early in the meeting.

Because the application was terminated before the project could be funded, a new application had to have been submitted. When this new application would have been submitted, new public hearing and scoring should have taken place. I believe that TDHCA is selectively and arbitrarily applying their own rules to the Cedar Oak Townhome development project.

The proper venue for determination of whether or not TDHCA has applied the rules properly regarding Cedar Oak Townhomes at this point is to begin the process once again, the application process, including a public hearing in El Paso, Texas. I would like the TDHCA board to direct TDHCA staff to prevent the certification of Cedar Oak Townhomes for tax credits until it can be determined whether or not TDHCA's rules were properly followed regarding Cedar Oak Townhomes.

Several letters of opposition regarding this project have been submitted by myself as a City Council representative, by County Commissioner Scruggs when he was in office at that time, by State Representative Chente Quintanilla. And a resolution opposing this project was voted on by the mayor and the city council of El Paso during the April 27, 2004, city council meeting.

And I presented that resolution and I presented

the petition, which was submitted by over 400 of the residents who reside in the community located adjacent to the property in question, back at the July 28 TDHCA board meeting. There is no support for the Cedar Oak Townhome project. Give the tax credits to another project that has the support of the community, and where the need can be manifested for this type of housing development.

I also have a letter from the superintendent of the Ysleta Independent School District, Mr. Montenegro, which I would like to read into the record, if I may.

"Dear Ms. Carrington: It has come to my attention that the Texas Department of Housing and Community Affairs, TDHCA, is proposing to build a housing development within the boundaries of the Ysleta Independent School District. The proposal states the development is planned in the vicinity of Pendale and George Dieter Streets.

"This will greatly impact the Ysleta Independent School District. The three campuses that would be impacted are Vista Hills Elementary, Desert View Middle, and Hanks High School. Below are the enrollment and capacity figures as of May 13, 2005, at these campuses.

"Vista Hills Elementary capacity is 736; enrollment is 758. Desert View Middle capacity is 600

students; enrollment 592. Hanks High School capacity 2,150; present enrollment 2,274.

"As superintendent of schools, I am concerned that in addition to the projected increase in military dependents, I strongly feel that this increase in student enrollment would have an adverse impact on the Ysleta Independent School District. Please let me know if you have any questions. Sincerely, Hector Montenegro, Superintendent."

The lack of due process, the lack of notification, and the blatant misrepresentation of the facts and the market studies are valid reasons to determine a rehearing regarding this case. I as the city council representative of District 7 have been asked by my constituents which elected me to represent their concerns regarding this project to bring forth these concerns and this request.

I ask that the tax credits which were awarded at a later time in the December 2004 board meeting be revoked until a new hearing is held, and all the elected officials, including Representative Quintanilla, Mayor Wardy, Commissioner Barbara Perez, myself, and the residents in the surrounding area are notified to present their opposition to this project in a timely manner. And

I ask that the public comment be taken into consideration regarding their awarding of tax credits to this project.

Thank you.

MS. ANDERSON: Thank you.

Katherine Sanders for Senator Shapleigh's office. Good morning. Thank you for being with us.

MS. SANDERS: Senator Shapleigh couldn't be here this morning. He is at the Capitol for the last week of the legislative session. And he asked that I read his letter into the record, and share his comments with you. Can you hear me? He asked that I read his letter into the record and share his comments.

"Dear Governing Board Members and Ms. Carrington: The Texas Department of Housing and Community Affairs board is tasked with one of the most difficult roles in the state government. Your body helps to shape the communities of tomorrow. Unfortunately, you are often maligned for objectively and conscientiously fulfilling your obligation by the very communities to which you are so committed. As a representative of one of those communities, I want to apologize for the accusations of wrongdoing to which you have been subjected.

"Both the Board and Executive Director Carrington have consistently been fair and careful in

determining affordable housing developments. Moreover, you have held yourself to the highest ethical standards when making decisions that will affect communities. I would like to especially extend an apology to Mr. Pat Gordon, a citizen of my community, who has followed the letter of the law, and the highest ethical standards in recusing himself from any consideration of issues relating to the Cedar Oak development, and as a result, was the target of unfounded allegations and innuendo that border on slander at a recent El Paso City Council meeting.

"Since 1997, as El Paso's State Senator, I have been a vocal advocate for El Paso and the entire border region. I have watched for years as border community leaders, El Paso's included, have demanded their fair share of state resources and then spent considerable energy fighting over who gets the biggest slice. This infighting causes immeasurable harm to the community by acting as a barrier to growth and development.

"In today's board meeting, you will witness this political wrangling first hand. What you will see is a fight to control the tax credits in El Paso, not a good faith complaint about your agency, or decisions made by the TDHCA board. You will hear arguments about neighborhood concerns. You will hear allegations of

wrongdoing by the Board, and you will hear threats of a lawsuit.

"I know you will hear this rhetoric, because it has all been used before in previous efforts by one group to monopolize all the low-income housing tax credits in the El Paso market. Enclosed is a letter that I wrote in October of 2004 to a constituent about similar unfounded attacks on another affordable housing development in El Paso.

"I write today to provide a balanced voice to counter the political pandering couched in representing the constituency. TDHCA is charged with the difficult task of distributing limited housing credits to a state with overwhelming need for more affordable housing. The guidelines and process for determining how best to distribute those funds has been vetted over the years, and comprehensively and fairly evaluate every project to determine the best development proposal.

"I feel certain that TDHCA's process, which has been open and fair in the past, allows for all interested parties to express their views on a proposed development.

Whether in El Campo or in El Paso, the people deserve to participate in the process, voice their concerns and make sure that government works for them. Certainly, the

people of my El Paso deserve notices as provided by law, and an opportunity to voice their concerns.

"But the need for affordable housing is a macro-issue that must be addressed by considering the needs and voices of the entire community, not just the most vocal members. Providing quality affordable housing is a concern that we all must share, so that more Texans can share in the American dream.

"Thank you for your continued efforts to help communities provide quality affordable housing options for their citizens. I look forward to working with you to help El Pasoans reach the American dream. Thank you."

MS. ANDERSON: Thank you very much.

Presi Ortega? I hope I didn't pronounce that too badly.

MR. ORTEGA: That was perfect.

MS. ANDERSON: Gracias.

MR. ORTEGA: Good morning, Chairman Anderson. My name is Presi Ortega. I am the City Councilperson for the east side. I will be starting on my fourth term this coming June.

First of all, with all due respect to the Senator, that is the first time that I have heard of this opinion or this letter. So my district is just north of

the development that we are talking about. And I am not here to criticize the board. I am just here to give you my concerns.

You know, some of the reasons that I ran for office a few years ago were to help develop our city and to make a difference. And I believe that by taking control of our future, we have been able to turn this city around.

As for an example, back in the year 2000, we passed a quality of life bond issue, where we passed \$140 million of projects to help our kids: 70 million for parks, 30 million for our zoo, 30 million for libraries, 10 million for a history museum. A bond issue of a magnitude that has never been passed of the City of El Paso.

And we did that because we wanted to make sure that we are in control of our future and we want to know where we are headed. My biggest concern today is the safety of our citizens in that area. And I am concerned of the quality of life.

One of my dreams on the east side was to have two recreational centers. They were finally built with this bond issue. As soon as they were opened a couple of months ago, they were to capacity. So when you hear the

letter of the superintendent of the school, this is our concern, is traffic. It is safety.

I am not against the project. There are other areas of land that are out there in the east side. As a matter of fact, I was on the council when we had annexation back in 1999. And we're thinking about having future annexation on the east side, because we need to have good controlled planned growth of our community.

My concern is that the people I represent, they are concerned about safety. They are concerned about people having lack of respect for lights -- for just quality of life issues. So that is what I am here, trying to make sure that we continue trying to grow a great community.

You know, I was very concerned to hear the designation of "difficult-to-develop city, El Paso." The first that I have ever heard. I don't know if this board is aware of all the different, all the housing starts that we have in El Paso, or all the permits that we have. We have a magnificent community, vibrant with growth. And we are really proud of that.

And then for us to learn secondhand that all of a sudden, we have that designation, for me, and I think the city council, mayor, commissioner's court, judge, I

don't think that we consider our community a difficult-to-develop community. Again, I am just up here to voice my concerns.

I live very close to the area, too. I drive George Dieter. It is a great street. Lots of traffic. My concern is that something might happen where some of our citizens might get hurt. And I think that as elected officials, it is our responsibility to come to you and say we are not against the project, but we are against where it is. Thank you very much.

MS. ANDERSON: Thank you, sir.

Commissioner Barbara Perez?

MS. PEREZ: Good morning. Madam Chairperson Elizabeth Anderson and members of the Texas Department of Housing board, thank you for allowing me to read my testimony into the official record regarding the Cedar Oak Townhomes in east El Paso, brought before you today. As a former three term city council representative, a school board trustee, and today, as county commissioner for Precinct 1 in east El Paso, I am very familiar with the concerns of my constituents, as well as the astronomical growth in this area of the city.

Last year, the Socorro Independent School District, which is where I, as a trustee, passed a \$190

million bond issue, as soon as one high school -- excuse me. Last year, the Socorro Independent School District passed a \$100 million bond issue. And as soon as the one high school and two elementary schools opened their doors, the schools were already at capacity.

I wish to communicate my dissatisfaction with the Texas Department of Housing and Community Affairs and their approval of the tax credits for this development. The TDHCA has yet to request of the City or the County of El Paso a resolution supporting the Cedar Oak tax credits.

There was, in fact, a resolution from the City of El Paso opposing this project.

Further, while I am keenly aware of the necessity of affordable housing, I would like to state for the record as county commissioner that I am adamantly opposed to the clustering of 160 family units into one relatively small and highly congested area, which already has 338 low income units within a one linear mile. Not to include apartments that have already been built there. The proposed site is already surrounded by four very high traffic intersections as well as a congested strip shopping center, and a truck transportation facility directly across the street from the housing development.

The main artery is George Dieter, which has a

projected traffic count of over 40,000 daily. In order to avoid this headache congestion, drivers are taking short cuts through the surrounding streets Pendale and Pelicano [phonetic] to access Interstate 10.

I foresee an accident waiting to happen involving an automobile, an 18 wheeler, or even worse, a child running into the street and losing his or her life, at which time, it will not be TDHCA answerable for such a tragedy. Instead, it will be left to a local elected official to account for this tragedy, who in the first place had no say over this proposed housing development.

I believe the state and the developer have an obligation to work together with the local entities to ensure safe development for issuing housing tax credits. This by no means is personal. I have effectively worked with Mr. Ike Monty and Investment Builders in the past on two other projects and have found them to be very sensitive to the community needs in the past. I am extremely surprised by his insistence to continue with this development, despite the community's outcry.

Please allow me to leave you with this. My frustration stems from the fact that the state agencies should not be determining local housing development projects without complete participation from the local

communities and its elected officials. The County of El Paso has never been advised of the re-entry of this development and never asked for a resolution from the county as well.

I trust that you will enter these comments for future action involving this matter. And if you have any questions after our delegation leaves, please do not hesitate to contact me in El Paso at area code 915/546-2014. Thank you very much.

MS. ANDERSON: Thank you. I have several other people that are asking to speak on this topic, and we are going to hear from Representative Quintanilla's staffperson on the proposed development. So in the meantime then, I have four witness affirmation forms from private citizens. This is also our custom.

We typically limit the amount of time that someone has to speak. And I don't do that to elected officials. But I would ask that the next four witnesses limit your comments to three minutes apiece.

Kevin Camacho.

MR. COMACHO: Good morning, ladies and gentlemen. Thank you for giving me this opportunity to express my thoughts. My name is Kevin James Camacho, and I am a junior accounting major at the University of Texas

at El Paso, and a concerned citizen of the State of Texas, and a member of the Las Palmas Neighborhood Association. I have also lived in that neighborhood my short 19 years of life. I am probably the youngest speaker you will hear today.

For the record, I am here in opposition to the Cedar Oaks Project 04070, with no financial ties to this concern as the senator. History is our greatest ally, or it can be our greatest stagnation towards democracy.

And the Romans felt that public input was what Arcadius required. And the 13 colonies felt that taxation without representation was lacking public input. And before any final decision is made on the Brack restructuring program regarding military installations, the Department of Defense has scheduled meetings for public input.

Ladies and gentlemen, it is my right of this great State of Texas and the great democratic country in a public forum to ask the following of TDHCA. Why did the TDHCA staff fail to take in account the inadequacy of the process being followed? Why did the TDHCA staff disregard the insufficient notification to the public after the Cedar Oak tax credits were denied the first time?

Ladies and gentlemen, the lack of due diligence

that has embroiled our community, our city, our state into a situation of controversy that is tearing at the heart and soul of the university -- they are tearing the heart and soul of our community, and has reached the heights of university students like myself who have placed tremendous faith and trust on those individuals who were viewed as the caretakers of this great state of ours.

It is not the best of times for our neighborhood. But in actuality, it is the worst of times.

Our community, my neighbors, my parents, my friends, and most importantly I myself feel embarrassed, taken advantage of, bewildered, and worst of all, made to feel irrelevant.

Simply restated, we as a community and I as a young voting citizen were not afforded an opportunity to provide public input. Why? A great idea could have emerged. A constructive dialogue could have surfaced. A creative cooperative effort could have been enjoyed. And at the end of the day, we all would have been better for it because of public input.

The eyes of Texas are upon us. Please restore our faith in government. If a correction needs to be made, please be courageous and forthright. If a change is needed, please be visionary and steadfast.

My generation is often understood as apathetic. Do you blame us, however, when we as a community are not asked for public input. I learned in this great public education system here in Texas that governments serve the best interests of the people.

Call me naive, but I trusted the government. Especially a state agency to hear our concerns. All we simply ask is to be heard and for the rules and regulations to be applied fairly to all. TDHCA, let's do what we say we are doing.

Thank you. God bless our neighborhood, our city, our great state, and this great country of ours. Thank you.

MS. ANDERSON: Thank you very much.

MR. CONINE: What are you majoring in at UTEP?

MR. COMACHO: Accounting.

MR. CONINE: Okay. Thanks.

MS. ANDERSON: Thank you for being here.

Hector Herrera.

MR. HERRERA: Good morning, ladies and gentlemen of TDHCA. My name is Hector Herrera, and I am a concerned citizen of El Paso, and I live in this area. I am a spokesperson for Las Palmas Neighborhood Association as well as a concerned citizen. Thank you for affording

me the opportunity to express my concerns as a private citizen. I love El Paso, I love the State of Texas, and I love my country.

I come before you with a great passion to present my opposition to the Cedar Oak project. Currently, with the Cedar Oak project, we will have 771 apartment complexes, and 738 single-unit homes and quadruplexes within one linear mile of our neighborhood. All these units clustered around and next to one of the busiest streets in the City of El Paso. I am here to ask that TDHCA consider the safety aspects of the situation and the unbalanced leverage created by this clustering of affordable housing.

All these affordable housing units clustered around an area where the closest elementary school is 2.8 miles away. I trust that TDHCA personally went to visit the site. And I bring this up, because there is a strong consensus in El Paso that Austin thinks that they know what is better for El Paso better than El Pasoans themselves. I am here to ask that TDHCA consider the following aspects of this.

We ask for affordable housing. How can we not? It is the American dream. But there is something much bigger here, and that is the transparency which a state

agency must perform its due diligence regarding compliance to its rules and regulations including administration of the affordable housing program and its tax credits.

Ladies and gentlemen, board members of TDHCA, yours is a difficult job, and one that I may add, I am sure that you do not take lightly. Be that as it may be, procedures identified by your own agency were omitted, disregarded, twisted, and worse yet, attempted to be substantiated. TDHCA justifies its public notification on the Cedar Oak project within one week on their website. Unfortunately, that does not qualify as a public notification.

Simply ask our elder citizens or the very individuals that would reside in these apartments who do not have access to a computer or internet access. Another thing I would like to say and state for the record, we had asked Frank Eanes, attorney for Ike Monty and Investment Builders if he would provide us a listing of who they sent this public notification to. And that was two months ago. He said, give us two weeks, and that was two months ago. We are still waiting for that list.

Ladies and gentlemen, board members of TDHCA, our community will not go gentle into the night, as there was a significant breakdown in the procedures used by

TDHCA. We trust that TDHCA will have the courage, responsibility and moral convictions to consider public input and follow its rules and regulations as it proclaims that it does.

The facts of our neighborhood were presented of opposition of over 430 names and signatures on a petition.

TDHCA looked the other way. Please consider the omission of this act, and the perceptions of the public trust. 430 names which were validated by your agency. It would have been more, but we wanted to comply with your deadline for submittal.

And the perception by your agency, TDHCA to public input is one of insignificance. TDHCA, the agency failed to notify our elected officials. The main governing body, the City of El Paso, the first line of defense in local government. The voice of the people, an omission so flagrant and arrogant, that it is difficult to fathom.

Thank you very much for your time. I appreciate it. And like I said, I am a concerned citizen that lives in this area that will be impacted. Thank you.

MS. ANDERSON: Thank you.

Susan Shewmaker?

MS. SHEWMAKER: Can you hear me now? Good

morning TDHCA staff and board members. My name is Susie Shewmaker. I am not a lawyer. I am certainly not a politician. I am just a citizen.

I live in the Las Palmas neighborhood. We did recently form an association, because we were so concerned about this. You have heard all the facts and figures. What I had originally prepared to say has already been said. I will make it really brief though.

We do have 771 apartment units. Most of these are low-income housing tax credit apartments within one mile, one linear mile of where I live. Okay. Or they are Section 8.

About a year ago, a big sign went up within a few blocks of my house, and it said something to the effect of there is going to be a multifamily housing development here. I thought multifamily housing development, and then I thought kids. There is going to be a lot of kids here. Okay. Let me tell you a little bit about that neighborhood. Because I am a mother and I am a grandmother.

Okay. Right here, this is the lot where these houses are going to go in. Right here, okay, facing one of the busiest intersections in town, all right. Right here is a trucking company with great big trucks going by.

We have very congested traffic during lunch hour, all right.

The nearest schools are 2.8 miles away. Those kids are going to have to be bused. They are going to be bused to school, all right. Now I imagine there is going to be hundreds. There is going to be I don't know how many units. I forget how many units. There are going to be hundreds and hundreds of school age children milling around this very busy intersection.

And then you are going to have a school bus. You are going to have more than one, because it is going to take more than one to get those kids to school. You are going to have a school bus. Do you know how all the rules and regulations, when you have a school bus. Now you just imagine. I am just saying look at this realistically.

Because we are not here saying, as we have been accused of -- as a matter of fact there is a new term. It is called a NIMBY; not in my backyard. Like we are a bunch of people saying, well, we are just so great, and we don't want those poor people. Well, that is just not the case.

Don't let anybody tell you this is NIMBY. We appreciate tax credit money in El Paso. We appreciate you

guys. We appreciate bond money. We need all of those things. I am proud to be an El Pasoan and I want to see it grow. I want to see it prosper. Okay. So we need all of those things.

One of the things we really need that a developer who was forward thinking might consider, we need accessible housing in El Paso. I am a board member of an organization called VALAR [phonetic], which is a center for independent living. We have a desperate need for accessible housing.

We do not have any need for this multifamily development on that busy intersection. It is a disaster. It is built -- real quick. And then I will stop, okay. All right.

You all said it was a gentle slope. This isn't a gentle slope. This is a 40-foot drop. I don't even know if this multi-unit construction is even going to stand up, okay, where it is being built.

You have already heard about all the things that you supposedly did wrong. I am not a lawyer. I don't know. I do know that it appears that proper -- your own rules and regulations were not followed. I saw the sign, and then all of a sudden, nothing. It was gone.

And we got together with the neighbors, and it

was like no. You know they did stop that. I remember having signed a petition. And then all of a sudden, we saw construction. And it was like what is going on here?

We found out it was the same type of housing with absolutely no notification.

We were completely blind sided. As a community, we were completely blind sided. Please take that into consideration. We do ask specifically not that you stop giving money to El Paso, God no. But that you please reconsider this tax credit allocation on this one particular project. That is a disaster. Thank you very much for listening.

MS. ANDERSON: Thank you.

Arthur Fierro?

MR. FIERRO: Good morning, Madam Chair, board of directors. Thank you for allowing me to come up here and share my thoughts and feelings about my neighborhood. My name is Art Fierro.

I live at 116 Tony Tejera, and have lived there for approximately three years. Now I want to start with, I am a product of low-income to moderate housing. My parents would have never had the opportunity to live the American dream had it not been for low-income to moderate housing.

Having said that, I am here today to oppose 047070, Cedar Oak Townhome project. Now you have already had the picture drawn from you, the mayor, Representative Ortega, Representative Rojas and County Commissioner Barbara Perez. You know, there is 330 low-income homes and an additional 160 will only overburden already crowded schools, and contribute to the rising crime rate.

In all of this, this 160 in one area to me, within that one linear mile sounds like clustering to just your average citizen. In addition, in the three years I have lived there, we have seen the traffic explode. To the point where on Pendale now, there has to be a sheriff or a police officer posted to try and slow down the speeders, and the people who are driving recklessly to get to I-10.

I am going to leave you with a statement that Commissioner Barbara Perez said, and she said state agencies should not be dictating to local communities as to where low or moderate income homes should be built, without the participation and support from local government. Thank you for your time.

MS. ANDERSON: Thank you, sir.

Dora from Representative Quintanilla's office.

MS. JUARA: Buenos dias. Good morning, Board.

My name is Dora Juara [phonetic], I am chief of staff for Representative Quintanilla's office. I am not sure. Can you all hear me? Well, my voice kind of carries.

So I am here on behalf of the representative. He regrets not to be here and to address you all. But he is in session at this time. I would like to begin -- you can't hear? Take it out. I promise not to sing La Ranchera for you this morning.

But I was very surprised by Senator Eliot Shapleigh's comments. He has never addressed our office with those sentiments he has about this project or what he feels our community has done in reference to stop the proliferation of clustering in this sector. And one thing I have to say about Representative Quintanilla is that he is for affordable housing. We need it in our district. Our district is very diverse.

But I am very well aware of the area where you have awarded this contract to. And it is not needed. He comes here to oppose, or I come here to oppose on his behalf on the flawed application process that you approved, on forcing this project on an area that is definitely not prepared to carry on this multifamily complex. And with that, I would like to begin to read his letter in opposition again to the Cedar Oak Townhomes

project.

"Dear Ms. Carrington and Board: On behalf of my constituents in District 75 and specifically for those families that live in East El Paso located nearby Cedar Oak Drive, Pendale Road, Pelicano Drive, and George Dieter Drive, I voice my strong opposition for the Cedar Oak Townhome Limited Apartment 2004 housing tax credit awarded to them in 2004.

"Although I received a response from your office for the letter I submitted to you on April 20, 2005, and upon reviewing the explanation for the award of this project, my opposition remains the same. And I insist that this award must be revoked because it violates a state code, rules and regulation and should be immediately reconsidered under the board.

"Once again, as stated in my April 20, 2005, letter, I reiterate the following. In a letter dated and mailed to you on July 16, 2004, I commended TDHCA for not recommending the project on July 13, 2004, and applauded the governing board's decision for denying the appeal on July 28, 2004. I requested this letter to be read and entered in the July 28 board meeting.

"As per the meeting, the board denied the appeal, and pursuant to Title 10 General Government Code,

Section 2306.6715, Appeal (2)(e) and (d) the decision of the board regarding the appeal is final. Unfortunately, it was brought to my attention by my community by the Cedar Oak project that this project was resurrected in November 2005, and awarded 2004 housing tax credits in December of 2004.

"As per our meeting held with you, Ms. Carrington, on April 19, and after reviewing several documents pertinent to the Cedar Oaks award, I believe staff recommendations may have led to a violation of TDHCA rules and regulation, TDHCA's staff's omission of critical information to the governing board that might have led to the Board's awarding of the housing tax credits for this project.

"The following are state codes that I believe violate the resurrection and award to the Cedar Oak project. At the very least, pursuant to Section 2306.0661 public hearings, state public elected officials and community should have been warranted notice for the reopening or consideration of this project. However, on December 2004 -- on your December 2004 meeting, the governing board was not provided previous public record, and was not given my opposition letter to this project.

"The staff failed to consider their past

recommendation for Cedar Oak, and the reason as to why it was not recommended. The market study was not self-contained. Did not include a summary, form or rent comparison matrix.

"Did not calculate an accurate demand, and did not calculate unstabilized market supply. The underwriter calculated an inclusive capture rate of over 25 percent. The anticipated deferred developer fee could not be repaid within 15 years.

"Pursuant to Section 2306.6703, ineligibility for consideration and Section 2306.6055 market analysis, the application fails to meet consideration and demand. According to state records, there are currently 338 units of low-income housing tax credit in zip code 79936. And within one linear mile of the proposed development, there is in existence 111 low-income housing tax credit units plus 236 units of Section 8 subsidized housing.

"I reiterate, this clearly demonstrates an overabundance of low-income housing and public housing in the immediate area of the proposed development. The application was denied and final, pursuant to Section 2306.6715, Appeal 2(e) and (d).

"In addition, pursuant to Section 2306.6724 (e) and (f), deadlines for allocation of low-income housing

credits clearly states the Board shall issue a list of approved applications each year in accordance with the Qualified Allocation Plan no later than June 30, and issue final commitments for allocations of housing tax credit each year in accordance with the Qualified Allocation Plan no later than July 31. According to our research, Cedar Oak was not listed or committed by the Board.

"Therefore as repeatedly stated, I believe this award must be revoked because it violates our state code rules and regulation and should be immediately reconsidered under the Board. I trust your cooperation in this matter, and look forward to a good response. Please contact me. Thank you."

In addition, I have a letter from Congressman Reyes that I would also like to read to the Board and to Ms. Carrington. I would like to add that Representative Quintanilla has written several letters for affordable housing projects and tax credit. This is the first project from its initiation that we have opposed, due to the lack of -- well actually, due to the overabundance of low-income housing in the area, and to his concern of clustering in that specific area, and quality of life and safety issues.

"Dear Ms. Carrington: I am writing to express

serious concern about the lack of due diligence undertaken by the Texas Department of Housing and Community Affairs in the approval and issuance of housing tax credits for the proposed Cedar Oak Townhomes project in El Paso, in my congressional district. As you know from past communications that I have had with TDHCA regarding tax credit projects in El Paso, there is no question about our need for affordable housing, as clearly reflected in the demographics of our community.

"However, I strongly object to TDHCA's continued poor communication, lack of information, insufficient notification and inferior planning that results in recurring acrimony over projects like Cedar Oaks. Frankly, I am finding it more and more difficult to seek out much needed funding in Washington when I get negative feedback from colleagues and administration officials about in-fighting in the community.

"I understand the difficulty that TDHCA faces in ceding affordable housing in communities and neighborhoods that have objections or that might appear to support these initiatives as long as they are not listed "in their backyard." This makes it more critical than ever that you implement a thorough and transparent strategic plan and follow rules and regulations, including

mechanisms for properly including neighborhoods, elected officials and city planning personnel in the process.

"By doing so, I believe you would find neighborhoods in El Paso and around Texas much more receptive to the idea of placing affordable housing in their neighborhoods. And it is more likely that you will be able to match projects with neighborhoods, if they are based on factual planning and buy-in from the community. In this regard, I strongly suggest that before TDHCA approves projects like Cedar Oak you re-evaluate the process you use for this selection to ensure it is a good fit with the city's consolidation plan.

"The neighborhoods, whether they support the project or not, feel they have been given appropriate consideration, and that all relevant factors be weighed in the decision. While this would necessitate a more lengthy and detailed process, in the end, it will better meet the affordable housing needs in our community.

"As always, your attention to this matter is greatly appreciated. Please do not hesitate to contact me or my staff should you need additional information. Silvestre Reyes, Member of Congress." Thank you once again. I appreciate the cooperation from TDHCA with the requests that our office has recently requested from you.

Ms. Alana Pinedo has been a wonderful help to our office as well.

But we do stand together, and there is only one elected official that is against this project. And it doesn't make sense, when the community, when the county commissioners and together against this, when the city council is against this, when the Congressman sees problems with this process, and when State Representative Quintanilla also has his concerns on the table for a flawed process that should have never been awarded.

Mr. Salinas, thank you for being here, and I request to you that you look at this, because there is a need for affordable housing in El Paso, but this project does not belong there, sir. Thank you.

MS. ANDERSON: Dora, may we have the copy of the representative's letter?

MS. JUARA: You have my original. Okay, but you have Mr. Reyes' copy.

MS. ANDERSON: We have Congressman Reyes', yes. Okay.

Mr. Frank Ainsa?

MR. AINSA: Good morning. My name is Frank Ainsa. I am an attorney in El Paso, and I am here representing Investment Builders. What I would like to do

this morning is very briefly respond to some of the comments that have been made to you by the mayor and other representatives of the city, and other people who have spoken. First of all, let me say -- can you hear me now?

First of all, let me say that notice of TDHCA proceedings and transparency in public affairs, it is statutorily mandated, as we all know. And it is a very laudable goal. And to the extent that any efforts can be made to increase notice procedures, IBI wholeheartedly supports that.

There have been suggestions made already that there should be better and improved notice provisions concerning public proceedings. And so to that extent, I would certainly say if there is anything that IBI can do to support that, it will. However, that is not the problem here.

The problem here is that the city, and in particular, Representative Rojas finds herself in a very difficult political position because she did not know that on December 13, 2004, TDHCA awarded tax credits to the Cedar Oak project. And the reason she didn't know is because apparently, she did not follow the proceedings after the July 28 board meeting, at which the Cedar Oak

project was placed on the waiting list.

And she is now, and other city representatives have now, found themselves in a position where instead of having to acknowledge that they didn't follow the proceedings all the way through, they have now taken the path of accusing the TDHCA staff of not doing a thorough job. And they have taken the path of accusing some board members of not participating correctly in the proceedings, and that the process, in essence, has been flawed.

Now this situation was created because after the first of the year, they all of a sudden discovered that there was a tax credit project that was going to be going forward, and be constructed in an area where great opposition had developed. But the fact of the matter is, all of the opposition which you have heard reference today was brought up at the July 28 board meeting.

Representative Rojas was here personally, and she presented to you letters from Representative Quintanilla. She presented to you a 400-person signed petition. She presented to you her own opposition. She criticized the staff study. All of that information was presented to this board, and it was regurgitated again by the staff when it made the re-analysis in December of 2004.

And so this really is nothing more than a thinly veiled attempt to come back and revisit a project, a tax credit award that has already been made. Now I will submit to you from a legal standpoint, and you will hear from your own counsel that the City of El Paso has no standing at this point. But I would like to just point out just simple elements of fairness. The tax credits --

MS. ANDERSON: I need to ask you to begin to wind up, sir.

MR. AINSA: The tax credits were awarded --

MR. COLEMAN: I have the opportunity to speak, and I would like to defer my time to Mr. Ainsa.

MS. ANDERSON: Okay. That is fine. Thank you. Mr. Coleman. Thank you. Go ahead.

MR. AINSA: Thank you. I would like to point out to you that the tax credits were awarded on December 13. Construction financing has already been put in place. Construction is underway.

And if any of you have any doubts about the process that was undertaken in the City of El Paso, the City of El Paso has already granted grading permits and building permits. All of the processes that you would normally go through to construct a project have been vetted, and they have been passed. And this project is

underway.

And for anyone to say that these traffic concerns or other concerns are still out there, they are simply not in touch with reality anymore. This particular project went through the process that the TDHCA currently has in place, and to the best of my knowledge, it passed everything that was required by statute. If there was a notice issue, the notice issue is not germane to this particular case because all required notices by the statute were given.

And if anybody didn't find out about it from the City of El Paso, it is very simple. It is because they weren't paying attention. And in El Paso, in case you haven't noticed, it is political season. And we have run-off elections coming up. And no one wants to stand up and say I didn't know because I wasn't paying attention.

But that is the plain fact of the matter here, and that is why we are down here today. Because it is a good opportunity to come down here and take a shot at the TDHCA and the process, instead of owning up to what they should be doing.

And that is, this thing went through the process like it should have. It was approved. It is under construction. Even the City of El Paso has granted

all the required permits.

And so ladies and gentlemen, what I would ask you to do is, I know you don't have a board action matter on this. I would like for you to take into account these remarks and weigh the remarks made by the previous speakers in light of what I have just said. Thank you very much.

MS. ANDERSON: Thank you, sir.

Mr. Ike Monty.

MR. MONTY: Good morning, Madam Chair. I just wanted to say that a couple of years ago, I had opposition on another development in El Paso. And I personally picked this site on the east side, and I stand by the site. It is a good place for affordable housing.

And much to my dismay now, the City is opposing the project, and as Frank Ainsa pointed out, we have got our permits, and we are building the project right now as we speak. I am sorry that this project has caused as much controversy as it has. But we did offer to meet with a lot of the representatives at the open houses that we had for the neighborhood, but nobody showed up.

And as you see today, there is about four concerned citizens that have actually shown up and more politicians that have shown up. I am sorry that my

project has caused the opposition. And as you know by my record, that the project is underway. We are not needing an extension. And we are grateful for the opportunity.

MS. ANDERSON: Thank you, sir.

Marian Alvarado?

MS. ALVARADO: I am going to defer my time to Mr. Monty.

MR. MONTY: I don't think I need any more time. I am going to go back to building the project.

MS. ANDERSON: Okay. Thank you, sir. Yes?

MS. JUARA: Have the tax credits been sold to a syndicator? Sold the tax credits on this? They're commencing the project. You know we can stop this at the federal level. And you all can caucus and review it. And would that be something that you all can take into consideration?

MS. ANDERSON: I am going to suggest that you have a conversation with staff about that. Which, we need to go on with other business, Dora. Thank you. Mr. Granger McDonald?

MR. MCDONALD: Good morning. I will try to be real brief. What I put before you is right off your website regarding Region 9 and the projects that are going forward to Underwriting. You will see that Region 9 urban

has ten projects that were submitted this year.

Three of them are in New Braunfels and seven are in San Antonio. I want to point out to you that the New Braunfels projects, the two at midway through the property through your list, both of those properties have done everything they could to garner as many points as they could. But New Braunfels will never be able to compete with the San Antonio market.

We don't have availability to HOME funds. We don't have organized neighborhood groups. And we just can't score as high. And it is grossly unfair to the City of New Braunfels. There are currently three units. Not three projects. Three units in the entire City of New Braunfels that have tax credits.

They will never be able to have tax credits in New Braunfels, Texas, because of the way the scoring is. And I would like to ask that you take a look at that. I am here in May instead of June, trying to beat the rush. And I want to point out the problem early. Thanks.

MS. ANDERSON: Thank you very much for being here, and I trust that you will continue to participate in the QAP process through the summer, and maybe bring us some ideas.

MR. MCDONALD: I have never done that. How do

you do that?

MS. ANDERSON: Mark Mayfield.

MR. MAYFIELD: Good morning, Madam Chair, members of the board, Ms. Carrington. My name is Mark Mayfield. I live out in Marble Falls, Texas. I am the director of the housing authority there.

And I just wanted to ask -- I have got two applications that are currently pending now in the TBRA program. One application in Region 7, and one application also in Region 9. And I just would like to share with you some issues that we have had with some rental assistance programs. And I know that the TBRA program is limited to a two-year time slot.

We were hoping to go forward, and to work some of the transition from the TBRA program into our housing choice voucher program. We have run into lots of issues with that. The federal government has actually cut back a lot of the funding on that.

A couple of years back the state awarded us some vouchers from their rental assistance program. By the time that we got those into our inventory in Marble Falls, we in effect turned around and lost them due to some timing issues, which was just grossly unfair, but not much that we could do about it. And because of that, we

are not able to transition some of the TBRA holders into our housing choice voucher program.

And therefore, we have made another application for housing assistance to try to meet this need. The reason the need is there, is because 38 of the 50 that were awarded to us were to senior citizens that were unable to do anything. If they lose their rental assistance, their issues are different from others that can go out and sometimes make ends meet by other means. But seniors have a different problem.

And so I would just really encourage favorable consideration. There is not much money out in the rural parts of the State of Texas. We as a housing authority are really trying to do our best to work with people and to help people, and to assist people, not only in the City of Marble Falls, but actually throughout the entire Hill Country.

We are about in five different counties and we have a lot of issues before us, and a lot of difficulties.

But we are doing our best. And I just would hope that the Department could give favorable consideration to these applications. Thank you.

MS. ANDERSON: Thank you.

Annette Pegram?

MS. PEGRAM: Good morning. My name is Annette Pegram, and I am here representing Parkway Housing and application 050128 in the 2005 9 percent round.

I would like to read a letter into the record to Ms. Edwina Carrington, referencing Reyes [phonetic] Oaks Apartments, TDHCA 05128.

"Dear Ms. Carrington. I would like to comment on the Department's decision that resulted in the unfair treatment of my application in the 2005 9 percent tax credit round. I am very concerned about the Department's treatment of applications regarding the scoring of quantifiable community participation for neighborhood organizations.

"The Agency has permitted an upward adjustment in an applicant's score after the submission deadline. The QAP clearly states the requirements for applicants to receive the allotted points for each scoring criteria. On April 26, the Agency issued application 05029 a score of 13 points for quantifiable community participation with no noted deficiencies. On May 12, the Agency reissued applicant 05029 a score of 24 points under this scoring criteria.

"49.9(g)(2) of the QAP states that three reasons for support must be provided by the neighborhood

organization by the submission deadline in order for applicants to receive the full 24 points. Neighborhood organizations submitting two reasons of support would yield 18 points to the applicant, and a neighborhood organization submitting only one reason would result in 13 points to the applicant.

"All indications are that the neighborhood organizations submitting applicant 05029 only submitted one reason with this initial application, which warranted 13 points initially received by the applicant, and not the full 24 points they were reissued on May 12. This type of treatment of applications jeopardizes the integrity of the application process and results in the unfair treatment of viable applications. It is my belief that all applicants should be held to the same standard.

"If applicant 05029 felt he was deserving of a better score, it appears to me that he should have gone through the formal appeals process. But under no circumstances should he have been arbitrarily given additional points by the Department. The treatment of application 05029 has resulted in my application not receiving consideration as a priority application by TDHCA Underwriting and ultimately may impact his ability to receive a recommendation for credits.

"It is our hope that going forward, the Board will restore our initial status and give our application every consideration for an allocation of tax credits as a priority application. Thank you in advance for your help in resolving this issue. We look forward to any corrective steps that the Board may take to ensure the proper ranking of our application. Sincerely, Ron Pegram, General Partner." Thank you.

MS. ANDERSON: Okay. That concludes public comment for this portion of the meeting. So now we will move on to action items. Item 1 is presentation, discussion and possible approval of the minutes of the board meeting of April 7, 2005.

MR. SALINAS: Move for approval.

MR. CONINE: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Item 2, we

wanted to make a statement about the use of ADR for the -- alternative dispute resolution, ADR for the 2005 tax credit cycle. And so, as is in the board materials, I would like to read this statement to all of you all attending here today.

"For the 2005 tax credit cycle, the Department will administer a process for ADR that is consistent with 2306.082 of the Texas Government Code, 49.17(h) of the 2005 Qualified Allocation Plan and Rules which encourages the use of appropriate ADR procedures under the Governmental Dispute Resolution Act, which is Chapter 2009 of the Texas Government Code, to assist in resolving disputes under the Department's jurisdiction, and consistent with Chapter 10 of the Texas Administrative Code 1.17, which is the general policies and procedures for alternative dispute resolution and negotiated rule making."

The ADR process for the 2005 housing tax credit application cycle will run concurrently with the 2005 application cycle to the extent that the request for ADR is made while the cycle is still open. The Board decision on ADR disputes is final. But I think the distinction for 2005 is that we are running, we will run this process in parallel with the appeals process.

And the Board and the Department is committed to the appropriate use of alternative dispute resolution as a means to resolve disputes under our jurisdiction.

Item 3, Ms. Carrington?

MS. CARRINGTON: Thank you, Madam Chair. This item is a request for amendments involving material changes to housing tax credit applications. There are 14 for the Board's consideration this morning.

Six of them are 2002 applications or awards. One is a 2003 award. And seven of them are 2004 awards. To the best of our ability, we have tried to group these by topic for ease of Board's consideration.

The first one is the Parks at Kirksall. And this is an '02 transaction. And it was an allocation of tax-exempt bonds and 4 percent tax credits. The development is built. Due to an oversight, ten SEER air-conditioning and refrigerators were put in as opposed to what the requirement was at that time.

The applicant has done substitutions that the staff feels are acceptable. And staff is recommending that these three amenities be included as substitutions for what was previously due in this particular development.

MR. SALINAS: Move for approval.

MR. GORDON: Second.

MR. CONINE: All those in favor, signify by saying aye.

(Chorus of ayes.)

MR. CONINE: Opposed?

(No response.)

MR. CONINE: The motion carries.

MS. CARRINGTON: The second one is the Park at Shiloh. This is also a bond and credit transaction 2002.

It is cost certification time on these developments, and we are asking for an adjustment, or the developer is asking for adjustment in net rentable area.

Also, ten SEER air conditioning. Again, they have proposed three additional amenities and staff is recommending that these amenities be substituted for what was previously --

MS. ANDERSON: Ms. Carrington, we need to re-vote on that first one. I wasn't here on that. Sorry.

MS. CARRINGTON: Okay.

MS. ANDERSON: We just need to. I am sorry, I was trying to figure out how to rectify a goof I made, and so we didn't have a proper vote on that first item that I think you just voted on.

MR. CONINE: We need a new vote. Yes.

MS. ANDERSON: We ought to back up and try that again.

MR. CONINE: Move for approval.

MR. SALINAS: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The Park at Shiloh, the staff is recommending these adjustments and amendments. It would not have impacted the award.

MR. CONINE: Move for approval.

MR. SALINAS: Second.

MS. ANDERSON: I assume we are ready to vote.

All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The third one is Portside Villas Apartments. This is a 2002 transaction. It was a forward commitment. This is also an application or a request that was tabled from the April 2005 board meeting. And there was an error in the application on calculating the total number of one- and two-bedroom units.

Basically, the developer has submitted additional information to us at cost certification time. They are going to be using all but \$418 of their original allocation of credits. And staff is recommending that this change in unit mix be granted. It is actually adding an additional two low-income units to what was their original mix of units.

MR. CONINE: Move for approval.

MR. SALINAS: Second.

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

(Chorus of ayes.)

MS. ANDERSON: Opposed, no?

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next one for your consideration is Towne Park Fredericksburg II Apartments. This was tabled from the April meeting also, 2004

application. I will note that there are some e-mails in your backup material from the market analyst on this particular transaction.

There were some questions at the last meeting -- I believe, Mr. Conine, from you in particular -- that had some concerns about changing the unit mix from a mix of the ones and twos to all one bedrooms. Staff has looked at the information that has been provided by Mr. Jack, and we are recommending that this change in unit mix be approved by the board.

MR. CONINE: I'll move for approval, but I do have a question.

MR. SALINAS: Second.

MR. CONINE: Do we, Ms. Carrington, I think we were concerned about getting these two projects tied together from either a cross-season standpoint or some other legal facility. Did we get that taken care of?

MS. CARRINGTON: Mr. Gouris, would that be a question for you, or would that be for the developer to answer?

MR. GOURIS: Developer could probably answer it better if he is here. Okay. Tom Gouris, director of Real Estate Analysis. We did talk about that, and I think they are going to make every effort to tie the two developments

together as much as possible.

Obviously, they will have two different syndication agreements. They will have common access and ingress and egress easements. They will use -- the common area will have an agreement between the two developments.

They will operate as if they are one development except for the fact they have two different syndications and two different loans.

MR. CONINE: No, I guess I understand the two different syndications and the two different loans. But what I guess my concern was is that we essentially tie the two together in a binding legal document that would make sure that they both could be operated out of one clubhouse, is a for-instance. One public facility.

And it ultimately, when we sell it, when and if they sold these things off, they would be sold as a group instead of individual particular phases. Because that creates some financial concerns, I think, for me.

MR. GOURIS: I think perhaps the developer would be best suited to answer that.

MS. ANDERSON: We have Mr. Kilday.

MR. KILDAY: Hi. Les Kilday, Kilday Realty Corp. Mark Mayfield is actually part of the ownership involved in that too. But Mr. Conine --

MR. CONINE: That doesn't help you any.

MR. KILDAY: It doesn't? Should I have not said that? I am sorry. Yes, to answer your question, there are -- actually the syndicator is the same syndicator. The permanent lender is the same permanent lender.

We are -- cross-easements are being put together right now for both deals. We absolutely are sharing the same clubhouse, sharing the same. The second phase is building a pool that will be cross-easements on that Phase I can share. And we certainly will tie them together as much as we can.

The cross-easements certainly will do that. And I think, Mr. Conine, and I think I saw some information about putting in a LURA. And I just don't know legally what can be put in a LURA on the two deals. But we certainly are welcome to do whatever satisfies the Board.

MR. CONINE: Is it your intent then, if you were to ultimately sell them one day, to sell them as one package? Is that your intent?

MR. KILDAY: Absolutely. I mean, that would be our intent.

MR. CONINE: Is it logical?

MR. KILDAY: Right. I mean, it would be hard to sell, say, Phase II if it didn't have a clubhouse, and didn't have amenities that were needed originally to get the points to get the development done in the first place.

MR. CONINE: Yes. Again, I am not a lawyer, so I can't figure out how to do it. But I was depending on our staff to do that. And if we have reached that conclusion, then I am okay with it.

MR. KILDAY: Okay. Thank you.

MR. CONINE: You are welcome.

MS. ANDERSON: Are we ready to vote? All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. I apologize to Mr. Anderson and the good people that are here from San Antonio this morning. I misread the witness affirmation forms. They actually wanted to speak in a public comment period, not later in the day, at the agenda item.

So we are going to reopen the public comment for the people that are here to speak about Vista Verde Apartments.

Mr. Anderson, would you like to begin?

MR. ANDERSON: Good morning. My name is Ron Anderson, and I am the Executive Director for Housing and Community Services, a San Antonio based non-profit housing developer. This morning we come before you in the public comment section to speak about our Vista Verde I and II project.

This is a combined 190-unit, two projects next to each other, built in the early '80s. We have an opportunity to bring these two apartment complexes up to standards, and to make a number of improvements using tax credits.

I am going to speak to some specific things on the item. However, we have folks from the apartments here this morning that would like to address you. Three ladies who represent the resident council for Vista Verde I and the resident council of Vista Verde II.

Before they speak, though, I would like to acknowledge all of the folks from the resident council and from the departments who have come to express their support of this project. Would you please stand, all of you?

(Speaking Spanish.)

MR. ANDERSON: Gracias. Thank you. So, I will cede to the next person.

MS. ANDERSON: Ms. Carillo?

MS. CARILLO: Hello. Can you hear me?

MS. ANDERSON: Buenos dias.

MS. CARILLO: Okay. Ms. Carrington, council members, good morning. I am Ms. Carillo, and I live in Vista Verde since 1989. And I came to ask for your support on Vista Verde I and II. It needs a lot of repair. And especially on -- the people that are there are elderly and multifamilies with children.

And it needs new appliances, central air, ramps for the disabled. Since I have been there, I am using a fan. I have to buy another one, because it is too much heat upstairs. I live upstairs. But I like it there, upstairs.

So I wish that you will help support this program. We need it real bad. And we need a center for activities for the elderly and the people that live there. Thank you very much.

MR. CONINE: Thank you.

MS. ANDERSON: Thank you. Ms. Gomez.

MS. GOMEZ: Good morning, everybody. Ladies and gentlemen. I come from San Antonio, Texas. My name is Elsie Gomez. I live at Vista Verde as a resident for two years. I represent the Vista Verde I and II Resident

Council.

On behalf of residents, we want you to know that we support the post and accreditation and rehabilitation that your funds will help make it happen. We also need air conditioning and other things on house residents like we need, you know, ramps. We need a center where they can go to get their GED and to get educated so they can have some kind of other skills; computers.

They need some kind of a playground, new playground for the children. They need also a new washateria with a new machines where they can give change.

And things that they could be able to use. And they need also other things like either also ceiling fans, if it is possible.

And also they want carpeting, also -- that there could be help for that, for the project. And on behalf, as I said -- but as for now, all the residents they don't have air conditioning or anything of all those things right now.

We also would like to thank you for your time and support for the funding of Vista Verde. And at this time, I give the rest of my time to Housing and Community Services. Thank you.

MS. ANDERSON: Thank you, Ms. Gomez.

Ms. Rico?

MS. RICO: Buenos dias, mi nombre es Marena Rico.

(Speaking Spanish.)

MR. SALINAS: I think you need a translator for this.

MS. ANDERSON: We went back to public comment, Mr. Mayor, because I goofed. I am sorry.

MR. SALINAS: I was trying to --

MS. ANDERSON: I am sorry. We are just doing -- I am sorry. I made a mistake. They wanted to speak during the initial public comment period, and I didn't know that.

MR. SALINAS: Okay.

MR. SEGURADO: Hi. My name is Eduardo Margolony, and I am the program coordinator for Housing Community Services. And I will be happy to translate.

MS. ANDERSON: Okay.

MS. RICO: Okay. And again, buenos dias. Mi nombre Marena Rico.

(Speaking Spanish.)

MR. SEGURADO: Her name is Maria Rico. She comes representing the residents of Vista Verde I and II and she has been a resident for eight years.

MS. RICO: (Speaking Spanish.)

MR. SEGURADO: She likes to live at these apartments because they are in a good area of San Antonio.

MS. RICO: (Speaking Spanish.)

MR. SEGURADO: They are located very close to doctor's offices, schools, hospitals and doctors and restaurants.

MS. RICO: (Speaking Spanish.)

MR. SEGURADO: The reason she is here is to support the project, and the funding for the project in acquisition rehab building.

MS. RICO: (Speaking Spanish.)

MR. SEGURADO: The funding of these apartments is necessary because they are already over 25 years old.

MS. RICO: (Speaking Spanish.)

MR. SEGURADO: And this will help them live in better conditions, especially being that they are all low-income residents.

MS. RICO: (Speaking Spanish.)

MR. SEGURADO: One of the biggest benefits is that they will get central air and heat, because right now, they have no air conditioning and they have -- to purchase their window units is too expensive for them.

MS. RICO: (Speaking Spanish.)

MR. SEGURADO: Another part of the project that she would really like to see happen is the having a park available for the kids for after school, a community center for the elderly, and maybe like a cafeteria or something where they can have some meal things.

MS. RICO: (Speaking Spanish.)

MS. ANDERSON: Gracias, Senora.

MR. SEGURADO: Thank you for your help and your time and for your help with the Vista Verde renovations.

MS. ANDERSON: That concludes the public comment on that topic. Thank you all from San Antonio for being here. And we'll go back now, Ms. Carrington, to Item 3(a).

MS. CARRINGTON: Thank you, Madam Chair. We are on South Union Place Apartments.

MS. ANDERSON: And I have public comment on this one.

MS. CARRINGTON: If you would like me to go ahead and do my presentation?

MS. ANDERSON: Let's go ahead and do it. Yes, please.

MS. CARRINGTON: This is a 2004 allocation of credits. It was tabled from the April 2005 board meeting. The request that you have before you today does differ

from the request that the Board looked at and considered in April.

Although the facts of the situation are still the same in that the syndicator on this particular transaction has refused to invest in the transaction. They originally had transitional units set aside. They had 31 transitional units set aside.

And what has been determined by the syndicator is that the funds for those transitional units would reduce the basis on the transaction. So the proposal that you see before you today is to substitute 12 transitional units for the 31 that were originally proposed. And these transitional units will be for a period of five years.

At the end of that period of time, those units would still be rent restricted to families who are at 30 percent of area median family income. Staff is recommending that the board approve this change in the application. And the reason we are doing that, is because there was a letter that was sent to the Department on May 9, 2005.

And that letter correctly states that the application would have scored two additional points on the final score if they had received points under 14(b) as opposed to 13(c). The Attorney General's opinion did

change the points on 14(b). It was 14 points. It did not change the points on 13(c).

That was both before and after the Attorney General's opinion. So, you may remember from the staff write-up last month, that this would have been in a tiebreaker and had we had to go to the third tiebreaker, this transaction would have not been the one that was awarded credits.

However, with this scenario of exchanging the points between 13© and 14(b), this transaction indeed would have received two more points, and would have been the winning application in that category, in that set-aside. And for that reason, staff is recommending this change in the application.

MS. ANDERSON: Leaves me speechless.

MR. CONINE: Where are we at in the physical progress of this particular project?

MS. ANDERSON: Do we want to ask Mr. Barineau?

Would you come up and make your comments, sir?

And then after you all hear from Mr. Alexander.

MR. BARINEAU: Well, we have three people signed up. We have three people. My name is John Barineau. And we have two other people signed up to speak. But we don't want to take the time of the Board if

you didn't want to hear from us, but we are available for questions.

With respect, Mr. Conine, to your question, where we are in the development process, we have a financing commitment. We have -- our syndicator has reinstated their commitment subject to this amendment being approved. We have our building permits approved by the City of Houston. We have bought the land.

We are ready to close as soon as possible, pending a favorable action by the Board on this requested amendment. And I would stop my comments at this point.

I believe there is some correlation between the issues of this matter, and the one to be heard next on the agenda. And it might be helpful for us to stand by for specific questions that may pertain to some of the technicalities of it.

MR. CONINE: Is this the one where the building design was in question last time?

MR. BARINEAU: Yes, sir.

MR. CONINE: What does that have to do with the next one?

MR. BARINEAU: Well, the issue that was before the Board on April 7 --

Ms. Carrington, would you rather cover that

point?

MS. CARRINGTON: The connection between the two is that both this transaction and the one after it, received points for setting aside 25 percent of the units for transitional housing. And what has been determined now, the IRS had been fairly silent on whether funds through the supportive housing program were considered federal funds and did indeed reduce basis.

And while I am not sure that the IRS has actually come out with a ruling on this, syndicators are definitely very concerned and do believe that they are federal funds and therefore do reduce basis. And so on both this transaction and the one coming after it, they both have gotten basically, they are being penalized in their basis amount because of this determination by the syndicators.

MR. BARINEAU: Yes, sir. That is the connection for today, which is a new issue that has developed unexpectedly since the question that we raised about our project on the April 7 board meeting. So we solved one problem, we got a new one that is before the Board today, sir.

MR. CONINE: We are going from 30 or 31 units down to 12 for a period of five years.

MR. BARINEAU: Yes, sir.

MR. CONINE: And then we are keeping the 12 at 30 percent or below forever.

MR. BARINEAU: Yes, sir. We were not going to change the percentage set aside for the low-income set-aside and that amount of homeless was set aside.

The 12 for five years works in our numbers as not being a likelihood of reducing basis to the point that we would have a recapture event, by limiting the amount of dollars that we would figure on receiving from that income source. So, sort of a compromise as it were. From totally to leading the homeless to having a reduced amount of it.

MR. CONINE: I can appreciate where you are, and understand the difficulties involved in the process. It is just that it doesn't feel right to me to try to get to go for the points in the transitional housing. And then all of a sudden when you get to an award, and the realization that now I have to make it real, that there is some other rules that come into effect subsequent to the original application period that weren't taken into consideration at that time.

And this sense of fairness kind of hurts me. Again, I appreciate you for where you are in this process.

And obviously you have made an attempt to get close to what you originally thought you could do. But it is not quite there. I mean, obviously 12 units is not 30.

MS. ANDERSON: I think we have another issue that I would like perhaps the staff to deal with. Which is, I am uncomfortable with this whole notion of this sort of tortured process of changing what the points we applied for because we are going to lose the transitional housing points when we drop it to 12 units.

And so now we have got this thing that says that if I would have done this, I would have gotten points in 13(c). And I would like someone from the staff to address our past history on that. Because I maybe I am just not thinking. But I don't remember us swapping points out a year after the fact on other developments. I would love to hear from you on this, Ms. Boston.

MS. BOSTON: We did anticipate this question. Brooke Boston, director of Multifamily Finance Production.

Specific to this application, I do think one thing that is unique about the request relating to Exhibit 13© and 14(b) is the Attorney General opinion, which -- I can do it. Okay. Sorry about that. I think that the one thing that is unique about this situation is at least in one area, is the nature of Exhibit 13© and 14(b).

Because of the Attorney General opinion, had the point structure, as revised by the opinion been known at the time, in this case, I would assume the applicant would have gone for the higher point category for the same source of funding. So in that respect, it is unique. That doesn't change the fact that he is trying to swap out points.

In regard to that, we did do some research to look to see if there are past histories of the board where we have done such on amendments. And we have come up with at least four, where applicants were requesting a point swap out, and the Board did approve those actions. Now in general, those tend to be not to say simple versus complex, but they would tend to be within the same category.

For instance, swapping out amenity points. And I will do these three amenities versus those two amenities. Additionally, the other instances tend to be where a point structure would go down and they weren't necessarily recommending every placement, but in spite of the point loss, they still would have gotten an award. So I don't know if that is splitting hairs or not. But it is a little bit different.

MS. ANDERSON: Well, I mean, in spite of a

point loss, they still would have gotten an award is not what I am concerned about. I am concerned about qualifying for an award by swapping points out you know, a year after the fact. And clearly, when we put 25 points in for -- I think it was 25 points originally for transitional housing.

I mean, that is a big target that makes people want to chase that. And I think that one of the lessons to the Department staff as we enter the 2005 QAP development process is -- and to the Board is -- to use prudence and really think through how these points drive behavior. Because this is when you get an unintended consequence, maybe based on good intentions.

You know, and then we are left to clean up the mess a year later. Your explanation is helpful to me. Thank you, Brooke.

MR. CONINE: Move for approval.

MR. SALINAS: Second.

MS. ANDERSON: I assume we are ready to vote.

All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next item for the Board's consideration is Redwood Heights, a 2004 application. What this applicant is requesting is to remove the transitional requirement, the requirement to set aside 25 percent of the units in the developments as transitional housing. This was worth five points.

And their reason is the same, because the partners supported this would have housing program rental subsidy for the transitional units would reduce eligible basis by that subsidy amount. And they are proposing to substitute. They are changing their income targeting for this particular development.

And by changing that income targeting, it would actually be equivalent to an additional two points on the application when they lose the five points for the transitional. And staff has reviewed this. And staff said it would have not have -- that they would have still received the allocation. And staff is recommending approval.

MS. ANDERSON: Let me just correct the record. They would have received the allocation with the scoring adjustment.

MS. CARRINGTON: Yes. I am sorry. Thank you.

MR. CONINE: Would there have been a tiebreaker

otherwise?

MS. CARRINGTON: No.

MR. CONINE: No? They would have been out of the money?

MS. BOSTON: Brooke Boston, director of Multifamily Finance. They would have, in spite of the scoring adjustment, they still would have been recommended for an allocation. There would not have been a tie that would have put them out of the money. Yes.

MR. CONINE: Okay.

MS. ANDERSON: This says with the scoring adjustment, it would not have been adversely affected.

MS. BOSTON: Correct. It would not have been adversely affected, which means it still would have received an allocation recommendation.

MS. ANDERSON: Well, that is not the way this reads.

MS. BOSTON: Okay.

MS. ANDERSON: So you are saying that if -- then the scoring adjustment is irrelevant, because they would have been in the money anyway?

MS. BOSTON: Correct.

MS. CARRINGTON: On this transaction, that is correct.

MS. ANDERSON: Thank you.

I do have public comment from the developer.
And I am going to mess this name up, Mr. Dayo [phonetic].

MR. DAYO: That is if there is any questions
you might want answered.

MS. ANDERSON: Okay.

MR. CONINE: Move for approval.

MR. SALINAS: Second.

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

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. The next
one for your consideration, Providence on the Park, a 2002
tax credit and bond allocation. And what they are
requesting is to increase the number of buildings from 14
to 18. They changed some of the three story and two
story. City council member requested the change, and
staff is recommending that this increase in buildings be
approved.

MR. CONINE: Move for approval.

MR. SALINAS: Second.

MS. ANDERSON: All in favor of the motion,

please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next one is Madison Point Apartments, a 2002 9 percent allocation. They are requesting a reduction in the number of residential buildings from eleven to nine because of architectural engineering and soil study gradings wouldn't allow the original number of buildings that had been proposed. And staff is recommending that this amendment be approved.

MR. CONINE: Move for approval.

MR. SALINAS: Second.

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

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next one, Forest Park Apartments, a 2003 9 percent allocation, reducing the number of buildings from ten to nine. Required because they were installing a second driveway.

There were some drainage issues. It would not have impacted their allocation of credits, or their being awarded credits. And staff is recommending that it be approved.

MR. CONINE: Move for approval.

MR. SALINAS: Second.

MS. ANDERSON: All in favor of the motion.

(Chorus of ayes.)

MS. ANDERSON: Opposed?

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: Spring Oaks Apartments, a 2004 allocation of credits to reduce the number of buildings from ten to eight, due to some drainage and wetlands issues. Also to reduce the ceiling height from nine feet to eight feet because of some height restrictions in the local building codes.

This would not have impacted this application receiving an award. And staff is recommending the amendment approval.

MR. CONINE: You have got a height restriction in Balch Springs? You would think they would want something as tall as they could get.

MS. CARRINGTON: That is what their request

said.

MR. CONINE: Move for approval.

MR. SALINAS: Second.

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

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: Park Estates. We have noted on this particular transaction that this is detached single-family residences. This was an '04 allocation of 9 percent credits. And what they are requesting is to substitute a two-story building plan for the one-story building plan that was proposed in the application.

And the reason they are requesting to do that is that these units are located within a subdivision and it would create more variation in the building type in the subdivision. This application would have received an award. It would not have impacted materially negatively and we are recommending approval.

MR. CONINE: Ms. Carrington, it was originally single-family. Probably the city thought it was going to be single-family, at least in the design concept in their

discussion with the neighborhood. And now we are going to two-story after the fact without probably any input from the city or anybody else. Are they going to be kind of surprised when they see a two-story building go up?

MS. CARRINGTON: I do not know the answer to that, Mr. Conine.

MR. CONINE: Can we get somebody to tell us?

MS. ANDERSON: Have you completed a witness affirmation form? If you would give the court reporter one after you finish your testimony, sir.

MR. MUSEMECHE: I am Mark Musemeche. I am representing the developer of the project. This is still single-family. We are just doing a two-story, four-bedroom plan versus a one-story, four-bedroom plan.

It is all single-family. It has all been approved by the city. We are just trying to create a different elevation and character in the neighborhood.

MR. CONINE: So each of the units will be detached?

MR. MUSEMECHE: Yes.

MR. CONINE: Okay.

MR. SALINAS: Have they had public hearings on the building process?

MR. MUSEMECHE: Yes, we are under construction.

It has all been approved. We are just trying to create a different variation and elevation. They all basically look the same, the application. Also there are a few small lots that were unique when the plat was done.

MR. CONINE: Right.

MR. MUSEMECHE: So we tried to get a smaller footprint to fit the lot as well.

MR. CONINE: Okay. So it is not two-story garden apartments.

MR. MUSEMECHE: Right.

MR. CONINE: It is two-story single-family detached, ten or 15, 20 feet between each unit.

MR. MUSEMECHE: Yes.

MR. CONINE: Move for approval.

MR. SALINAS: Second.

MS. ANDERSON: All in favor, say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Thank you, sir. If you could just fill one of those out, it would be great.

MS. CARRINGTON: Stratton Oaks Apartments, a 2004 allocation of 9 percent credits. They are requesting

to substitute all electric utilities as opposed to gas heat that had been originally proposed. They note that this would increase the utility allowance for a one and two bedroom by \$3.30 and a three bedroom by \$4.40.

They are also requesting to substitute eleven two- and three-story buildings for the 13 two-story buildings that were originally proposed. And their reasons for doing this were to offset the significant increase in development costs because of unfavorable soils that were found on the property, and a requirement that there be a fire sprinkler system installed.

This would not have negatively impacted the award. And the staff is recommending the amendment.

MR. CONINE: Did we re-underwrite based on higher costs and lower rental income?

MS. CARRINGTON: The underwriting re-evaluation notes that there is no change from the original underwriting recommendations or conditions.

MR. CONINE: Move for approval.

MR. SALINAS: Second.

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

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next for your consideration is Pineywoods Community Development single-family homes. This is a 2004 9 percent allocation. And what they are requesting, what this applicant is requesting is to substitute seven lots that were originally identified for other seven lots within the subdivision.

And they tell us the reason, the need for doing this was due to platting issues on the seven lots that they identified. This would not have negatively impacted the award, and staff is recommending the approval of this amendment.

MR. CONINE: So moved.

MR. SALINAS: Second.

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

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The Sunrise Village Apartments which was a 2002 allocation, correcting the size of the

clubhouse. There have been several square footage notes, and so we are -- it is as built now. And that is about 2,500 square feet. Also change the number of buildings from five to four.

It is necessary to allow for proper positioning for some drainage easement, to substitute computer facilities for a public telephone, and to revise the rent restrictions as indicated in the table that is included in the board book. These changes that they are requesting would not have negatively impacted this development for an award, and we are recommending approval.

MR. CONINE: So moved.

MR. SALINAS: Second.

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

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. If I can just note for the record that Mr. Gonzales, Vidal Gonzales has joined us.

MR. GONZALEZ: Thank you. So I am late, but sometimes we have got to take care of the day job, so we can better serve the great State of Texas.

MS. ANDERSON: That is right. We are glad you are here. And I also want to note, and I don't know if I am just not seeing him, but earlier this morning, Mr. Mike Gerber from the Governor's Office was here.

MS. CARRINGTON: Long gone.

MS. ANDERSON: Long gone. Okay. Well, they are still in session. He made an appearance. So we are always happy to have representatives from the Capitol complex here with us for our meetings.

MR. CONINE: Five-minute break?

MS. ANDERSON: Yes, we can do a five-minute break. We are going to take a five-minute break.

(Whereupon, a short recess was taken.)

MS. ANDERSON: If I can ask you all to take your seats, please. We will come back to order, and I am sure the mayor will be right back shortly, but we do have a quorum.

MS. CARRINGTON: The next item for the Board's consideration is Item 3(b). And this is requesting an extension to commence substantial construction for the Manor at Jersey Village Apartments, which is a 2003 allocation. And staff is recommending that this extension be granted, and this extension will go to actually, it is April 26, it is already done.

MR. CONINE: So what if I don't want to approve it?

MR. SALINAS: Yes. Exactly.

MR. CONINE: Move to approve.

MR. SALINAS: Second.

MS. CARRINGTON: Thank you. I am sorry.

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

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next group, Item 3© there are 33 requests for extension. All of these are related to the closing of the construction loan. They are all 2004 tax credit allocations. The deadline for closing that construction loan is June 1, 2005.

All of these but one extension request were timely filed, and the one that wasn't timely filed was filed a couple of days late. All have paid their \$2,500 fee. Staff is recommending that they be granted the length of time that they are requesting. And that ranges from June 30 to September 30.

There were a couple of them that were

requesting the extensions just as a little bit of insurance. Like they were going to close the construction loan by June 1, but wanted a little bit of extra time if they needed it.

And as we looked at these requests, because certainly this was a large group of requests, they revolved around -- several of them revolved around the approval of a HUD 221(d)(4) loan. That was impacting several of them. USDA approvals. Also there were at least two of them that were doing mixed financing proposals with HUD.

One of them related to release of HOPE VI funding. One of them, issuance of building permits. And then as I have already mentioned, precautionary measures. Staff is recommending all of these extensions be granted.

As I said, the extension that the developer has requested. This is a deadline that we did take out of the 2005 QAP. So you won't be seeing this kind of request for 2005. What I would recommend is that the Board take these as a group. And staff is recommending approval of all 33 requests for extensions.

MR. CONINE: Move for approval.

MR. SALINAS: Second.

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

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: I assume that the people that
wanted to testify to this item are satisfied with the
action the Board just took.

MS. CARRINGTON: Item 3(d) for the Board's
consideration is the request for additional 4 percent
credits for tax-exempt bond transactions that have
previously been issued determination notices. All three
of these are rehabilitation transactions.

Two of them were 2000 transactions, 2000
allocations of credits. One of them is a 2001 allocation
of credits. It is cost certification time for all three
of these. And so, of course, it is at that cost
certification time that you do see and they are allowed to
come in and request additional credits, since these are 4
percent credits related to proving up more basis than what
was actually allocated in their original determination
notices.

There are three of them. Silver Leaf
Apartments has requested \$41,159. We are recommending --

we are actually reducing that by \$12,358. Santa Marie --

Mr. Gouris? We are recommending \$41,159 for Silver Leaf. Is that correct?

MR. GOURIS: That is correct. They requested \$53,517, but we are recommending \$41,159.

MS. CARRINGTON: Santa Marie, we are recommending \$30,624. They were asking for \$56,033. And on the last one, Robinson Waco apartments, they requested \$24,603 and we are recommending \$24,603. We have gotten comfortable with their requests on the rehabilitation and on some of the acquisition.

But the ones where we did not recommend the full amount that the developer is requesting related to issues that we still had with the acquisition basis. So with that, as you see, we have Mr. Gouris, whose Real Estate Analysis division has underwritten these developments. And he is available for questions.

MS. ANDERSON: As I have done with one of the developers here before, I am going to excuse myself from these proceedings and ask Mr. Conine to take over.

MS. CARRINGTON: Then Ms. Groneck will -- Ms. Hernandez will find our quorum.

MS. ANDERSON: You can go ahead and have your discussion.

MS. CARRINGTON: Okay.

MR. CONINE: Is there any -- I have got three witness affirmation forms here. Chris Finlay. Do you want to come up and speak to the issue?

MR. FINLAY: I will try and be very brief. Basically, we appreciate all the work the staff has done on this matter. And we have a very difficult project here that has taken a substantial cost overrun.

I have invested a considerable amount of personal funds into this transaction, and the remaining debate is an issue of the value of the land. We have two MAI appraisals. One came in at a value of \$1,210,000. The other came in at \$1,180,000. And the staff are recommending a land value of \$1,462,000.

So we are just requesting that the land value be -- I mean, pick the highest if you want. But whatever the MAI appraisal came in at, and then we get the additional eligible basis. The project desperately needs it. And we would appreciate your consideration.

MR. CONINE: Okay. Thank you.

Any questions from the Board?

MS. ANDERSON: Mr. Finlay, you might identify which one of the transactions.

MR. FINLAY: Oh, I am sorry. Silver Leaf

Apartments.

MS. ANDERSON: Thank you.

MR. CONINE: Mr. Gouris, do you want to comment on his comment right quick?

MR. GOURIS: Tom Gouris, director of Real Estate Analysis. The methodology we used previously would have been to take the land value and subtract it from the -- or the building value and subtract. Take the lesser of the building value, if we would have just taken the appraiser's building value or the building value that would have resulted from taking the contract price minus the land value. We have determined that that is not a best practice.

And over the course of the last couple of years have shifted and have actually changed our rule to reflect that we will look at the pro rata values based on the appraisal. And that is what we have determined to be the best practice out there in the world of accounting. And that is what we did with this transaction in retrospect, which actually increased the amount of value that was attributed to the buildings.

That our difference of opinion is that if we used the pro rata value or the value that was attributed to which appraisal, the appraisal that was submitted at

the time of the application, the original application, or the appraisal that was submitted with the cost cert which was a posthumous appraisal looking backwards in time as to what the value was. And in both this instance, and the Santa Marie instance, we are looking at the appraisal that was provided at the time of the application because it was agreed upon at that point in time.

MR. CONINE: Okay. Any other questions? The next witness affirmation I have is Steve Sheryuch.

MR. SHERYUCH: Mr. Chairman, directors, staff. Thank you very much for allowing the opportunity to be here today. We appreciate very much the thoroughness of the staff of the Texas Department of Housing and Community Affairs.

I have been involved in tax credits for 16 years, when this original staff was Edwina and Dorcas that handled all of these projects. During that 16 years, I have never come before this Board to discuss an issue about an allocation of tax credits.

The original appraisal that was done on this property was prepared by a group from Dallas. It was part of a five-package purchase with five complexes purchased together. This appraiser has already been taken out by the staff on another one of these projects because of

errors in their report. The report that they did originally had the land mass at 15.71 acres when the actual was 14.5975 acres.

The comparables that they used, they increased the prices of their comparables by up to 38 percent to increase the value of the land on their comparables to come up to the valuation that they put on this property. When we began the cost certification, we realized that the appraisals had errors in it, based on the other errors that this same company had done on other projects. And we went in and had a new appraisal done that did look back at what it was at the same time we bought it, and they came up with a substantially lower value.

We talked to the staff about that, and the staff stated that they were going to go on the allocation basis of the original appraisal as to the total sales price for allocation. After meeting with the staff, we went back and did a review of all of the tax credit deals that had been done in Austin since the beginning of this agency. In that, we found that the allocation across the Board for all tax credit deals for land was less than 20 percent.

We also found that the maximum value was \$5,000 per door. Then we pulled the tax records and went back

and reviewed what the average cost per square foot was and it was \$1.27 per square foot. We then went to the appraisal district to discuss with them the valuation of the land, because they had a very high value on the land, and a low value on the building. They said they felt the land was worth more, but that was considering tearing the building off.

I asked if they would reduce the land and increase the building, and they said they could not do that, because then they would have to reduce the land on all the commercial, the warehouses and the other space surrounding this property. Having been a CPA for 30 years and practiced before the IRS for 30 years, I realized that the IRS will not even accept the appraisal district's valuation methodologies and audits.

We then hired a third-party valuation firm who went out and did eight comparables based on the value of the land in 2000 and they came up with \$1.35 a square foot. The staff is currently recommending a valuation of the land of \$2.30 a square foot, or \$8,303 per door valuation of land. We are requesting \$1.35 or \$4,800 per unit, which is 22.05.

That puts us higher than any tax credit deal that has been done in Austin on our land cost at the 22.05

percent allocation. Thank you very much for your consideration.

MR. CONINE: Any questions?

Tom? What is the deal with this land valuation issue?

MR. GOURIS: Well, part of the deal with the land valuation issue is that the price of the property went up from \$3 million to \$3.9 million from the time that we originally underwrote it to the time that they have come in for cost certification. And so, part of that increase was attributed to the land on a pro rata basis, based on the original appraisal.

So it does look like that we are ascribing to a higher land value, when in fact we are not ascribing to a higher land value per se. We are ascribing to the pro rata valuation that the original appraiser used. And that is the methodology that we used today. In fact, the result of that increases the amount of allocation to the buildings.

They originally had indicated \$1.845 million for eligible basis for the buildings, and they have come in at \$3,040,000 for allocation for acquisition of the buildings. And we are at \$2.4 million. So we have increased on a pro rata basis.

MR. CONINE: Okay. The last one I have got is Rudy Robinson.

MR. ROBINSON: Good morning. I have been in Austin since the 60's and I have been practicing over three decades in Austin, performing real property, including market studies for this Agency for about 25 years. I worked with Ms. Carrington when she was just one or two people in the division. So, I haven't done anything recently, and I have never testified before this body to my recollection.

I am the third appraiser that looked at this property recently, retrospectively, back to the date of purchase. And I looked at properties across the board with regard to properties that have been developed and purchased, multifamily properties with varying types of densities. Anywhere from eight units per acre, to 36 units per acre. And price per developable unit is the way that we have traditionally looked at properties in the Austin area.

In order to get the 2.30 a square foot, or \$8,000 a unit allocation, you have got to be a high density project. Over 18 units per acre, and you have got to command over \$1 per square foot rents. Developers just will not pay on a low-income housing credit deal more than

\$5,000 per door. Particularly when you consider a site like this, which is only 12 units per acre density, below a freeway, on a limited access location, with poor visibility.

I looked at -- briefly this morning, I just got to see the first appraisal and saw the factual error, that he missed the value of the site by more than an acre, or about 7 percent. Which occurred, based on his numbers, over \$100,000 mistake in the appraisal. Then he manipulated the comparables by 38 percent, 35 percent of which was a subjective, unsupported location adjustment on a property that had superior location, not inferior location.

He adjusted them back-asswards, pardon my French. But I wouldn't put too much weight on the first appraisal. I put \$1.35 a square foot on the property. Looking at the range of sales that I had to work at, that I analyzed from 1998 to 2001 that range from 69 cents a square foot of land area to \$2.02 a square foot, that was the highest end of the range.

The three most comparable properties, as far as development density, size of the project, relative location, ranged from \$1.31 to \$1.36 a square foot. And I correlated to \$1.35 a square foot or \$4,886 per dwelling

unit, which I believe is well within the midpoint of the range of the properties that were competing with this site in this geographic location at that point in time.

MR. CONINE: Okay. Any other questions?

Tom? Back up again. Am I to assume that the difference between the amount recommended and the amount requested is all attributable to this appraisal malfunction?

MR. GOURIS: Yes, sir.

MR. CONINE: In both cases?

MR. GOURIS: Yes, sir.

MR. CONINE: And this doesn't strike me as something we have seen before very much here. Can you tell me, is it because the development cost, and the construction costs were in excess of what they originally thought, so the only way to get the basis up to drive the land value down? Is that what we are doing?

MR. GOURIS: They have given reasons for why they have provided a second appraisal, and some of them are compelling. I am not going to suggest that it is just to get the cost --

MR. CONINE: No. But I mean, 4,000 a unit versus 8,000 a unit makes a lot of sense to me. And it wasn't much \$8,000 a unit dirt moving around in Austin, or

Houston, I would imagine, back when these things were originally started.

MR. GOURIS: Again, you need to look at the whole appraisal, not just the appraisal for the land, but the appraisal for the buildings as well, and determine if that is a reasonable amount for the entire project. And one could question that both in the original appraisal, and in the subsequent appraisals as well.

That those values may have been in the one case, the value was considerably less than what the applicant had indicated he was going to pay for it, and then was required to pay more than he originally had contracted for. And so a new appraisal was ordered after that fact.

MR. CONINE: Weren't both of these new construction projects?

MR. GOURIS: No. These are all acquisition rehab. That is why we don't see this very often, because we don't see a lot of acquisition rehab.

MR. CONINE: Okay. Thank you. That is all the public testimony that I have on Item 3(d). Any other questions for the Board? Do I hear a motion? Maybe I don't.

MR. SALINAS: The recommendation is to approve,

no?

MR. CONINE: I think the staff is recommending that we approve the recommended amounts of the three amounts shown here.

MR. SALINAS: I move.

MR. GONZALEZ: I second.

MR. CONINE: There is a motion and a second on the floor to approve the recommended amounts. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor, signify by saying aye.

(Chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries. Item 3(e).

MS. CARRINGTON: As Ms. Anderson is coming back for 3(e), the Board needs to put up their board book and pull out the appeals book.

(Crosstalk.)

MS. ANDERSON: Tom, maybe you all need to move outside, please. For our audience's information what the board is going to be looking at are appeals that were both posted with the board book seven days prior as we normally

do. And then our statute also allows for a 72-hour posting for tax credit developments.

So there were the appeals that were posted with the board book seven days prior, which was Thursday of last week, and then there were also the appeals that went up on Monday of this week. And so as you look at your agenda, the order that we will be taking the appeals in this morning are not necessarily going to be the order that are on your agenda. So, we don't want to confuse you, but that is the reason why.

Because we have appeals from two different postings. Also, staff had outside on the table this morning a sheet that looked like this. Mine has got writing all over it now, but this is the order in which the Board is going to be considering the appeals. You have a separate binder, it is right there.

And we will be taking, we have grouped the appeals by category and by number. The first group of appeals that the Board will be looking at are those appeals related to quantifiable community participation. And there are six of those. The second group of appeals that the board will be considering are appeals regarding violations of the two times per capita rule.

The next, there is one appeal regarding

threshold criteria and identity of interest. The next group of appeals is selection criteria, and commitment of development funding by local political subdivisions. And then the last group of appeals has been withdrawn from the board meeting for today. They will be coming back at a later date.

And so that is the order that the Board will be considering the appeals in, and then in development order also. With that, does the Board have any questions of me?

Jen Joyce in the multifamily area is the staff person who is the lead for appeals in our 2005 tax credit round. So Ms. Joyce will be doing the presentations, along with Ann Reynolds who is providing legal support on legal questions related to our tax credit program.

MR. CONINE: The A-team.

MS. JOYCE: Can they hear me in the back if I don't hold the microphone? No? Okay. I will try and hold the microphone. To speed things up, Jennifer Joyce, program administrator with Multifamily Finance Production division.

To speed things up, I am going to offer some detail up front on each category, and then we will go a little bit more quickly as we approach each point item. Hopefully, there will have been clarification beforehand.

You will also note that in front of the first item of each category's tab, so for 05032, you will see that you will have an excerpt of the Qualified Allocation Plan that this has to do with. And that is so for each category.

So for this section of the QAP, it is outlined in your binder. You can take a look at it, if you like. QCP points are required under 2306.6710 of Texas Government Code. As you can see by the length of this section, the QAP is explicit in its requirements. A lender must have been received by the Department by April 1, 2005, in order to qualify for quantifiable community participation or QCP.

If a letter was received by the State, it was evaluated. If it did not meet the requirements of the QAP, a deficiency was issued to the neighborhood organization requesting additional information. To assist neighborhood organizations this year, the Department published a packet that included all information needed as well as a template letter.

This year, we did receive 80 letters, seven in opposition, 73 in support. Fifty-one were eligible. Three received points of zero, and 48 received points of 24, so quite different from last year.

I'll go ahead and address the first item, which

is 05032, Pineywoods Orange development, an appeal which is a rural development in Orange, Texas, Region 5. It is a family and nonprofit development. The letter was from East Town Action Committee.

And this item is a bit confusing and which is why Department staff definitely tried very hard to outreach the neighborhood organizations, as well as the applicant community in terms of education on these items.

So I am going to make it as less confusing as possible.

On April 26, the Department issued a deficiency. The response received did not sufficiently show that the application was on record with the county or state, which is required by the QAP in 2306. In fact, the applicant had requested a list of neighborhood organizations as they detail in their appeal from the county, and the county told them to then go to the city. That was actually to meet a threshold requirement, which is a separate section of the QAP.

The applicant's appeal basically asserts that because the county referred them to the city, that therefore, this particular development should be considered on record with the county. The county itself, in a letter that you can see in your appeal several pages in does not state that: therefore, because it is on record

with the city, that it is on record with the county. This does not meet statute. Nor does the county clerk indicate that it is on record with the county.

Additionally, the QAP requires that a map that shows the development site clearly marking the organizational boundaries must be included. The neighborhood organization did not provide a map that shows the development site as required by the QAP. The applicant's appeal basically says that that information and development site map was included in the application and so therefore, we should consider that.

However, of course, the neighborhood organization was not the one who supplied that information. That was in a separate application for this particular tax credit application. Oh, the map is statutory as well. I thought you were saying app. Pardon me.

The map is statutory as well. Therefore, the Department recommends that we deny the appeal; that the Board denies the appeal.

MS. ANDERSON: I have public comment on this item. Would you like that before or after the motion?

MR. SALINAS: Before.

MR. GONZALEZ: Before.

MS. ANDERSON: Mr. Dowler.

MR. DOWLER: Good morning. My name is Doug Dowler. I am general partner of Pineywoods Oak Town Limited Partnership, the developer of this project in Orange, Texas. It is true what staff has told you here, but I think we need to hear the rest of the story.

As far as the qualifying application, it lists a May 17 letter from Joanne Vance, county clerk from Orange County. It states in her first paragraph there that it is the policy of the county that for neighborhood organizations to be registered, that they do be referred to the City of Orange for registration. Since that was the statement in that paragraph, that is why we assume that we were therefore registered with the county; because it is the policy of the county to refer them to the City of Orange.

As far as the second part, concerning the map, the map was included with the original application which was submitted on March 1. It was a map that not only showed the boundaries of the neighborhood organization, but it also showed the development sites. This is a scattered site development. There are 36 sites. All 36 sites are within the boundaries of the neighborhood organization.

Upon the issuance of the deficiency, which the Department sent to the neighborhood organization, the neighborhood organization did submit a map back to them, which did delineate the boundaries of the neighborhood organization. It did not show the development sites on there.

So in their best attempt to satisfy the Department, they sent a map showing the boundaries of their organization. In our application on March 1, the sites were clearly marked that they were within those same boundary marks.

MS. ANDERSON: Any questions?

MR. CONINE: So Jen, if I could ask a question of you. The statute says that the documentation has to reside with the county or the state. You went to the county. The county says go to the city. Right?

MS. JOYCE: Correct.

MR. CONINE: And he turned in, which at least logical for me that if the county doesn't want to mess with it, and they want to defer it to the city, then by inference they have dealt with it, by delegating it to the city within the boundaries of the county. Now, I can get over that particular hurdle. Does the map qualify based on the statute, that he submitted with his application, or

not?

MS. JOYCE: May I also clarify on your first point?

MR. CONINE: Sure.

MS. JOYCE: There are two requirements that kind of deal with neighborhood organizations or aspects of the community that deal with neighborhood organizations. The first is that threshold requirement.

What the applicant is talking about is that the threshold requirement to notify all neighborhood organizations that are on record with that particular city and/or county must be notified as applicable. This letter, when they went through the county, and were told to go to the city for that list of neighborhood organizations is what they are referring to.

On May 17, the county clerk did write and say that there are no records of neighborhood organizations in either the City of Orange or county that are registered with the county offices. And that is in your appeal packet. So it was staff's determination that this basically said that it is not on record with the county. And in terms of you --

MR. CONINE: I can understand that.

MS. JOYCE: Okay.

MR. CONINE: You know, counties don't have a whole lot of infrastructures to deal with neighborhood associations.

MS. JOYCE: Correct.

MR. CONINE: So, I can understand them saying you know, go to the city and see if they have got you in there. So because it didn't reside with the county, the fact that he went to the county first and they got a blank, would tell me that -- they blanked there, and said go to the city -- would tell me that he had at least satisfied that requirement that he went to the county.

MS. JOYCE: Correct. And I will just reiterate that statute does require that it is on record with the county or state. We did also just as a subsequent item provide all neighborhood organizations an opportunity to get on record with TDHCA this year as well. And that was provided in the neighborhood packet, that we did post to the website and publish.

MR. CONINE: Right. That was the December 1 date?

MS. JOYCE: I am not -- March.

MR. CONINE: March 1, date? Okay.

MS. JOYCE: Oh, by March 1. I thought you meant the posted date. I am sorry.

MS. ANDERSON: But in this packet where you gave them the sample letter and all the rules and stuff, you said, was there something in there about needing to be registered with the county or state, and how to go about registering with us, to satisfy the state requirement?

MR. SALINAS: I thought we had made that precedent, see. That it has to go through the county clerk, or the State of Texas. Not through the city. I thought we had an understanding that they had to go to the county clerk to get certified.

MS. JOYCE: The requirement is that the neighborhood organization is on record with either the county or the State.

MR. SALINAS: Yes.

MS. JOYCE: This particular organization is not on record with the county or the State, but they are asserting that because they attempted to go through the county, and they referred them to the city, that that therefore makes them on record. Which is not what the county clerk letter seems to indicate.

MR. SALINAS: That is right.

MS. JOYCE: To further answer your question, Ms. Anderson, yes, we did provide that guidance in our neighborhood release. We did let them know of the

opportunity to become on record with the State as well as the county and State requirement.

MS. ANDERSON: Okay.

MR. DOWLER: I think that it is certainly up to interpretation.

MS. ANDERSON: Sir, what we don't want to do, and you are welcome to stand up here in case the Board has more questions for you. But I respectfully ask that we not get into a position where the applicant is debating the staff or the Board.

MR. CONINE: Let me ask the applicant a question.

MR. DOWLER: Sir?

MS. JOYCE: I still haven't answered your statement.

MR. CONINE: I know. And we'll get to that in just a minute. Knowing that the community neighborhood organization needed to be registered with the county or State back when you were putting the application together, and knowing that you went to the county and they weren't registered with the county, or the State, or TDHCA, why didn't you get them to do that? At least register with us, way back?

MR. DOWLER: Well, we went back, if you look in

your packet, on December 27, you will also find a letter there from Orange stating that for information on any neighborhood organization in the City of Orange, which are on record with either the county or the State of Texas, I refer you to Jay Ferguson, grants planner with the City of Orange. We were doing what we were told from both the county and the City as to register and found the neighborhood organization. And once we went through that process, then we thought we had complied with the requirements.

MR. CONINE: Well, the problem with the county or the city telling you what to do is that they don't write the QAP. We write the QAP.

MR. DOWLER: I understand.

MR. CONINE: And if you knew that the rules of the game said that that had to be registered with the county or the State, and you knew the county was saying uncle, I don't want to mess with it, then you would have thought that the East Town Action Committee would have registered with TDHCA at the appropriate time.

MR. DOWLER: Well, I think that you know, the county was under the impression that they were registered with the county by being registered with the city. That was what they were saying. We complied with them. You

know, what is registered with the city is registered with us as far as we are concerned.

MR. CONINE: Let's get back to the map for just a second.

MS. JOYCE: Yes, sir. In their deficiency, they definitely do have a map and clearly outlined boundaries, but the site was not indicated in that map. And that is also in your appeals packet midway through.

It is the only map in there labeled Orange, Texas. It is basically -- what is not in there is the highlight. They gave the map of Orange, Texas. They highlighted boundaries but did not include the development site.

MR. CONINE: But I thought you testified that the site was located on the map.

MR. DOWLER: We submitted in with our application on March 1, a map that clearly indicated the boundaries and the sites with our application on March 1. This was in response to their deficiency letter of May.

MS. JOYCE: Yes, sir. In April, when we issued the deficiency notice. Now if we could just keep in mind that the neighborhood organization is the one writing this letter, and so therefore, we cannot take into consideration anything that was in the application.

We do not go through the application to see if any of the materials that they were supposed to submit were in the application. So two separate packages.

MR. DOWLER: But they did submit a map.

MS. JOYCE: Yes, sir. There was a map.

MR. CONINE: I'm done with the questions.

MS. ANDERSON: Mr. Gordon?

MR. GORDON: While I don't like playing a game of gotcha, I am reading the QAP to say that it is insufficient to be on record to provide only a request to be placed on a record. And so that would be my concern with your request to the county, which in turn referred you to the city is that we have to follow our rule here. And I think it says that just a request is not being on record.

MR. DOWLER: They were on record with the city.

MR. CONINE: Move to deny the appeal.

MR. GORDON: Second.

MS. ANDERSON: All in favor?

(Chorus of ayes.)

MS. ANDERSON: Opposed.

(No response.)

MS. ANDERSON: The motion to deny the appeal is approved.

MS. JOYCE: The next appeal is still under the quantifiable community participation. It is 05091, Los Milagros. It is an urban/exurban development in Weslaco, Region 11; it is family.

The letter is from Center Point Resident's Council. And this one, the QCP points awarded -- or excuse me, the possibility for QCP points this year ranged from zero to 24. Zero being for the most extreme opposition to 24 being quantified as being the most positive.

Each must have had three different reasons in order to qualify for either zero or 24, opposition or support. The letter submitted was eligible, was considered eligible by the Department and was scored as a zero.

The applicant is appealing, because they say that the development site is not within the boundary of this particular organization. This is a residents' council for a development that is owned by a PHA. The applicant asserts basically that the residents' councils are by their own nature site-specific.

The QAP does not limit what are and are not acceptable boundaries for each organization to establish. And the letter did meet the requirements of the QAP, so

we scored it as a zero. And again, we recommend denial of the appeal.

MR. CONINE: Any public comment?

MS. ANDERSON: I have public comment on this.

Mr. John Pitts? Mr. Covacevich?

MR. COVACEVICH: Good morning. my name is Anthony Covacevich. I am the City Manager of Weslaco. Mayor Sanchez and Mayor Pro Tem Cuellar couldn't be here today because they had prior commitments.

But they asked me to attend today to advise you that they support all affordable housing that can come to Weslaco. This appeal by the resident organization came to us as a surprise, because we were not aware that there was a resident organization in that area. We found out yesterday that that organization was created two months ago.

And they did not attend the meeting on March 1, at the City Commission to reflect any comments or any opposition to the project, Los Milagros. I would like to address the concerns that they have listed in their opposition letter.

The concentration of the units, the area that they show in their map is over three square miles. And the concentration works out to about 100 units per square

mile, which we the City don't consider that to be unduly concentrated.

They bring up a point about prime rate. We do not see a problem with prime rates in any low-income tax credit project. As you all know, those are very well managed and very well-secured units, unlike public housing and like housing authorities.

And then the concentration of low-income credit projects in the same area, again, this is privately managed and owned. We don't see that this creates the stigma that public housing authority projects create when they are grouped together in an area.

And then also, the action taken by the City Commission on March 1 to support only one project when two projects had been submitted was due to information provided by the Sevilla Apartment developers, that said the City could only support one project. And TDHCA was only going to fund one project in the City. So we had to pick either one or the other.

That was some misinformation that we got. And we would have supported both projects, knowing that both projects would not compete against each other directly, and that there was a possibility of funding both projects.

We would like to have an opportunity to address

the concerns of this organization. And we would have liked to have recognized this organization as a valid organization. But since Center Point subdivision has been there since 1985, it has never had a resident organization until two months ago.

So, we feel that this was an attempt to discredit this other application which the City of Weslaco, seeing that it has over 300 people on the waiting list for the housing authority, would like to see 128 units be developed in Weslaco. We would like your support on that.

MR. SALINAS: Can I ask a question?

MS. ANDERSON: Yes, sir. Go ahead, Mr. Mayor.

MR. SALINAS: Anthony, the City Council did not support this project on the resolution posted, and there was a motion made by Commissioner Rios and seconded by Commissioner Rodriguez to deny resolution of this project.

MR. COVACEVICH: Yes, sir. Because at that meeting, we were advised that we could only support one out of two. We would have supported both. And we would have also, if we would have known that both had a chance of being funded, we would have supported both.

MR. SALINAS: And then your housing authority is not in support of this project, either. No?

MR. COVACEVICH: Well, the housing authority didn't send a letter to the resident organization of that area. This project is Center Point Subdivision is a home ownership project owned by the housing authority, like the resident organization is the one that sent the appeal. And they were just developed two months ago.

MR. SALINAS: But on March 1, you all approved the resolution not to approve this project.

MR. COVACEVICH: No, we did not. We did not take any negative action on any proposal.

MR. SALINAS: Did your staff see that?

MR. COVACEVICH: The appeal letter says that.

MS. JOYCE: Yes, sir. The appeal letter does contain documentation. And we did subsequently also received a letter from the City of Weslaco that basically indicated, just as he said, that they would have supported both, had they known that both could have possibly gotten an award.

But that they initially did not. They only supported one that did not include this. But they did not actually write this letter for the neighborhood organization. That is separate from that letter.

MS. ANDERSON: One more question. We are kind of mixing up a lot of different issues here. But are

these deals more than one mile apart?

MR. SALINAS: I believe they are kind of apart, and I think the City of Weslaco has been asking for one of these projects --

MS. ANDERSON: I mean, are we in a deal where one of them is going to get knocked out because of a one-mile one-year --

MS. JOYCE: One is rehab.

MS. ANDERSON: One is rehab. Okay. Thanks.

MR. GONZALEZ: Madam Chair?

MS. ANDERSON: Yes, sir.

MR. GONZALEZ: May I? Has the City passed a resolution in support of this?

MR. COVACEVICH: No, sir.

MR. GONZALEZ: Okay.

MR. COVACEVICH: May I qualify that?

MR. GONZALEZ: Yes.

MR. COVACEVICH: Again, it is because we were advised by the housing authority that we could only approve one resolution. One resolution for the agenda.

MR. GONZALEZ: Who advised you of that, now?

MR. COVACEVICH: The housing authority's developers that were at that meeting advised that you all will only accept one resolution.

MS. ANDERSON: He does not mean TDHCA as the housing authority.

MR. GONZALEZ: I understand. Yes. But I was curious as to the individual or the person that actually --

MR. COVACEVICH: Oh, I can go back and look.

MR. SALINAS: You know, it is very hard for the staff to support this, without resolutions supporting the project. And then your tenants within your own housing authority doing this letter of non-support.

MR. COVACEVICH: Well, Commissioner, I don't know how a tenant of affordable housing development would not want more affordable housing in the area for their people. We have questions concerning the validity of that organization. I mean, it is just very weird that they just incorporated or registered two months prior to the project when they have been living in that development that has been there since 1985.

MR. SALINAS: I think what they did, they went out and got this registered with the county, and just decided to oppose your project.

MR. COVACEVICH: Yes, sir.

MR. SALINAS: And they kind of did a good job.

MR. COVACEVICH: I am afraid so.

MR. SALINAS: They did not go to the city, but they went to the county where they where they were supposed to go. You know, Weslaco needs more affordable housing. I trust to that.

But I don't know if you all can reapply again for some tax credits at a later date. But I don't know if the staff would change their mind about approving this appeal. I know that the Weslaco area needs some --

MS. ANDERSON: Mr. Mayor, I think we have several issues kind of in the discussion going on.

MR. SALINAS: Yes.

MS. ANDERSON: That the particular appeal is the applicant appealing the validity of the letter. And we are going to hear comment about that in just a moment.

MR. SALINAS: Okay.

MS. ANDERSON: I think that the comments that we heard from the City Manager to try to indicate verbally the City's support for the development and to address some of the things that were written in the letter of opposition.

MR. SALINAS: Andale. That will work.

MS. ANDERSON: Mr. Pitts. Thank you, Mr. Manager.

MR. COVACEVICH: Thank you.

MR. PITTS: Good morning, I am John Pitts with the law firm of Akin, Gump. True confession, I guess, when I come up here today, is that my mother was visiting with my wife and I a few weeks ago.

And she has -- she is 92 and she has a handicapped sticker. She left it here, downstairs. I had my car parked in a handicapped place with a handicapped sticker hanging on it. I am technically correct. I am technically parked correctly, my car is.

But is technically correct sufficient? Is that handicapped sticker on a car technically correct? Is the letter that you have received technically correct? Yes. It is going by the statute, it is technically correct.

It is nearly identical to another letter by the Sevilla Apartments in favor of what project by PHA, but in our project, it is opposed by the PHA. The

residents' council is technically correct. It was formed on or before March 1. Yes, it was formed the day before. But is technically correct enough?

I have spoken to HUD representatives in Washington, Dallas, and San Antonio this morning. And each one of them, when I asked the question, can a residents' council include an area in its council of three

square miles. And uniformly, they said, why would they? And so, I say why would they, to you. To, as you heard a few moments ago, to oppose another project.

Why would they? Exactly. The letter opposing our project indicates that there was a meeting held of the residents' council. There is another property that I am familiar with that is within the boundaries of this residents' council. I would think that if you had a meeting of a residents' council, that you would give notice to the individuals or the residents within that council area.

The residents of this other apartment project did not receive any notice of any meeting. Nor did they receive any notice that they were now a part of a residents' council. Technically right, but is it enough? We are asking that the 12 points be restored.

MR. SALINAS: So in essence, what they are saying is that this organization is without in the three-mile radius of this project. And the letter is not eligible for us to accept.

MR. PITTS: The proposed project is within the three-mile area.

MS. ANDERSON: I have a question, Jen. Did the letter from the neighborhood organization certify that

they weren't formed by any applicant, developer, or an agent of any other applicant in the 2005 round? Did the letter certify that?

MS. JOYCE: Yes, they did.

MS. ANDERSON: Okay.

MR. PITTS: Nor did they receive any money or gift.

MS. ANDERSON: Okay. And did the letter describe the brief description of the process used to determine the members' position?

MS. JOYCE: Yes, they did. They met all requirements of the QAP.

MR. SALINAS: The letter of the opposition.

MS. ANDERSON: Is the letter this resolution?

MR. PITTS: It is on Center Point Resident Council letterhead. And Madam Chair, that is my point. It is technically correct.

MS. ANDERSON: Well, to the witness's point that if it covers a three-mile area, and the people that were invited to the meeting didn't cover the same three-mile area, does the letter shed any light on how they invited people to the meeting?

MS. JOYCE: The letter basically, my understanding, I think that the point being made is that

their concern is that the boundaries are not correct in the letter. That they assert that those boundaries should not have been stated.

MS. ANDERSON: Right. And I am saying that if -- where I am headed with my personal point of view is -- if they alleged boundaries that look like this, but they call a meeting to discuss this, and they only invite people in a portion of that area, then that doesn't feel to me like a neighborhood organization that is representing the whole area. So that is why I am trying to figure out what is in the letter. I can't find it.

MS. JOYCE: Okay. The letter at the very top, it says Center Point Resident Council, dated April 1. There is a Bates stamp off to the right.

MS. ANDERSON: Yes. Okay.

MS. JOYCE: And actually, I am trying to find the part where they say that. Correct. They say that their process is the petition. That they came to their opposition and their process was signing the petition.

MS. ANDERSON: And they say that 58 families residing at Center Point.

MS. JOYCE: Correct. And if you look at the second paragraph, that is where they establish their boundaries.

MS. ANDERSON: Right.

MR. SALINAS: Are these boundaries within the applicant's boundaries?

MS. JOYCE: Yes.

MR. SALINAS: That is what you find there?

MS. JOYCE: Yes. These boundaries definitely include the proposed development site. They did provide evidence to that effect in the form of a map as well. They met all requirements of 2306 and the QAP. The letter itself did.

MR. SALINAS: To oppose it.

MS. JOYCE: Opposing. Correct. And the applicant is appealing the point award of zero. So the applicant is appealing the points based on a neighborhood organization that they are not affiliated with.

MR. PITTS: We were neither notified that there was a residents' council created, nor were we notified of any meeting that would occur.

MR. SALINAS: Notified your people. Your group.

MR. PITTS: My group, and also an apartment complex, and the residents of that apartment complex nearby within the neighborhood council's boundaries.

MR. SALINAS: Was the City notified of this

meeting? Have you all talked to these people any more about their opposition to this project? Have they changed their mind? Anthony?

MS. ANDERSON: Sir, would you come up and answer that question at the podium, so we can get it on the record?

MR. COVACEVICH: No, sir. We did not know that they existed until we saw the letter.

MR. SALINAS: When was that? When did you see the letter?

MR. COVACEVICH: I saw the letter Tuesday of this week.

MS. JOYCE: May I point out one quick thing?

MS. ANDERSON: Sure.

MS. JOYCE: It is not a requirement that any neighborhood organization meet with the applicant. I just wanted to point that out. Highly encouraged, I think, is the words that we have used in the past.

MR. SALINAS: Does the City have any ties to this organization or the people that live in these projects? This has nothing to do with the housing authority?

MR. COVACEVICH: This is resident organization from the housing authority at Center Point.

MR. SALINAS: Did you all appoint board members to the housing authority?

MR. COVACEVICH: Yes, sir. And we did send a letter, which is in your packet.

MR. SALINAS: What I am saying is, the mayor appoints only?

MR. COVACEVICH: Yes.

MR. SALINAS: And he did not get notice about these board members, his own board members to the mayor are opposed to this project that is coming in to Weslaco?

MR. COVACEVICH: They are in favor of their project.

MR. SALINAS: Do we have an application for the other project?

MS. ANDERSON: Yes. There is another application from Weslaco, and it is sponsored by the housing authority.

MR. SALINAS: In Weslaco.

MS. ANDERSON: In Weslaco.

MR. COVACEVICH: Yes.

MR. SALINAS: And you all are in support of that application?

MR. COVACEVICH: Yes. We are in support of all housing in Weslaco. Not just that one.

MR. SALINAS: Okay. Andale. So, now I can understand this better. It makes it very difficult for us not to change that because the mayor appoints all the board members to the housing authority. And then the housing authority is opposed to a project that the mayor is supporting.

MR. COVACEVICH: That is not the housing authority.

MR. SALINAS: No, I know. But the mayor is supporting this project. Right?

MR. COVACEVICH: Right. But the housing authority is not opposing it. It is the Center Point Residents who submitted the appeal. Not the housing authority.

MR. SALINAS: Okay.

MR. COVACEVICH: Okay.

MR. GORDON: Did you all check the addresses on all these people that signed this? Are they all in the same area, that didn't include the outer area?

MR. PITTS: I am fairly confident, Mr. Gordon, that they are all from that resident's council, that address on the page.

MR. GORDON: Okay.

MR. SALINAS: Is somebody here from the other

side too?

MR. FLORES: I have not signed up to speak, but I represent the housing authority. I am one of those. I will be happy to answer any questions you may have.

MR. SALINAS: I would like to hear what he has to say. I mean, they are appointed by the mayor, and the mayor is in support of this other project.

MR. FLORES: My name is Henry Flores. And my address is 6209 Ledge Mountain [phonetic] Drive. And I represent the Houston Housing Authority as one of their developers. I was representing the Donna Housing Authority, the Alamo Housing Authority, the Rabson [phonetic] Housing Authority and the Corpus Christi Housing Authority. All of them have transactions.

And PHAs are actively looking at other sources of revenues for their housing authorities. Obviously, the federal government no longer is the primary source, and we are looking for other opportunities. I can speak without, unequivocally, that the Harlingen Housing Authority supports any affordable housing, I mean, the Weslaco Housing Authority in the City of Weslaco.

The concerns, as I understand it, by the Center Point association was the fact that there is already a tax credit built right next to them, owned by the same

developer. They own a public housing complex there, they own some land there, and plan to do some additional public housing at some point in the future, and they don't want it patching [phonetic].

They are not opposed to affordable housing. They are very much in favor of affordable housing. We are desperate for affordable housing. Everyone is. Just not in areas where there is already a concentration of poverty. That is not the government, and that is why they are opposed to it.

And we are trying to find the mayor and deputy mayor, because we are somewhat surprised about some of the comments being made by the city manager. It is our understanding that they are not supportive of the idea. We are supportive of all housing, of course. What mayor is not supportive of affordable housing for their community?

They are concerned purely about the location. As far as associations operating outside their jurisdiction, I am the chairman of the Austin Housing Authority. I have been chairman for six years, and I was on the board for seven.

We are doing that very same thing. We no longer are concerned only with our community, because we

realize now our community is a much broader part of the neighborhood.

MS. ANDERSON: I would argue that a housing authority is quite different than a residents' council.

MR. FLORES: The residents' council of a housing authority. But your point is well taken. My suggestion is that here in Austin, we just bought a shopping center, Eastland Shopping Center on Airport Road. That is not our business, but we realize we have to control our environment, and that shopping center was deteriorating very rapidly.

And we felt compelled to control our environment. Not just our property, but the things around us. You have to support the things around you in order to ensure --

MS. ANDERSON: But this is supposed to be a letter from a residents' council, not from the housing authority --

MR. FLORES: Absolutely. And it is that. It is I understand that many residents' councils are now getting involved in activities outside of their properties because they realize that they are the only source of stability for poor families. Not just their poor families, there is no such thing in our communities

anymore. All poor families.

MS. ANDERSON: Thank you.

MR. SALINAS: Thank you.

MR. CONINE: Move to deny the appeal.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion? I just ask the staff as we look at the 2006 QAP, I am very concerned about a residents' council just drawing its own boundaries. I think that is different than -- that causes me concern. So I would like to ask that when we go through the QAP working group process, that we add that to the list of specific things to talk to the entire development community about, and the advocacy community also. And see if we can get some guidance going forward.

MR. CONINE: I would agree. You know, this smells to high heaven. But if it is technically correct, it ties our hands.

MS. ANDERSON: So, hearing no more discussion, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed?

MR. SALINAS: Aye. I would oppose the motion. I just feel that the City of Weslaco, especially this

project has been on the carpet twice. I think it is a big misunderstanding and it just got rumbled between the city council and the housing authority. Weslaco has not gotten anything for years, so I would vote against the motion.

MS. ANDERSON: So you have got that the mayor opposed that motion. Okay.

Thank you, sir. Next.

MR. CONINE: Did the motion carry?

MS. ANDERSON: The motion did carry. So the appeal is denied. Do we have time for one more?

MS. JOYCE: Yes. One more.

MS. ANDERSON: Okay. We are probably going to do one more of these, and then the Board is going to take a lunch break and have an executive session.

MS. JOYCE: Okay. The next is Sphinx at Alsbury 05077. It is in the urban/exurban allocation for Burleson, Texas, Region 3. It is a family development with no set-aside. The letter is from Mistletoe Homeowners' Association.

In response to the deficiency notice issued by the Department, the Department received an e-mail indicating that the southeastern boundary of the area is contiguous to the project, but not within the boundaries. The e-mail also indicated that they did not want to be

involved with the project, and did not provide any other documentation to actually remedy the deficiency.

Basically, they wanted to offer the letter as a letter of support, and not a QCP letter. The applicant's appeal states that the letter "meets the spirit" of the legislation and should be considered for points.

MS. ANDERSON: I have public comment on this. Mr. Agumadal?

MR. AGUMADAL: I will yield my time to Jeff Spicer.

MS. ANDERSON: Mr. Spicer.

MR. SPICER: Good morning. I would like to speak on behalf of the Developer Corporation of Tarrant County which is a nonprofit co-developer of this project. They couldn't be here today, so they asked me to speak.

They worked extensively with the Mistletoe Homeowners' Association, which is the only neighborhood organization in the area. Unfortunately, as a homeowners' association, their boundaries are precluded from having anything else but the single-family homes in their association within their boundaries.

And therefore, because we did not fit within the boundary of the homeowners' association, they felt initially that they could not fall within the technical

guidelines of the QCP letter. However, in working with them, one of the things that we had worked with them on was a number of different easements. Specifically some drainage easements, construction easements, boundary easements, since we did have and share a border with them.

In looking at this, what we found was that technically by the easement, one of the easements that they had granted, we were now technically within their boundaries. The easement is an interest in real property.

One of the easements they granted us was actually within the boundaries of the association.

And technically, that would bring us within the boundaries of the association. And now they could write and be forthcoming with a letter saying, yes, you do fall within our boundaries, which they initially thought was not possible.

MR. CONINE: Any other public comment?

MS. ANDERSON: No, because the other gentleman yielded time.

MR. CONINE: Jen, right up here it says one or more requirements were not originally satisfied? Can you enunciate those, please? Make sure I understand where we are headed.

MS. JOYCE: I have to flip forward in the

packet. I am sorry to see that. The end issues was that the boundary, that the development was not within the boundaries of the development site.

MR. CONINE: And that is state statute?

MS. JOYCE: Yes. It must be within the boundaries of the development site. And they are contiguous to it. You are right.

And then the e-mail that I was referring to is also in your packet, where they approved the project, but do not wish to be involved, nor do they intend to be involved with the application. And looking at the deficiency notice just after that e-mail, we basically asked them to prove that their boundaries contained the proposed development site, and they were unable to do that.

MR. CONINE: I can't make the map, this map that was passed out, line up with the map that we have got in Exhibit B in our packet. The subdivision looks a little different. Quite a bit different, actually.

MR. SPICER: It is larger, it is a little larger than is shown on the map. We can only show the portion that was continuous to the property there.

MR. CONINE: Okay. So it goes on that way?

MR. SPICER: It does go on that way. Yes.

That is correct.

MR. CONINE: And there is no provision in the state statute that says if there is a common boundary, that that neighborhood -- boy, is that a faux pas.

MS. JOYCE: It says, within the development. The development must be within the boundaries of the neighborhood organization.

MR. CONINE: All right. Thank you. Move to deny.

MR. GONZALES: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries and the appeal is denied.

MS. JOYCE: Would you like to do one more? It is kind of similar?

MS. ANDERSON: Yes.

MS. JOYCE: Okay. This is regarding 05250,

Churchill at Cedars. It is an urban/exurban. It is in Dallas, family nonprofit set-aside in Region 3. The letter is from Cedars Neighborhood Organization.

A deficiency was issued indicating multiple items were deficient. That deficiency notice is in your packet. The neighborhood organization responded that they no longer supported the application and even indicated that they were interested in opposing this particular application. We let them know of course, that it was after the deadline, so they could not submit a new letter.

They did not submit any response to the deficiency items. The applicant's appeal asserts that because the rescission of support was after April 1, that the points of support or points for support should be awarded. This however, does not correct the issue, the outstanding issue that the deficiencies have not been submitted and the letter is still ineligible.

MR. CONINE: Move to deny.

MR. GONZALES: Second.

MS. ANDERSON: We have public comment on this item.

MR. CONINE: Okay.

MS. ANDERSON: Ms. Dula?

MS. DULA: Yes, thank you. Thank you for

hearing me. I am Tammy Dula with Coates Perez [phonetic], and I am here on behalf of the developer and the applicant, Churchill at Cedars. This is a Dallas project.

It is an important appeal from the TDHCA's point of view, in my opinion. The question is, is your April 1 deadline a true deadline. If it is, then you should grant this appeal. If it is not, then you are opening yourselves up to indecision concerning the point scores, just like we had last year.

I would like to distinguish this from the prior appeal, in which case the deficiencies had not been cured.

Here is what happened. In the early part of this year, approximately four meetings were held by the developer with the executive committee and the membership of this organization.

A senior member of the housing department staff was present at at least two of these meetings. The council member was at the membership meeting at which a vote was taken on February 25. In its registration letter with the TDHCA, the organization says it has 40 members approximately.

At the February 25 meeting, 38 members were in attendance according to their minutes of that meeting. There was a unanimous resolution to support the

development. A support letter dated March 29 was submitted in a timely fashion. April 1, the deadline for support letters.

April 26, a deficiency notice was sent out; two minor deficiencies. No fax or e-mail address was given and a clarification of the boundaries was requested. In the original registration, a boundary map was given that was a subset of the boundaries that were revealed in the bylaws of the organization. These deficiencies were cured by fax on May 1. A copy is in your book.

On May 4, there was a letter from the president of the organization. He said that the organization on April 28 had voted to withdraw their support. At that meeting, 30 people attended. The vote was 14 to 4 to withdraw the support as compared to a unanimous resolution in February where 38 people attended.

MR. CONINE: What happened to the other 12 that were there?

MS. DULA: Good question.

MR. CONINE: Did they abstain?

MS. DULA: I don't know. This is taken from their minutes. The TDHCA responded to the president's letter by saying thank you, since you have withdrawn your support, this will be neutral. We will award the 12

neutral points.

However, this is contrary to the QAP.

(g)(2)(a) specifically says, letters received after April 1, 2005, will be summarized for the Board's information and consideration, but will not affect the score of the application. The only indication of a withdrawal of support came after the deadline. Is April 1 a true deadline? If it is not, then you are going to have trouble.

Tomorrow, after having been awarded 24 points for a letter, you may well have a community organization withdraw support. How are we going to have any certainty about the scores.

This is a very fluid membership in this organization. There are bylaws saying that if you are 18 years of age or older and you live within the boundaries and you notify an officer of the organization ten days prior to a meeting, then you are a member to that meeting.

The membership changes from meeting to meeting. And we'll discuss that later.

MS. ANDERSON: You are way over. Does someone else want to -- I am sorry. I was involved --

MS. DULA: Yes. I think Mr. Sisk was going to cede to me.

MS. ANDERSON: Mr. Sisk?

MS. DULA: Wherever he is.

MS. ANDERSON: Or Mr. Forslund, yield time.

MR. FORSLUND: He'll be back shortly. Can I go ahead and speak, and Tony will be back down in a minute.

MS. ANDERSON: Yes. If can you wrap up?

MS. DULA: I sure will. We just urge you to follow the QAP. It establishes a deadline. Use that deadline. Don't set yourself up for point issues hereafter like we had last year.

Please restore, give us the 24 points. There are six reasons in the letter, if you look at your letter of March 29. Five of them are checked off by the staff. It is a correct letter. Thank you.

MR. FORSLUND: Good afternoon. My name is Brad Forslund. I am a principal at Churchill Residential. I am speaking on behalf of the Churchill at the Cedars. This is a 150-unit urban closed apartment community. It is located in a neighborhood called the Cedars, which is just south of the Dallas CBD.

This is a neighborhood that has suffered from neglect and disinvestment over the last several decades. In an effort to encourage redevelopment, the City of Dallas established a TIF in the early 1990's to promote

redevelopment. To date, no substantive new construction has occurred in this area.

Churchill at the Cedars -- what we consider will be the first catalyst for redevelopment in the Cedars area, with before sale product and market rate housing to follow. I would like to point out that this development has substantial support by the community and by several politicians. Number one, Senator Royce West, Representative Terry Hodge, City Council member John Loza.

We have got staff recommendation for our TIF proposal. We had neighborhood support by the Cedars Neighborhood Association. And I would like to point out that that was a very methodical process dealing with the facts, going through by detail with the board members as well as 38 members of that organization which at that time, we received unanimous approval for this community.

I would also like to point out that I have a letter that was sent to Brooke Boston from Bennett Miller who has been the most active developer over the last 20 years in this neighborhood, and one of its strongest proponents. And he is strongly in favor of the impact of what this could do for the Cedars.

Outside of the technical aspects of this, I would like to -- I am trying to give you some history and

flavor of what changed through this process. This opposition was the result of two competing developers that have put together a small group of opposition that managed to rally at a board meeting. They managed to accomplish this using an internet chat room and using what I consider NIMBYism scare tactics, and nothing more.

The motives of these developers are disingenuous for several reasons. One, this same developer tried to buy this tract of land on numerous occasions, and was unsuccessful at putting his deal together. And I have got a letter from the seller to this effect that has been sent to Brooke Boston.

Number two, this developer doesn't want this deal because he has got a couple of other small tracts of land and he feels that this does not promote market rate housing in this neighborhood. Three, he has been unsuccessful in obtaining TIF funds. He feels that if we are successful with our development, that this further impairs his ability to attract those funds.

And just to show you further in terms of the lack of integrity of these two individuals, his partner is out now trying to assemble adjacent tracts as arbitrage just in case we happen to get this deal done. In conclusion, we feel that we have broad-based support for

this development.

This development meets a great need for affordable/workforce housing in our urban Dallas market. This transaction should not be derailed as a result of a small group of disingenuous developers who are using a front of protecting the greater good of the Cedars and the City of Dallas when they really are only concerned about their financial interests.

We request the Board to grant us the 12 points for neighborhood support, and due to the complexity of this transaction, that it be forwarded to Underwriting to give us the time necessary to close it within the prescribed deadline. Thank you.

MS. ANDERSON: Jen, do you have something else to add?

MS. JOYCE: I just wanted, based on Ms. Dula's comments, I just wanted to reiterate again that staff's determination was not based on the April 1 deadline. It was actually made based on the fact that all deficiencies were not submitted to us. While an e-mail did clarify some of those deficiencies, and you have that e-mail in your packet, a map was never submitted. So the beginning part of this, we changed the QAP this year, to allow deficiencies so that neighborhood organizations would have

a voice. And they unfortunately did not get all documentation as required.

MS. ANDERSON: They didn't cure their deficiencies.

MS. JOYCE: To cure the deficiencies. So, therefore the letter is ineligible. We did not consider the April 1 deadline in this.

MS. ANDERSON: Mr. Sisk, would you like to make your public comment?

MR. SISK: I am Tony Sisk, Churchill Residential. The issue with the boundaries, the registration letter had some slightly smaller boundaries contained by a few streets. However, the site was clearly marked within both of these boundaries when we received the bylaws, it has slightly different street boundaries.

Again, both can easily contain the site. It was marked that way. But that map was sent in to show the boundaries to clarify that within the time allowed for deficiencies. It was sent, and we have a record of it.

MS. ANDERSON: Sent by you.

MR. SISK: Yes. And we have a record of it. There is nothing in the QAP that says that it has to be sent by the developer, I mean, by the neighborhood group.

MR. CONINE: Response?

MS. JOYCE: I'm finding my place for the QAP. The very first sentence under QCP that you can see flipping all the way back to the beginning of your packet is that points will be awarded based on written statements of support or opposition from neighborhood organizations on record with the state or county, in which the development, et cetera. So all documentation submitted, taken under consideration by the Department is that submitted by the neighborhood organization itself.

MS. ANDERSON: And the deficiency notice was also sent to the neighborhood organization. Is that correct?

MS. JOYCE: Correct.

MS. ANDERSON: With an expectation that the neighborhood organization respond?

MS. JOYCE: Yes, ma'am. And that neighborhood organization, I do not believe is here right now. But correct. They chose not to respond to the deficiency.

MR. CONINE: There is a motion to deny on the floor.

MS. ANDERSON: There is?

MR. CONINE: Yes. I did it early in the game.

MS. ANDERSON: Has it been seconded?

MR. GONZALEZ: It has now.

MS. ANDERSON: All right. Thank you. Sorry for the delay. Any discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion is carried. The motion carries; the appeal is denied. And we are going to go take a combination lunch break and executive session. On this day, May 26, 2005, at a regular meeting of the governing board of the Texas Department of Housing and Community Affairs held in Austin, Texas, the board adjourned into a closed executive session as evidenced by the following:

The governing board will begin its executive session today May 26, 2005, at 12:15 p.m. The subject matter of this executive session deliberation is as follows: the Board may go into executive session and close this meeting to the public on any agenda item appropriate and authorized by the Open Meetings Act, Texas Government Code Chapter 551.

The Board may go into executive session

pursuant to Texas Government Code 551.074, for the purposes of discussing personnel matters, including to deliberate the appointment and employment, evaluation and reassignment of duties, discipline or dismissal of a public officer or employee, or to hear a complaint or charge against an officer or employee of the TDHCA. Consultation with an attorney pursuant to 551.071 of the Texas Government Code with respect to anonymous complaint concerning Southwest Housing Development Company.

Number two with respect to pending or contemplated litigation involving tax credits to Cedar Oaks development, El Paso, Texas. Number three, with respect to pending or contemplated litigation styled Hyperion, et al., versus TDHCA, filed in Travis County District Court.

Number four, other pending or contemplated litigation, settlement offers or matters under Texas Government Code 551.071(2) unknown at the time of the posting. The Board will be moving, so you all may have this room. We will be going to another conference room. So this room will be available to you all.

(Whereupon at 12:15 p.m., the Board met in executive session.)

A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

(1:35 p.m.)

MS. ANDERSON: If I could ask those of you in the back who want a seat to take a seat and we will begin. The Governing Board has completed its executive session on May 26, 2005, at 1:25 p.m. And the action taken in the executive session is none.

And I hereby certify that this agenda of the executive session of the Governing Board of the Texas Department of Housing and Community Affairs was properly authorized pursuant to Section 551.103 of the Texas Government Code; that the agenda was posted at the Secretary of State's office seven days prior to the meeting, pursuant to 551.044 of the Texas Government Code; that all members before were present with the exception of Shad Bogany. And that this is a true and correct record of the proceedings pursuant to the Texas Open Meetings Act Chapter 551 of the Texas Government Code.

Mr. Gordon was not present for the Cedar Oaks item on the agenda. Thank you. So now we will continue with agenda item 3(e).

MS. JOYCE: Would you like me to begin?

MS. ANDERSON: Yes, please Jen.

MS. JOYCE: Can you all hear me in the back?

This is a new microphone? If I speak just like this?

MR. CONINE: No. Is that a new microphone?

MS. JOYCE: No. How about now.

MS. ANDERSON: Yes.

MS. JOYCE: Can you all hear me in the back, if I speak like this? Okay. The next item is 05198, Olive Grove Manor. It is in an urban/exurban area in Houston. It is an elderly development in Region 6.

The letter in question is a letter from the Pine Trails Community Improvement Association. As I have said before, the QAP requires that all letters must have been received by the Department by April 1, 2005. This letter was received on April 4, after the deadline, and therefore was not considered.

The applicant addressed the letter to the Department's P.O. box, as our template outlined. But the FedEx overnight, Federal Express overnight delivery does not deliver to P.O. boxes. FedEx does appear to accept responsibility for the delivery delay. However, the QAP is explicit in its requirement of an April 1 receipt date.

It should be noted that if this appeal is to be granted, then the letter did not confirm that the development site is within boundaries of the organization as required by statute, and we have not issued a

deficiency on it, because it was an ineligible letter. Staff does recommend the denial of the appeal.

MS. ANDERSON: I have public comment on this item.

Ms. Bast.

MS. BAST: Good afternoon. I am Cynthia Bast of Locke Liddell and Sapp and I am here representing the applicant for Olive Grove Manor, which is a senior's community. The developer did work very hard here to engender support within the community and they did gain that support from the Pine Trails Community Improvement Association, which was a qualified neighborhood organization.

The neighborhood organization did prepare a letter of support. Unfortunately, as Ms. Joyce mentioned, they did use the template provided by TDHCA, which used a P.O. box for TDHCA's address. The neighborhood group sent the letter out on March 29 via FedEx and we all know that FedEx cannot deliver to a P.O. box. The package arrived in Austin on March 30 but could not be immediately delivered.

However, it did continue to sit in the FedEx facility on March 31 and April 1. We don't know why FedEx was unable to find the street address for a state agency

for two business days. But they couldn't, and they have actually acknowledged their participation in this delay, via a letter that was submitted to Ms. Carrington.

Ultimately, the letter was delivered on April 4, one business day after the deadline. We are asking you to direct staff to score this letter. We understand the overall rules with regard to scoring letters for the qualified community participation and we are not asking a significant waiver of those rules.

We are simply asking you to waive the April 1 deadline for this extraordinary circumstance where the neighborhood relied on TDHCA's template, which created a delivery problem, that FedEx exacerbated the problem. We hope you will see the equities in waiving this deadline so that the letter may be scored. And if you do grant this appeal, we do request the ability to address the map issue that Ms. Joyce referenced in a deficiency.

MR. CONINE: Any other further comments?

MS. ANDERSON: No, I am sorry. That is it.

MR. CONINE: This is one of those that falls in the gray area for me. And if we gave them an address to send it to, and FedEx screwed up the delivery, and there wasn't a street address on there, and we got it on April 4, which was just a couple of days afterwards, my tendency

is to grant the waiver. It would be just a waiver on the date.

FedEx is a known delivery mechanism and maybe we should look at in the future adjusting our template to give street addresses versus P.O. boxes. So I tend to at least allow this one to go forward and move on. So I would move that we grant the appeal.

MR. SALINAS: Second. It is only a three-day delay.

MR. GORDON: Also, the record shows that FedEx did get it before the deadline, and it looks like there was a weather delay, too.

MR. CONINE: Motion, second?

MS. ANDERSON: Is there further discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries and the appeal is granted.

MS. BAST: Thank you.

MS. JOYCE: We will go forward then and issue the deficiency and considered it an eligible letter as applicable as based on the deficiency response.

MS. ANDERSON: Right.

MS. JOYCE: Okay. 05054 is the next appeal, for Residences at Eastland. It is an urban/exurban area. Fort Worth, Region 3, family. The letter is from the Eastland Estates Owners Association. The QAP defines neighborhood organizations as an organization of persons, plural, living near one another. At this time, this organization is comprised of one person, which is the current landowner, who does not actually live on the property.

The appeal argues that because the lots are not yet sold, then it could not have been more than one person at the time. The staff asserts that this does not qualify as persons, plural, living near one another as the QAP requires, nor reflect the interest of the neighborhood, and therefore does not meet the definition of a qualified neighborhood organization. Staff does recommend the denial of the appeal.

MS. ANDERSON: I have a public comment on this item.

Mr. Algire. Sorry if I messed that up.

MR. ALGIRE: I am Dan Algire with New Rock Development. In order to receive full points on this, the QAP requires that the project be within the boundaries of the neighborhood association. This site is located in the boundaries, and there are no other neighborhood associations nearby that we could adjust the geographical area or the geographical area could be adjusted in order to include our site.

The Association was formed when the land seller subdivided the land, prior to us even approaching him to purchase the property. He sold no lots, so he was the only member.

We do have the support of the neighborhood. We do have support from the city. The city is giving us funds for this project. The local councilperson has given us a support letter. That is not always the case in Fort Worth.

And as I said, we have the support from other entities in the community as well. This was a valid formed association. It was validly formed prior to our being involved in this. It does only have one owner or one member, because there is only one owner of the land.

MR. CONINE: I move to deny the request.

MR. GORDON: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. The appeal is denied.

MS. JOYCE: Okay. That does conclude the QCP portion of the appeals today.

MR. CONINE: Good.

MS. ANDERSON: Excuse me, Jen. I just need to interrupt and make one comment. Right when we came back in from the lunch break in executive session, I did make an announcement.

So for those that may have come into the room after that, we did have an executive session. There was no action taken in that executive session. And that is the report on the executive session.

MS. JOYCE: Okay. The next category of appeals are violations regarding the two times per capita rule, which is Section 49.5(a)(7) of the QAP. The QAP requires

that if a development is located in an area that has more than twice the state average of tax credit units per capita, the applicant must have obtained -- one, obtained prior approval of the development from the governing body of the city and county in the form of a resolution, and have a written statement of support from the governing body referencing this rule and authorizing an allocation of tax credits for the development.

This must have been received by the Department by April 1, 2005. The Department published this list November 2004 in our reference manual and included this as an item of training in the application workshops. The application itself also refers to this section of the QAP.

There were 38 applications affected by this legislative item. There were seven terminations that were issued because we did not receive one or both of the items required for applications affected by this. There are four applications appealing today, all of whom do have city support, but did not submit the required documentation in a timely manner.

I will just note that it is staff's assertion that all QAP deadlines must be enforced in order to effectively and fairly administer this program. While these appeals and others did contain the required

documentation after the deadline, other applicants may not have chosen to go forward, knowing that they could not obtain the required evidence by April 1, 2005.

I also do want to note that in speaking with the applicants prior to issuing the termination notices, each did confirm that they were unaware of the rule at the time, and that is why we received it after the April 1 deadline. Let us go ahead and move forward. I believe, since they are each a separate agenda item, we can't handle them as all four.

So I will address each separately. 05079 is Rio Hondo Village. It is in the urban/exurban area, at risk family. It is in Rio Hondo, Texas, in Region 11. Again, it does have city support. I did receive a resolution passed after April 1, and that was passed on April 12, 2005, after the deadline.

MR. SALINAS: The resolution came April 12?

MS. JOYCE: The resolution itself was actually passed April 12. We received it after that.

MR. CONINE: Can I ask you a question about process just for a second?

MS. JOYCE: Sure.

MR. CONINE: How do developers understand whether or not there is twice the state average of units

per capita in their particular county or city or whatever.
How do they go about getting that information?

MS. JOYCE: Each year, we publish what we call the reference manual. And it is an entire manual that gives them all of the tools to complete their application.

One component of that manual was a list of all areas affected by this particular item, so they would look at the city or area that they were applying under, scroll across, and there is a yes/no box. That would indicate to them that they were affected.

MR. CONINE: And that manual was published when?

MS. JOYCE: November of 2005. And again, out of all the applications --

MR. CONINE: 2004.

MS. JOYCE: I am sorry. 2004. Out of all applications submitted, 38 were affected by this item.

MR. CONINE: Okay. So there was plenty of time between December and March for them to figure it out.

MS. JOYCE: Correct. And the 05079, the one that we are talking about right now, they assert that they were unable to get on the city council agenda until April.

MR. SALINAS: Is the developer here?

MS. ANDERSON: Yes. I do have public comment

on this, when we are ready for that.

MR. SALINAS: Okay. Yes.

MS. ANDERSON: Mr. Felger.

MR. FELGER: Thank you very much. I am Lee Felger of Volunteers for America. When we made application for this property, we wanted to do a rehab with the 9 percent credits tax credits and do an approximately \$625,000 rehabilitation that would include air conditioning. This development does not have air conditioning.

The need is great, and there is only 1,900 people in the town of Rio Hondo. And the city commission does not meet on a monthly basis. When we knew we had a deal, we went to them saying that we needed the resolution. And in March, the city commission told us that they would not be able to give us one by April 1, but they guaranteed us that they would have the resolution passed April 12.

And to a person, they all signed it and they unanimously supported it. I can't begin to describe the need for affordable housing in this town. And it serves elderly and family.

And if it is left to the HUD world which it is in now, 100 percent HUD Section 8, it will go through

mark-to-market and it will get a \$50,000 rehab. What we are proposing is a \$625,000 rehab.

We recognize that we had an April 1 deadline, but we had to work within the confines of what this community could produce. And we think that an April 12 submission of a resolution is a reasonable response, given these circumstances. And we ask for your reinstatement.

MS. ANDERSON: Did you file a pre-app, sir?

MR. FELGER: Yes.

MS. ANDERSON: In June, so by January 1, or 8 -- whatever that date was?

MR. FELGER: Right.

MS. ANDERSON: And when did the scoring on the pre-apps go up on the website?

MS. JOYCE: I don't know the exact date off the top of my head, but it was before the March 1 submission.

MR. SALINAS: Did they know that they had to get the resolution before February?

MS. JOYCE: Yes, sir. They should have known. We did have the resources available to them as of November. We also were sure to address this item in all application workshops.

MS. ANDERSON: So the list of counties and cities that have a two times per capita rule was up on the

website along about November?

MS. JOYCE: Correct.

MS. ANDERSON: Okay. Thank you.

MR. FELGER: If I may add, it is not just an issue of having stuff posted. There is a process that developers have to work with in these communities. Some are more sophisticated and have monthly meetings and some don't.

Some of these places don't have fax machines and voice mail. And it is a real challenge for some of the developers. So I would ask that you keep that in mind as you make this decision. Thank you.

MS. ANDERSON: Thank you.

MR. SALINAS: It is a 12-day delay. I don't know if it does any good to help the community of Rio Hondo. If you all were to consider accept --

MR. CONINE: In a situation like this, does the applicant ever notify the Department that, you know, I can't meet the April 1 deadline because the city doesn't meet until April 12? Does that ever -- I mean, either written or verbal?

MS. JOYCE: That definitely has happened in the past. It did not happen with any of these applications.

MR. CONINE: Okay.

MS. ANDERSON: I mean, my concern is, this is not about restoring a number of points. This is about reinstating of an application that is proposed for termination. So when you do that, then you knock somebody else out, who made all the deadlines.

MR. SALINAS: Exactly. That is why my question was if they knew in February about the deadline. And it is a shame that they didn't meet the deadline.

MR. CONINE: Move to deny.

MR. GORDON: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. The appeal is denied.

MS. JOYCE: The next application is 05149 -- sorry, appeal, El Paraiso Apartments, a rural development with USDA funding in Edcouch, Texas, in Region 11. The appeal indicates the city support, and that they will get

a resolution. However we have not received that resolution at this time. Does that mean I should stop talking?

MR. CONINE: That was a quick three minutes.

MS. JOYCE: The city did not provide the resolution. Excuse me, I should note that the city did provide a resolution in a timely manner for another application in this city.

MR. CONINE: Any public comment?

MS. ANDERSON: I don't think so.

MR. HOOVER: Yes.

MR. CONINE: Here comes one.

MS. ANDERSON: Do I have a witness affirmation form from you, sir?

MR. HOOVER: I think you do.

MS. ANDERSON: I am sorry. Yes, I do.
Absolutely, Mr. Hoover. I apologize.

MR. HOOVER: I am Dennis Hoover. And I am speaking on this 05140 in Edcouch. And I guess that everything that Jen said is true.

We just didn't know we needed this. I am not exactly a neophyte to the process. And the two of us that work on these things, the lady just read the wrong chart, read the county chart instead of the city chart, and

didn't know that she needed it.

We didn't know that we didn't have it, or we didn't know that we needed it until about April 14 or something like that. It was due April 1. And there is not an opportunity for a deficiency period on this.

This is a USDA-financed property. The Region 11 is undersubscribed for that section. It is new construction, elderly, handicapped and disabled. Thirty units, USDA funds are already allocated for this.

And I do have a city council resolution. They met yesterday. No, they met Tuesday, excuse me. And I got it as soon as I could get it. I just -- it was my fault. I realize that I didn't realize that I needed it.

MR. CONINE: Move to deny.

MS. ANDERSON: Second. Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. JOYCE: The next is an appeal for the same

issue, 05200, Hawthorne Manor. An urban/exurban area. It is an elderly development in Freeport, Texas, in Region 6.

We did have minutes that were received that indicated that the city supported it. We also had a letter of mayoral support. However, neither of those items actually were addressing this particular issue in the QAP. The staff recommends denial of this appeal.

MS. ANDERSON: Ms. Bast.

MR. BAST: Thank you. Cynthia Bast of Locke, Liddell, representing the applicant, for Hawthorne Manor, a seniors project in the City of Freeport. I do characterize this appeal as a little bit different than the two you have heard, in which you did not receive the information by the deadline.

In this case, action was taken before the deadline, information was submitted. However, that information was deemed inadequate. Very quickly, the city council met to support this project on February 22, and we do have minutes of the meeting dated February 22 evidencing that approval.

They did know at that time that they were approving a tax credit project. The mayor followed up with a letter of support dated February 23, and that

letter was included in the tax credit application that was filed by March 1. So all of that was in well before the April 1 deadline.

The applicant thought that what had been submitted was sufficient to meet the two times state average rule. And they did not know that the application was terminated until April 29. The termination was based in part on the fact that the letter did not specifically reference the QAP rule, Section 49.5(a)(7).

Upon being told that its expression of support was inadequate, the city council immediately called a meeting for May 2, just three days later, which is pretty incredible, to provide a resolution in yet another letter to try to meet the TDHCA requirements. This does show incredible community support for this particular application.

Now this two times state average rule is statutory. The substance of what must be in the items that are submitted is statutory. We know you can't waive that. However, what we are asking for you to do is basically treat this as a deficiency.

So that because information was submitted before April 1, but it was not adequate, the information that has been submitted now that is, I believe, adequate

can be accepted and it be treated as a deficiency. Also, the statute does not have this particular April 1 deadline in it, so we hope that this can be treated in this manner.

MS. JOYCE: Ms. Anderson, I was just going to note that both of those items that Ms. Bast was referring to definitely were and are available to us. However again, they address support from the city. It did not specifically address this particular rule.

And one could argue that the intent of the rule is actually to make cities aware of the fact that there is a two times per capita issue. And neither the applicant nor the city seemed to think that that was an issue at the time of the required documentation to be submitted. They have since gotten the correct documentation as Ms. Bast indicated, but that is not different from the previous two.

MS. ANDERSON: So what I understand, what I think the distinction is that you are trying to make is, we are not looking for letters of support for local communities. We are looking for letters that acknowledge specifically that they understand that the two times per capita and they are waiving it by letter or resolution or something.

MS. JOYCE: As required by statute. Correct.

MS. ANDERSON: Okay.

MR. CONINE: Was there any communication between the Department and the applicant when they got this letter from the city that says this is a great letter, and we are glad we got it, but it doesn't say what we wanted it to say. Or do we just wait until April 29 or May 2, whatever it was and issue a termination order. That bothers me.

MS. JOYCE: Right. Before issuing any terminations, I did call and speak with each of the applicants that were in question, just to be sure that we weren't missing something in the application. Because if it were anywhere in the application, we were willing to accept it. It didn't have to be in the right place. Or if they had the argument of look at these, look at this particular resolution. You missed this item, please count it. So I did take all of that into consideration. In speaking with Ms. Young for both this and the next appeal, she indicated that she was unaware of the particular requirement. And I told her that yes, we would be terminating the application. The termination didn't go out until after that. But I also let them know ahead of time, prepare your appeal for this, because it is going to be coming down the pipeline.

MR. CONINE: But that --

MS. JOYCE: That was after the April 1 deadline.

MR. CONINE: But the letter came in by the March 1 deadline. Right?

MS. JOYCE: The minutes that they are referring to I have read in the appeal.

Cynthia, do you know if they were in the application? I can't remember them being in the application either.

MR. CONINE: When did we get the letter?

MS. JOYCE: The letter we got with the appeal.

MR. BAST: March 1.

MS. JOYCE: Oh, the mayoral support letter? Yes. We did have the mayoral support letter, but that is a completely separate item from this particular requirement. It did not mention this at all.

MR. CONINE: Okay. I think I have got the picture.

MR. SALINAS: So the letter sends out in March, but no resolution.

MS. JOYCE: The mayor indicated support. There was a city council meeting that was held February 22, I believe. And they passed a resolution stating that they

would support this particular development.

The mayor then wrote and drafted a letter that was included in the application indicating support for this particular project. Neither of those items mentioned the resolution or the mayor letter, this particular issue, which is statute, meaning the two times per capita.

MR. CONINE: Move to deny the appeal.

MR. SALINAS: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. The appeal is denied.

MS. JOYCE: I was just told that there was a withdrawal of 05203, Aspen Meadows, which is the next one.

Okay. Moving on to a new topic, regarding threshold criteria and identify of interests. This is regarding Section 49.9(f)(12) of the QAP. It is for 05105 Zion Village.

And if you will look behind the tab for 05105, you will see this particular section of the QAP. This section of the QAP requires the applicants affiliated with the seller that are asking for the land value to be an amount greater than the original acquisition costs indicated in the original purchase contract, that they submit items outlined in the QAP. One of those items is an appraisal, which must be submitted again by April 1, 2005.

Making a long story short, the application and deficiency responses were clear that the seller was affiliated with the applicant, and the applicant does agree with that in their appeal. A deficiency notice was issued to the applicant stating: provide documentation of the original acquisition costs of all property in the form of a settlement statement.

If you are requesting a land value to be in an amount greater than the original acquisition costs, then you must provide evidence that an appraisal was submitted by April 1, 2005. This particular deficiency was not issued until after April 1, 2005, which was the time that we actually reviewed the application for this particular item.

The applicant did not submit an appraisal by

April 1, 2005, but instead submitted as a response to the deficiency on April 28, 28 days after the deadline. The applicant has not indicated the original acquisition costs, but has implied that it occurred 124 years ago, and therefore, it is impossible to get that actual cost.

MR. CONINE: Years ago?

MS. JOYCE: 124 years ago. This is a church. I am sure they will go into detail about that. The applicant has always included \$400,000 in total acquisition costs in the cost schedules provided, and has not indicated in any sources of funds, or provided any documentation to support the donation or contribution of the land value.

However, the May 18 appeal letter indicates that the property would be donated. This is not supported in the application. If the land was to be donated, the identity of interest issue would be resolved, because the transfer price of the land would be zero dollars.

In other words, it would be less than the original acquisition price, even though it was 124 years ago. Staff does recommend that we deny the appeal on the basis that we did not receive the required appraisal by April 1, 2005.

MS. ANDERSON: I have public comment on this.

Mr. Rick Sims.

MR. SIMS: First of all, good afternoon. I think I was being a little sarcastic with the 124 years interest, saying hey what if it was 124 years old. Anyway, just to make a long story short, to bring you up to date. This happened back in November.

I sent an e-mail that said that there was some concerns with the QAP according to the application and what we were trying to do. Tom Gouris sent me back an e-mail and he said, yes, you are right. That the application is inconducive, and he told me about some adjustments to make, about supportive service building, so that we didn't run into the problem where we was asking for more tax credits than would be allowable.

So, on the application I made the adjustment with the supportive services building and applied for the credits without the 30 percent or the high limit increase.

And in the area where you have the opposition credits, I made the calculation for the support services building without the 30 percent increase. And in the area where you had acquisition, I said, hey, support services building.

Up until that time, because it came up on the deficiency, we have an issue, we thought it was

acquisition credits. We made it clear that it was an acquisition credit issue. But we had donated land, that we said, listen. Whenever the appraisal comes in, 2 percent, according to the QAP of this donated land, of the land, the total land, 2 percent will be donated.

We didn't make that amount. That was in the QAP. So we need to have an appraiser to decide what was the value. There was never an identify of issue. When they got the appraisal, they got the appraisal, and they were thinking, hey, we have got identity of interest. Okay. And I am saying, whoa, that is just to determine the value of the donated land that we submitted at pre-application when we asked for one point.

But then, what happened is, when they brought up the identity of issue, they say, well, it doesn't matter because the land that the church bought from the original. They paid more than what we bought it for.

So therefore, Section 49.9(f)(12) does not count. It talks about when you bought low and sell high. They bought high, they sold low. And so, it is not in the QAP that it is a threshold item.

So they eliminated us on an appraisal that we submitted to establish the value for donated land, and then we didn't have anywhere in the QAP where it says that

you need to provide evidence from the seller that they bought this land at \$50, and they sold it to you for \$25.

So we have total property of \$425,000 that the church bought it, and sold it for \$400,000 and then that doesn't cover 49.9.

MS. ANDERSON: I have additional public comment. Are you going to continue, Mr. Sims? What is your pleasure?

MR. SIMS: Well, I mean, so therefore 49.9 does not apply, so it is not a threshold item. You know, and I mean, that is all we said. But we didn't never get an opportunity when Jennifer called and she said we are going to terminate you.

So we never got an opportunity to address the deficiency. Well, let us know. I have the information, and I will send it to you, and that is that. That is what we were at in that situation.

We didn't think that they followed the QAP and gave us a deficiency, gave us time to file it. The QAP does not say that if you have land that is less than the value that you acquired it, that you have to submit everything. No, it does not say that. No.

MR. SALINAS: You still didn't have an appraisal.

MR. SIMS: No, I don't need no appraisal if you have land that the seller is selling less than what they acquired it, the appraiser is not going to use it. It is not needed. It is saying only if you bought the land for less and then you sold it for a greater amount, then you need A through C.

MR. SALINAS: But your application says you need an appraisal to be able to complete.

MR. SIMS: No. We need an appraisal because --

MR. SALINAS: What she said. That is what she is saying.

MR. SIMS: But we didn't.

MR. SALINAS: Right?

MR. SIMS: We didn't have an issue where an appraisal was a threshold item in the application.

MR. SALINAS: Can somebody answer that?

MS. JOYCE: I think that there seems to be some confusion and there seems to be some in the appeal as well, that an appraisal was needed to find that out, when actually, the appraisal was required because the value of the donated land was known to be worth more than the amount of the original acquisition costs, which was a long time ago. It is not what the appraisal itself says, it is that at the time the land was acquired, is the time that

we are talking about. The appraisal is required so that we can then investigate from there. And that is why we require it by April 1, 2005, to facilitate our review in a timely manner.

MR. SIMS: To the Board, the QAP reads as follows: the QAP applicants apply for acquisition credits or applicant and development team members affiliated with the seller that are asking for land value to be a greater amount than the acquisition cost indicated on the original purchase contract, will be evaluated in accordance with Section 1.32 of this title, and must provide all the documentation described in paragraph A through C of this paragraph. It does not apply.

I do not have land costs. There is original documentation for when they got it. It is \$425,000. They said that the contract I submitted was \$400,000. We never communicated that you -- I have all the original documents you never did give me an opportunity to send to you. You just terminated it.

MS. JOYCE: We are talking about the original acquisition costs.

MR. CONINE: And I am confused here. And that is not unusual for me. When did -- did the church buy the land 124 years ago?

MR. SIMS: No, sir. I made that comment. The purchase of the price, there was one land from 1983.

MR. CONINE: All right.

MR. SIMS: There was another one in -- two of them. One in July and one in September '83. And one of the contracts is in 1995 I believe.

MR. CONINE: Who is the seller here?

MR. SIMS: Greater Zion Missionary Baptist Church.

MR. CONINE: Who is the applicant?

MR. SIMS: Zion Village Limited.

MR. CONINE: Okay.

MR. SIMS: And then the contract --

MR. CONINE: Is there an identity of interest between those two?

MS. JOYCE: Yes.

MR. SIMS: Because L. David Punch, he is a pastor, he is not -- everybody is affiliated. He is just a pastor of the church.

MR. CONINE: Right.

MR. SIMS: And he works with us on the development. So what happened, he signed a document on behalf of the seller, and on behalf of the buyer. And said, oh, we have got an identity of interest. We say

whoa. But it didn't matter, because we knew that when we put the application in that they were just doing their work. It wasn't an issue. We are going strictly by the QAP. The QAP says if your land is greater, you need to have all this. In this situation, it doesn't fit. I am just like -- come up here. If it isn't in the QAP, you say that is how the QAP is strict. We just said, listen.

The QAP is strict, but it does not talk about when you have \$425,000 worth of actual cost and then you put on an application, a pre-application \$400,000. I don't need an appraisal. And then when they gave me a deficiency notice, there was nowhere in the deficiency where they said, well, give me this information on the seller. That was number C. Well, give me the information on the seller, the market analysis, the consultant. Never in the deficiency was there an issue, and it was never there. Because we have the articles of incorporation. We have all the contracts. I complied all the way. I had the number one application. I complied. And then all of a sudden, they said, oh, we got an appraisal, and it is after this date. But it was to establish value because I applied for one point, where it says 2 percent of development costs. It was the \$6 million. That means that the Department dictated that. The land was acquired

for \$10. I put zero on the sales agreement, but I needed to establish value, so I ordered an appraisal. If it would have come out for 40,000 and then that means another 80,000 had to be taken from the application and given so I could just get one point if I needed that one point. Never was an issue.

MR. CONINE: You lost me on that. All right.

MR. SALINAS: Where is our legal counsel? Who is following the QAP? Somebody needs to help us.

MS. JOYCE: May I clarify?

MR. SALINAS: Yes.

MS. JOYCE: I hope I can clarify. In terms of your question about the related party or identity of interest, one, in the deficiency response the applicant did provide a box that was specifically checked saying, yes, this is identity of interest.

Secondly, there was a resolution from a church granting signing authority to Reverend Punch, and that was where we were coming from in terms of establishing that this was an identity of interest. We did issue again, that deficiency notice that said, do I need to repeat it? I think I might.

MR. CONINE: Yes.

MS. JOYCE: Okay. Provide documentation of the

original acquisition costs of all properties in the form of a settlement statement. If you are requesting the land value to be in an amount greater than the original acquisition costs, then you must provide evidence that an appraisal was submitted by April 1.

MR. CONINE: He is saying that he is not.

MS. ANDERSON: He is saying that he is not.

MS. JOYCE: Pardon me.

MR. CONINE: The value was not greater than the acquisition.

MS. JOYCE: Correct. That documentation was not submitted to us. Rather, an appraisal was submitted to us dated April 29.

MS. ANDERSON: So you never got this?

MS. JOYCE: We never got any of this, and in fact, even in his appeal, it was referred to as the 124-year rule, and this is all new.

MR. SIMS: See, no. Because we wasn't dealing with Jennifer.

I am sorry, Jennifer.

MS. JOYCE: That is okay.

MR. SIMS: But what happened, is train of thought, I told you application, we had put in that box, acquisition credit. Barbara Skinner, I am calling her.

We made it clear. No, we are not applying for acquisition credit.

I put the letter that I got from Tom Gouris explaining in detail that I had e-mailed to Brooke. He sent it back to me with a copy to Brooke Boston and Ms. Vittachetti [phonetic] about the arrangement and the mathematical calculations that we were making. That was the issue at hand. The issue on May 12 became an identity of interest issue.

It was no problem to send that information to them, if it was an identity of interest issue. 49.9(12)(c) says send this information about the owner. It is not in the deficiency. They pick it apart, and then come into here, the entirety of the 49.9(12) does not apply to us.

MR. CONINE: When did the deficiency letter go out?

MS. JOYCE: I am sure it is in the packet. I believe it was April 29.

MR. SIMS: Twenty-eight and 29.

MS. JOYCE: April 28 and April 29. I know that Tom Gouris is also taking a look at this application. I am not sure if you would like to hear him speak on it. I would like to know --

MS. ANDERSON: You are saying that you didn't get any of this in lieu of an appraisal prior to April 1.

MS. JOYCE: Correct. And in a conversation that I had with Reverend Punch, I said we did not receive any information that would be able to cure this deficiency. In your appeal to the board, if you are going to have a successful appeal to the board, because the termination was not issued until very late, in order to get on the May meeting, I said you are going to have to be able to prove this up.

What they are presenting now was not in their appeal packet, but it might clear this up. However, we are not supposed to take new items that were not included in the appeal.

MS. ANDERSON: Okay. Thank you, Reverend. I think we would be happy to hear from you, but let's sort of hear from one witness at a time. So if you all want to sort of swap out, that would be great. Thank you.

MR. PUNCH: Thank you, Madam Chair.

MS. ANDERSON: Yes.

MR. PUNCH: Jennifer is correct in stating that she did mention to us --

MR. CONINE: Can you give us your name, please?

MR. PUNCH: Reverend L. David Punch. I am

sorry.

MR. CONINE: Thank you. All right.

MR. PUNCH: Let me just back up a little bit just to first of all say this is our first time to participate in the process. Prior to receiving our termination, our project held the number one spot. And so we were pretty excited about that.

I think the whole issue boils down to miscommunication. I think that Jennifer is correct in stating that the Department in their review wanted to make sure that we were not inflating the land cost. And that we would need the documentation to show that. That is what we have brought, is the documentation.

Then we had to make an appeal to the Board. I was not aware that that information also needed to be in the letter to the Department. But that is what I reference. That we are here showing that the land cost that we were asking for was far less than the actual acquisition cost.

MR. SALINAS: What you are saying is that you didn't get any of this information before April 1.

MS. JOYCE: Correct. Rather than providing that in the deficiency notice as a response, they submitted the appraisal which was dated after April 1.

MR. SALINAS: Do you agree with that?

MR. PUNCH: At the time of the deficiency notice, we were looking at the acquisition credit issue. We got bogged down because, no, we are not applying for acquisition credits. And so because we were not applying for acquisition credits, then we followed the progression of the QAP.

And we said we are not asking for an amount greater than the acquisition costs. So it did not come up until later, just before the termination that Jennifer mentioned, that they wanted to make sure that the cost wasn't inflated, and that they would need that original information.

MR. SALINAS: I think he agrees that there was nothing there before April 1.

MS. ANDERSON: Yes, sir.

MR. SIMS: Ms. Chairman, you know, when we want to make the appraisal a threshold. The QAP says the appraisal may be submitted. It is not the "must" that you apply to the environmental report, and the environmental survey.

It says it may be submitted as a part of D. To come here and tell us today, oh, you have got a mandatory "must," when there is a "may;" that is not the QAP. That

is not the structure of it.

MS. ANDERSON: Thank you, sir. Would you give the chair back to Jennifer so I could ask her a question.

What I think I hear you saying is that it is not about -- it wasn't that we were mandating an appraisal.

We were only mandating appraisal because we didn't know what the land value, the original purchase price of the land was. Because this had never been submitted.

MS. JOYCE: Right. It was kind of an if/then statement in the deficiency request. It was if this, then we need the appraisal by April 1. And we needed that documentation to let us know that, no, the appraisal was not required.

MS. ANDERSON: Okay.

MR. CONINE: But in looking at the April 29 letter you sent him on the deficiency notice, it asks for that information. Right?

MS. JOYCE: Which item are you looking at, Mr. Conine?

MR. CONINE: The April 29 letter. It looks like item 7 here, that is checked off. This is inconsistent with the letter you have provided. The value of the land must total 2 percent of the total in order to

be eligible for these points.

MS. JOYCE: In that in your appeal packet?

MR. CONINE: Yes. It is on our letterhead.

MS. ANDERSON: It is in your deficiency notice.

MS. JOYCE: Oh, okay. I know which one you are talking about. So the one that is dated --

MR. SIMS: The 29th. The 28th. Look at the top corner. I think it is the one on the 28th.

MS. ANDERSON: Sir, if I could ask you to sit down while we are asking the staff questions. We just want to be careful that we are not having witnesses debate staff. If we have another question, we will sure ask you. It's this one.

MS. JOYCE: Oh, the fax heading at the top. This one, you mean.

MS. ANDERSON: It is paragraph 7, volume four, tab 14, Leveraging of private, state and federal resources.

MS. JOYCE: Okay. And you are specifically looking at which item of that.

MR. CONINE: Number seven.

MS. ANDERSON: The one that is starred. It may not be starred on --

MS. JOYCE: That is actually, the item that is

starred is regarding a point. That is what I was getting confused -- I am sorry. That is for selection item. I believe, item 23, just off the top of my head. And it is regarding a points requested.

And I think the reason why they included this in their appeals is because they are saying that they requested points because land was being donated for item 23. And so therefore we knew that there was at least 2 percent of their development being donated. That however, was not the documentation that we had requested, and that 2 percent is obviously not 100 percent of what we were looking for.

In order to qualify for these points, you must have at least 2 percent of your -- what they met it by having 2 percent of their total development having a land donation. And they are saying, I believe, and they might want to clarify it, that because 2 percent of their total development was donated land, we should have therefore known that some of the land was donated.

MR. SALINAS: Was it all the land or just part of it.

MS. JOYCE: This says at least 2 percent of 100 percent of development. However, I will also point out that it is kind of a moot point, because this was not

included in the appeal.

MR. SALINAS: That is why you need the rest of the 98 percent appraisal.

MS. JOYCE: Right. We were asking in the deficiency response and we did not receive it in the ten-day period. That if/then statement we were talking about before.

MS. ANDERSON: Reverend, you did not use all of your time. If you would like to come up and address the Board.

MR. SIMS: Okay. Now --

MS. ANDERSON: I think you did. And we haven't heard from Ms. Jackson yet.

MS. JACKSON: I am deferring my time to whoever.

MR. PUNCH: On the issue that there is a star, yes. I put the star there, with reference to the donated land where there was a point issue. Again, we go back to we have -- we look for opportunities for the Department to clarify to us in the form of a deficiency.

That if it was an identity issue, then submit us that original documentation. We are still having a miscommunication link. Because we are thinking the Department is talking about acquisition credits.

We included in our original application the contracts for the land that was to be purchased by the development. And in that application, there were the donated properties. And we did show a zero value for those properties.

MR. CONINE: I still am confused in that, generally, the identify of interest acquisition is all on an acquisition rehab deal, and not a land and new development.

MS. ANDERSON: Right.

MR. CONINE: And currently land doesn't, you know, factor into the amount of credits on the award. So I am really -- are we saying that we required an appraisal on the land by April 1. And it didn't show up. And we send --

MS. JOYCE: Only if.

MR. CONINE: Only if there is an identity of interest. And so we sent them a deficiency letter on April 29. And it still didn't show up.

MS. JOYCE: Well, it is not only if it is the identity of interest. Are you clear on that? It is if the original purchase price exceeded the amount of acquisition.

MS. ANDERSON: And that is why they didn't need

to give us an appraisal, because it didn't.

MS. JOYCE: Right. Had they --

MS. ANDERSON: But we didn't see this until today.

MS. JOYCE: Right. If I -- let's just assume that all of those documents tell us that the original purchase price was zero dollars. It is a moot point.

We never would have requested the April 1 appraisal, because it would not have been an issue. It would not have been a violation of this section of the QAP. They did not respond to the deficiency by giving us that.

Rather, they gave us a late appraisal. So for us, it came down to the point of -- we are sorry. This was not submitted by April 1, 2005. By that point, the ten-day period had expired. There is no more opportunity for them to come back and say -- and submit subsequent documentation.

MR. CONINE: Ten days after the deficiency notice.

MS. JOYCE: Ten days after the deficiency documentation. In fact, that is when they supplied in the appeal. And unfortunately, Ms. Carrington did not have that in either in reviewing this appeal and deciding

whether or not to grant it. And unfortunately, it is also not included in your board packet.

MS. ANDERSON: Right.

MS. JOYCE: So, I don't know if you would like to say anything to that --

MS. ANDERSON: May I ask Mr. Sims a question.

MR. SIMS: Yes, ma'am.

MS. ANDERSON: Did you just not understand this whole time that when she is talking about original purchase price documents, she is talking about wanting these documents. Did you just not understand that?

MR. SIMS: Ma'am. No, what I am saying is, she is asking me for something that is not written in the QAP. Now, see Jennifer is saying in front of the Board that there is something that is not written in the QAP.

MS. ANDERSON: Sir, if you would answer my question instead of --

MR. SIMS: Okay. We was thinking acquisition credits and the appraisal was to establish the value of the donated land. There was never in our mind that we were dealing with an identity of interest issue where Section 49.9(f) A through C applied to us.

MR. CONINE: Even though you had the same guy sign both sides of the contract?

MR. SIMS: Yes. It wasn't an issue where we had to send in anything under A through C, because the QAP says only for the individuals whose original contract is greater than the amount of what they put on that -- I mean, when it is less.

When you bought low and sell high. Not when you -- it is bought high and sold low. It was written. Yes. It is telling me, okay, I don't have to do --

MR. CONINE: I would think that if I got a letter from the Department, it would supersede what I was reading in the QAP.

MR. SIMS: But the letter from the Department was dealing with, at that point in time, that we clarify that this was not acquisition credit, because I used that form to make some mathematical calculations from a letter from Tom Gouris. That is, we cleared that up in a letter with the deficiencies.

This came into being May 12, when they got the appraisal, they said, oh, it is an identity of interest. I see that he signed this. Okay. You just now came up with a deficiency. Now what? Well, you are telling me wait a minute. I think that don't you give me ten days? And I will give you that information.

Well, they just terminated it. That is where I

think we are having a difference. They are saying since they got an appraisal, an appraisal from my heart to their heart, that was for, in their writing, to establish the value of land. They are going to take that and use it as an identity issue interest and say, oh, you didn't meet threshold. That is not the case.

It is an issue that we believe, wait a minute.

It depends, didn't you give me notification on that issue? Just like everything else in the QAP.

MR. CONINE: I'm still confused. I am professionally confused.

(Pause.)

MR. CONINE: Move to deny the appeal.

MR. GORDON: Second.

MS. ANDERSON: If you will bear with me just about 15 seconds while I read this letter, before I call for the vote, please.

MR. CONINE: Sure.

MS. ANDERSON: Hearing no discussion, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carried. The appeal is denied.

MS. JOYCE: Okay. And if we are ready to move on. There is only three remaining. Don't be intimidated by 15 through 22, because those have withdrawn for this particular board meeting.

So there is three remaining. They are all under the same topic. It is regarding selection criteria and the commitment of development funding by local political subdivisions. Sorry? It is 49.9(g)(5).

Okay. The first appeal is 05033. And rather than going into detail about this particular point scoring item, I will wait on that for the next one, because this one is a little more cut and dried. It is for Waterford Parkplace. It is a urban/exurban development that is family and nonprofit in Longview, Texas, which is Region 4.

The applicant lost six pre-app points because the final score of the application varied below 5 percent of the final pre-app score. So just to refresh your memories, if an applicant is awarded a final score for pre-application, the final application score cannot vary from that final pre-application score more than 5 percent without losing the six pre-app points.

The applicant is appealing the loss of these six points because they believe that the QAP was unclear in its requirements for a particular point item. For this section, the QAP says that applications may qualify to receive up to 18 points for this qualifying item under either both A or B of this paragraph. So, in other words, you can receive a maximum of 18 points for either or both A and B.

The applicant reads this to say that you can get 18 points for both A and B meaning 32 points total. So his pre-application score included a 32-point request for item 5A and 5B when all he was actually eligible for was A and an 18-point request. In the response to the deficiency, the applicant submitted a new self-score which only applied for the maximum of 18 points, and the applicant was awarded those 18 points.

However, because it dropped that 5 percent, we then had to deny the six points for pre-application. I would like to note that there were 78 applications that applied for 5A and 56 applications that applied under 5B and none lost pre-app points because of this interpretation.

This also was addressed in the application workshops. And we feel the language is actually clear in

the QAP.

MS. ANDERSON: Mr. Dowler.

MR. DOWLER: Doug Dowler. I am here on behalf of Waterford Parkplace. Application. Obviously, we disagree that the question in 5A and B is not quite as clear as the staff would like for us to think that it is.

We obviously interpreted the question that you could receive up to 18 points for either A or B or both.

I think we need to be clear on exactly how the question does read. It doesn't say anything about up to a maximum of. It doesn't say anything about that A and B can only total 18 points.

There are other questions throughout the application that do clearly state that there are a maximum number of points available for that particular question. Item 5A and 5B does not state that. Obviously, if we would have known that there was only a maximum of 18 points, that is all we would have taken.

We were present at the workshop. The same question was read explicitly from the QAP where they did say that either A or B or both could score up to 18 points. They never said that there was a maximum of 18 points for question 5A and B.

We understand that, you know, there is only 18

points available. And in the deficiency then, we did make the modification to our application. This particular question deals with the fact that we are receiving additional funding through the City of Longview in the form of funds to be applied towards this project, per unit, or up to 12 points on this application.

We are also applying for and have received project-based vouchers for this project. We could actually, if we had the availability, we could score 18 points for both A and B. We have both things in place.

All we are asking for today is that we realize that we misinterpreted or we interpreted the question differently than what was presented. Therefore, we respectfully request that we just be reinstated our six points pre-app.

MR. CONINE: Any more questions for him?

(No response.)

MR. CONINE: I am going to move that we grant the appeal. Because I don't -- the way that I read it, it is rather confusing if you just read it right out of the verbiage of the QAP.

MS. JOYCE: The first sentence in Section 5 --

MR. CONINE: I am reading it.

MS. ANDERSON: As much as I am loathe or

terrified to do this, I have to express that I have a different opinion. That that paragraph says applications may qualify to receive up to 18 points for qualifying under either or both A or B.

I mean, I think that is pretty clear that it is not 32 points. It is not 36 points. So I just have a different you know, I am a hillbilly from Missouri. Maybe my English teacher didn't do for me what yours in east Dallas did.

MR. CONINE: Well, you're probably right about that. But the facts are that he turned in his application on time, and all the other conditions obviously have been met. And we are not granting credits right now. We are just saying that we will not -- he gets the six points for the pre-app. And it -- just to me, it reads a little bit ambiguous, just from sitting here reading it, because it says either or both. And when you say both, it doesn't say maximum of 18.

MS. ANDERSON: Up to.

MR. CONINE: It says up to 18 for both. I don't know how you got 32. I would get 36.

MS. JOYCE: You know, I might have just done the math in my head incorrectly just now. Was it 30?

MS. ANDERSON: It says 32.

MR. DOWLER: We actually had 30.

MS. JOYCE: Was it 30?

MR. DOWLER: We had 12 and 18.

MR. CONINE: You had 12 and 18?

MS. JOYCE: Maybe it was a total of 30. I am sorry.

MR. DOWLER: Somebody typed it wrong.

MS. ANDERSON: Well, I mean I --

MR. CONINE: I am looking at more of the whole they did turn it in early. They have gone along with everything else. They just scored themselves wrong. I don't see that as a huge criminal offense.

MS. ANDERSON: I don't think it is -- this is all moot if we don't have a second on this motion.

MR. GONZALEZ: I will second.

MS. ANDERSON: Okay. Then we will carry on. I mean, I might be -- you know, try to get into your grammar better if anybody else had had this problem, but they had 78 apply for points under one and 56 under the other, and this is the only one that didn't understand what the language was.

And I am concerned I don't have any idea what region this is in. I have not looked at the 2005 list, so I have no idea what it does to you if you get these points

and what it does to the next guy if you do or don't get them. But you know, again, if I were a development that was knocked out because of this, then I would be fussing at the Board.

MR. CONINE: Nor do I. I haven't looked at any of the lists. And again, the way I read it --

MS. ANDERSON: And I didn't mean to block the chat. So any more discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

MR. SALINAS: Aye.

MR. CONINE: Aye.

MS. ANDERSON: Opposed, no.

MR. GONZALES: No.

MS. ANDERSON: No.

MR. GORDON: No.

MS. ANDERSON: No. The appeal is denied. It is two to three. You, me and --

MR. SALINAS: Get a roll call.

MS. ANDERSON: Okay. Yes. At your request, we shall. Mr. Mayor, how did you vote?

MR. SALINAS: I voted with -- I seconded the

motion. So that would be aye.

MS. ANDERSON: Okay. Mr. Gonzalez?

MR. GONZALEZ: I was against.

MS. ANDERSON: Mr. Conine.

MR. CONINE: Aye.

MS. ANDERSON: I voted nay.

MR. GORDON: Nay.

MS. ANDERSON: So the motion failed on a vote of two to three.

MS. JOYCE: Okay. The last two both have kind of the same issue. I am going to go into a little bit of detail so that perhaps I won't have to speak up as the applicants come up as much. To qualify for points under Item 5B, we are talking about --

MR. CONINE: Do you need a vote to affirmatively deny?

MR. GORDON: I think you need to deny the motion. You didn't grant it, but you didn't deny it.

MS. ANDERSON: Okay. May I have a motion to deny the appeal?

MR. GONZALEZ: So moved.

MR. GORDON: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed?

MR. CONINE: Nay.

MR. SALINAS: Nay.

MS. ANDERSON: The motion carries. And once we make up our mind, we are just right there. Thank you, Mr. Hamby.

MS. JOYCE: To qualify for points under 5B, an applicant must provide evidence that the development will receive vouchers or subsidy from a local political subdivision. That is the key here. That it is a local political subdivision.

Both applications that we are about to discuss received HAP contracts directly from HUD which is obviously a federal agency, not a local political subdivision. I would like to note two things that are noteworthy before addressing these appeals.

The first is that an applicant met with myself and Brooke during our selection review period. She had done an Open Records request and viewed applications and noted that several applications had applied for these

points for receiving HAP contracts directly from HUD. She said that I stated in the Austin workshop that these would not be eligible for points, and she said that she did not request these points because of my guidance.

And she was basically just requesting that can she request the points now. Brooke and I both told her that, no, we will not be awarding points because HUD is not a local political subdivision. It is a federal agency.

And we ensured her that we would go ahead and do 100 percent audit of all applications. I did do 100 percent audit of all of the applications to ensure that we were handling this equitably and across the board.

My second point is that there are two appeals for this item; however, two other applications lost points because they were requesting points for the HAP contracts from HUD. Nine applications also lost these points because they were getting a subsidy from USDA, directly from USDA, which is also not local political subdivisions.

Fifty-six applications requested points for this particular item, which is an 18-point item. And 45 did receive points for it.

So first we have 05118, which is Vista Verde I and II. It is urban/exurban development, at-risk and

nonprofit. It is a family development in San Antonio, in Region 9.

MR. ANDERSON: Good afternoon. My name is Ron Anderson. I am the Executive Director for Housing and Community Services. Thank you for the opportunity to speak on this item. And thank you this morning for allowing us our residents to come in and speak in the public forum. I appreciate that.

My organization has been in the housing business for approximately ten years. And during that time, we have come to the TDHCA under a number of different programs to seek housing funds; under the HOME Program, under the Housing Trust Fund and under preservation funding. And not all of our applications were successful. Some were.

But staff was always very helpful to us in our processes. And having said that, and having set out the issue and the real intent of 5B, I can't help but agree with staff, there is not much to appeal here in that regard. Because it is pretty clear what it means now, which we did not understand.

We came away from the hearing thinking that the HAP funds would qualify. We checked with some folks that had also been at the hearing, and they were under the same

impression. And then we allowed our logic to further sway us, thinking that it is HAP money.

It comes from HUD. HUD chooses to administer this money in various ways. Sometimes through the PHA. Sometimes through the rural folks. Sometimes through individual HAP contracts with a property. So we allowed our logic to convince us that we should apply here.

Had we known that, and been correct, and had the right information, we would have asked for additional points in 5A. 5A allows for points for receiving funding from the city, the local government. We did apply to the City of San Antonio, and we have got a commitment from the neighborhood action department for funding, which we used in the application.

We had also applied to the housing and Community Development department for funding, which we did receive. We didn't use that in the application, because we didn't think we needed the points. That is just an explanation of how we got where we are.

And now that we understand the intent of it, well, I am embarrassed for taking up your time. However, I did want you to know that we had definitely pursued additional funding, soft funding vigorously and we were the only tax credit application that the City of San

Antonio chose to give funds to. So I just want to make sure that hearing your remarks about how many others are in the same category, my concern before coming up here and hearing your report, just to make sure that we are all on a level playing field.

But if some got consideration, I wanted to say me too. Us too. So thank you, and I just -- in the appeal, I know I asked that the funds that were that we had applied for the City, that we get points for those under 5A. Thank you.

MS. JOYCE: May I make just a small comment on that? The applicant did receive 12 points for additional funding that were in his sources and uses. So that is something that we did. If they had multiple sources of funding, if they were applying for whether it be under 5A or 5B.

We did combine those scores as we went along. So they did get 12. This additional funding was not in the application at the time. This was subsequent to their March 1 submission.

MR. CONINE: Move to deny the appeal.

MR. GONZALEZ: Second.

MS. ANDERSON: All those in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

MR. GONZALEZ: No.

MR. ANDERSON: We want to go on record as thanking staff for their help. It has been great.

MS. ANDERSON: The motion carries. The appeal is denied. Las Palmas.

MS. JOYCE: The last one is 05119, Las Palmas, an urban/exurban development which is at-risk and nonprofit. It is family. In San Antonio, Region 9, with the exact same issue.

MS. ANDERSON: Mr. Marquez.

MR. MARQUEZ: Hello. David Marquez for Urban Progress, Las Palmas. Urban Progress has owned Las Palmas for nearly 40 years. And they have a HAP contractor that has been attached to it for that time. I guess basically, Mr. Anderson said everything I wanted to say.

The only thing is, that if you were going to finance a project today, would you want a 20-year contract that we have been given from HUD, or would you rather have a five-year contract from a political subdivision that sometimes goes on the winds of government. So what I would like to do for the future, is to see if staff and the Board in the workshops could give some type of

consideration for HAP contracts.

Because that is truly leveraging and it is truly keeping long term families affordable and not just on public housing authorities that offer project-based vouchers. Thank you very much.

MR. CONINE: Move to deny the appeal.

MR. GORDON: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

MR. SALINAS: No.

MS. ANDERSON: The motion carries. The appeal is denied.

MS. JOYCE: We are done. Thank you.

MR. CONINE: We are done? I still have some more in my book. Oh, all those were pulled.

MS. JOYCE: All those were pulled. Perhaps for next time.

MS. CARRINGTON: They are deferred until next, and they are all the same developer with all the same

item. And he wanted some additional time.

MS. ANDERSON: Okay. All right. Let's move on to item 4A. Okay. All right. So now we are moving on to Item 4A, which is several items here about the multifamily bond program. The first one is an inducement resolution for additional deals.

MS. CARRINGTON: Thank you, Madam Chair. We have two additional applications for the 2005 Private Activity Bond program to go on the waiting list. One is a Priority 2 application, one is a Priority 3 application.

There is a resolution. It is resolution 05030. Our current list of applications that you have induced, we basically have none on the waiting list at this point. They have all received reservations. The Department has about \$42 million of '05 allocation that is still available for reservations.

One development is Canal Street Apartments that is located in Houston as a Priority 2. Providence Place, Phase III, is located in Denton, and that is a Priority 2 application. And staff is recommending inducement. And remember, this is just the first step for the processing of these applications.

MR. CONINE: Move for resolution 05030.

MR. SALINAS: Second.

MS. ANDERSON: Any discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next item for your consideration is the issuance of multifamily bonds for a 2005 private activity tax credit transaction. TDHCA is the issuer on this particular development. It is Lafayette Village Apartments. It is located in Houston. It is actually east and a little north of downtown Houston. It is a Priority 2. It is one, two and three bedrooms. We are recommending an allocation of tax-exempt bonds of \$14,100,000 and credits of \$763,719. And I believe, Ms. Meyer, as we had noted in our write-up on this particular transaction, there were four people in attendance at the public hearing. No one spoke for the record at the public hearing. And the Department has received through general comment and some letters and e-mails, I believe six letters.

VOICE: That was a mistake.

MS. CARRINGTON: Okay. I am sorry. So this transaction has received -- the Department has received no opposition related to this transaction.

MR. CONINE: Move approval of resolution 05031.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next item for the Board's consideration is Item 4(c). The first multifamily to be considered with another issuer is the Langwick Senior Apartments located in Houston.

The Houston Housing Finance Corporation is the issuer on this transaction. And there were three support letters from elected officials. Letters from citizens, and then there were also three letters in opposition.

What the Department is recommending in an

allocation of credits is \$873,610 in the annual allocation of credits. There are conditions to the commitment that are fairly typical conditions of the Department and will be required to be met prior to closing.

MR. CONINE: Move for approval.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next item for the Board's consideration is the Homes of Mountain Creek in Dallas. The Dallas Housing Finance Corporation is the issuer. This is a Priority 1A transaction. The amount of credits on this particular transaction is \$729,317. And that is what staff is recommending. At the time that this went up on our website, we noted that the site is not currently properly zoned for such a development. But that it will, of course, be required to be zoned prior to closing. And

there have been no letters of support or opposition on this particular transaction. I do think it is interesting to note that this transaction will have four walker units in it. Which was part of the consent decree several years ago in Dallas. Staff is recommending the allocation of credits.

MR. CONINE: Move for approval.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next item for the Board's consideration is the Sea Breeze Apartments. Sea Breeze Seniors, which is located in Corpus Christi. And the issuer for this transaction is called Sea Breeze, which is a public facilities corporation. It is a corporation that was created by the Corpus Christi Housing Authority.

And the allocation of credits that is

recommended is \$585,999. There were some environmental issues that were identified in the site inspection on this particular transaction. And the environmental issues that were raised have been researched and resolved. But staff is available to answer any comments or any questions that the Board might have related to the write-up for this transaction.

MR. CONINE: Move for approval.

MR. GORDON: Second.

MS. ANDERSON: I am sorry. Hearing no discussion, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next item was Desert Pines in El Paso. And this particular application has been withdrawn from the agenda for today.

Item 4(d) is an item that many members of the public and many owners of tax credit developments have been eagerly awaiting. The Department's proposal for our qualified contract policy. What we are bringing to the board today is a draft of our qualified contract policy.

If the Board approves this policy today, then this policy will be put out for public comment and we will bring it back to the board.

The Department has collaborated with our tax counsel on the preparation of this policy. We also have researched what other states are doing in regards to the qualified contract process. And this is a process that allows developers at the end of the 15 years to basically opt out of maintaining the development as affordable housing if they follow a certain number of prescribed steps.

This was a requirement that was put into the Budget Reconciliation Act of 1989 and applies to tax credits that received an allocation after January 1 of 1990. So tax credits that were allocated to developments in '87 through '89 had no such provisions, so basically at the end of the 15-year compliance period, they could opt out.

But this was a requirement by federal law that was put in for those allocations after January 1 of 1990.

We are basically following what the states of Washington, Florida, North Dakota and South Dakota have done. And that is putting a worksheet out which would give guidance on how we expect the qualified contract price to be

calculated, but allowing the owner's CPA to certify that for us.

There are other states that have taken a different approach to this. But the policy that we are proposing to the Board today would have the owner's CPA doing the certification on the qualified contract price. So with that, you have a copy of the proposed policy. That is in your board book. And we would be happy to answer any questions.

MS. ANDERSON: Ms. Carrington. This is a draft rule, so that we can put it out in the Register and get public comment. Is that right?

MS. CARRINGTON: That is correct.

MS. ANDERSON: You know this is -- Mr. Garvin. This rule is breaking new ground for the Department. And so, all of the members of the development community in the audience, and those who represent multiple developers, I personally am very interested in public comment on this between now and the time it comes back to the Board. So take a close look at it.

MR. CONINE: Move for approval.

MR. GORDON: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next item for the Board's consideration is Item 4(e). And this is approval of the draft 2006 multifamily bond rules to be published for public comment. These, we will take applications for 2006, for the lottery for 2006 on September 6, 2005.

And so our rules will need to be in effect no later than August 1, 2005, so developers can make their plans based on the rules of the Department. There were several changes and amendments to these rules. And the copy that you do have in your board book is black-lined against the 2005 rules.

Some of the changes that we have made is that if in the 2006 QAP that it contradicts bond rules, that the QAP will override the bond rules. It gives the Department staff the ability to not to recommend an inducement on a bond transaction, on an application.

So, that is the very early stage that you all

look at this. But we could not recommend for good cause.

It includes language to include not only applications for the lottery but also for the waiting list. It updates these bond rules to be consistent with the 2005 QAP in several areas.

It increases points for acquisition rehab. The current points for acquisition rehab are ten. It would increase those points to 30. And it also adds, if I remember correctly another category, and that category is an additional 13 points if it is acquisition also. Ten. Thank you. It is ten points.

And then that is the preservation of affordable housing units. So with that, we present to you our draft '06 multifamily bond rules. And we welcome any questions.

MR. CONINE: Do you mean there is not a bill over at the Legislature to get rid of the lottery?

MS. CARRINGTON: No, sir.

MR. CONINE: So we can't do this again? So moved for approval.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say

aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: Item 5(a) is being withdrawn.

You will see Item 5(a) at the June board meeting. Item 5(b). This is the creation of a new program for TDHCA. What we are presenting to the Board today for your comment is the program design for our Colonia model subdivision program.

The requirement, the legislation for this program was originally passed with the 77th Legislature. So that was the 2001 Legislature. And at that point, that was when the Texas Department of Housing and Community Affairs still administered the CDBG program. And so when this program was created, it was created with the intent that there would be a revolving loan fund.

And that that revolving loan fund would be used to fund a model subdivision program. As you all know, of course, CDBG was moved to ORCA. And what we are proposing to the Board today is a program that is slightly different, and it is a program designed from what our legislation states.

Because again, CDBG was moved. And we are looking to use the HOME Program as a funding source for this development. And also partner with what ORCA has already done in this regard. ORCA has used dollars to create, to do infrastructure and developments along the border, in colonias along the border.

And so my staff has been meeting with ORCA to determine how we could combine or work with what ORCA had done and try to meet the intent of our legislation. So there are some areas along the border where ORCA has put the infrastructure in.

And so what we are proposing to do is use HOME funds that would be used for the development of the housing in these areas where the infrastructure has already been created. So this would be some single-family development on the part of TDHCA on a fairly small scale initially to get us started. So we are proposing to the Board that we move forward with this proposed program design.

MR. SALINAS: Would that include forcing counties to upgrade and forcing developers to come up with the model rule subdivisions, and not create enforcement of illegal subdivisions. I mean, the thing is, we provide monies to provide infrastructure for them, and then we

continue letting them build what they want to build. And here we are behind them in fixing some of these worst colonias.

And I will mention when possible in Webb County. What I think, I don't know if we have any -- the counties need to come up with some enforcement rules which they are in fact part of the law. The thing is that there is no enforcement on behalf of some of these counties.

That is what you all want to do, that is fine with me. But I just want to post my opposition to those counties that do not enforce the model rule subdivisions, and they should if they want monies from the state.

MS. CARRINGTON: And Mayor, it won't address that problem. What it will address, what it will allow us to do is some subdivisions that have had infrastructure put in, by ORCA, using community development block grant funds so you have some of these subdivisions that are there, that many of them are unoccupied at this point. The development has not been done.

And so what we would be doing would be using the HOME funds, using CHDO, using our community housing development organization HOME funds, and we would be allocating those to applicants who would then go in and do single-family development for home ownership for first-

time homebuyers.

MR. SALINAS: In a subdivision that has no utilities?

MS. CARRINGTON: No, sir. ORCA has put in the infrastructure.

MR. SALINAS: Okay.

MS. CARRINGTON: Yes.

MR. SALINAS: So you are talking about subdivisions that was built by ORCA, now they are eligible for first-time homebuyers and rehab?

MS. ANDERSON: Yes, sir. But we are talking about new construction. CHDO is doing new construction single-family. Correct.

MR. SALINAS: Yes.

MS. ANDERSON: And we are the second lien lender. And that is how we get it affordable, or we are effectively -- I mean, this is the proposed program. We have effectively given them a forgivable loan as a second lien lender.

MS. CARRINGTON: That is right. It would be a first mortgage and a second mortgage. And the first is based on their ability to pay. And we have given an example for you on how we would adjust their income and their payment on that first is basically based on how much

income they would have to be able to make the payment. And then the second, it would be a deferred forgivable loan.

MR. SALINAS: This would include all of the counties along the border?

MS. CARRINGTON: Mr. Pike? Would you like to come up and address Mayor Salinas' questions?

MR. PIKE: Good afternoon. Eric Pike, director of Single-family Finance Production. The thought is, is that this program would be limited to colonia areas within 150 miles of the Texas-Mexico border.

MR. CONINE: Mr. Pike, are CHDOs the only ones down there developing single-family home ownership. Do you reckon there are any for-profit guys down there doing anything. Should we open this up?

MR. SALINAS: The for-profit guys are building the illegal subdivisions. Because we come behind and do the infrastructure on the subdivisions. I mean the thing is, you have got to do enforcement. And you have got to send a message out there. And I hope they get the message from this Board on some of those county commissioners and county judges.

MR. PIKE: An easier questions, Mr. Conine. Absolutely. I am sure there are some for-profit

developers. Whether they are doing development in the colonias, I don't know.

But we are trying to initially stick to the legislative requirements that were initially passed that this program be made available to self-help centers as well as to CHDOs. And so that is the reason that we limited it to those two entities -- applicants, I should say.

MR. CONINE: All right.

MS. ANDERSON: And we have money in that set-aside.

MR. PIKE: Correct. We are anticipating using the CHDO set-aside because, as you all know, we always have difficulty trying to utilize a lot of our CHDO dollars. And we felt this would be a great opportunity to help us to do that.

MR. CONINE: I guess my question would be why wouldn't we offer it to both?

MR. PIKE: Well, the for-profits wouldn't be able to be a CHDO. And so we would have to take our other regular project funds from HOME and establish a set-aside.

And that set-aside would obviously take money from some of the other activities that we do under non-CHDO criteria, such as owner-occupied rehab, homebuyer

assistance, TBRA.

MR. CONINE: Okay. I don't think that is a good enough reason not to open it up to both. I think we ought to make sure that both constituencies are being served with HOME funds, especially down on the border in the colonias. I mean, if you have quadruples down there trying to do good, and they can utilize these dollars to help them in their effort, I don't know why we would exclude them.

MR. SALINAS: They would probably get better results for them than through the CHDOs.

MR. CONINE: There is no doubt about that.

MS. ANDERSON: Yes. Would you all like to -- I think Ken is making a good point. If you all would look at how we might administratively do that. Because the time to look at that is now for the 2006 HOME cycle. Because we will approve the one-year action plan or whatever it is, in October.

Which is where we sort of set out those purposes for the next year. And it seems to me that you couldn't exactly do it by region, because if you are trying to do 150 miles, that is pieces of 11 and 13 and maybe some others.

MR. PIKE: Absolutely.

MS. ANDERSON: But maybe you could, in some of those parts, in some of those regions, you could take the homebuyer assistance piece of the pie and put it into something like this instead.

MR. PIKE: What I think would be wise to do --

MR. CONINE: Is to listen to your legal counsel.

VOICE: I am sorry, but the statute says that we can only give these funds to colonias, self-help centers and CHDOs.

MR. CONINE: Our statute says that?

VOICE: Yes. I am sorry.

MR. CONINE: We need to go visit with those guys again, I guess. Okay.

MR. SALINAS: Okay. So that we need to approve the program designed to --

MR. PIKE: And that is what was in the legislation. I guess that is what I was trying to say.

MR. CONINE: Move for approval.

MR. SALINAS: Second.

MS. ANDERSON: Well, back up just a minute. I mean, I understand that is what the colonia model subdivision program subchapter GG says. That it has to go

to those kinds of entities. I think Mr. Conine's point is still valid, that we might want to take HOME funds, forget about this subchapter, and do something similar. We certainly wouldn't call it this. You know.

MR. PIKE: What about, let's say if we tried to move forward on this particular colonia model subdivision, say, as proposed. But during the public-hearing process that will be upcoming later this year, we would go out with public comment or gather public input about a program that would also include for-profit developers and using other HOME dollars to do so?

MR. CONINE: That sounds like a great idea.

MR. PIKE: Does that sound good to you all?

MR. CONINE: You bet.

MR. PIKE: Okay.

MR. SALINAS: That will work.

MR. PIKE: We will certainly do that. And then maybe by that time we might have a little bit of experience under our belt with working with the CHDOs and seeing how some of the problems that we might be encountering and see if we have any success stories by then.

MR. SALINAS: Yes.

MS. ANDERSON: What would you propose or what

is in your mind about a timetable for putting out a NOFA on this or however you are going to do it and getting it on the ground?

MR. PIKE: Based on your comments today, our plan is to meet with ORCA staff beginning next week. We want to go down and conduct several meetings with representatives along the border areas, and gather some of their input. Sort of pitch our proposal, as this is what we are proposing to do.

And just basically doing our due diligence that we haven't overlooked anything. And I would like to think that we ought to be able to put a NOFA out the first of July. We are trying to fast track this, and move it as quickly as we can. And obviously, it will take a while for an applicant to put an application together.

MS. ANDERSON: So you are hopeful for a motion today for approval on the design and moving forward?

MR. PIKE: Correct.

MR. CONINE: I think I did, while you were talking a minute ago.

MS. ANDERSON: You did?

MR. CONINE: Yes.

MR. PIKE: He did.

MR. CONINE: Sorry about that.

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

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. PIKE: Thank you.

MR. CONINE: Sorry, it was underneath your
breath.

MS. CARRINGTON: Item 5(c) is a report item
that we will come back to you with a specific
recommendation. At the last board meeting, you all did
ask us to take a look at perhaps raising the area median
family income from 80 percent to 115 percent in our
single-family mortgage revenue bond program for assisted
loans in particular. Well, for assisted loans.

And what we are doing is choosing ten areas
around the state. We will give you information on the
median home price. We will give you information on area
median family incomes for families at 50, 60, 80 and 115
percent of area median family income.

And once we have that information, then we will
make a recommendation to you of whether we believe it is
well-founded and well grounded to raise that limit for

assisted loans from 80 percent to 115 percent. And so we do anticipate bringing that back to you at the June board meeting.

The next item for your consideration is Item 5(d). And this is requesting forgiveness for repayment of a Housing Trust Fund pre-development loan. And the staff's recommendation is in two phases on this request. And actually the development was in two phases.

Accessible Communities, Inc., received \$32,287 in pre-development costs. They moved forward developing their first two units of transitional housing for persons with disabilities. They did not move forward with developing the other two units for persons with disabilities.

And so what staff is recommending is that the amount of the pre-development loan related to the phase that did not move ahead, which was \$22,207, that that be forgiven. But since Phase I did move ahead, that the pre-development costs related to that were \$10,080 and that that not be forgiven and that the Board does require repayment of that.

There is a note in your writeup that Accessible Communities, Inc., did have an opportunity to request reimbursement from the City of Corpus Christi for their

HOME funds, for pre-development under the HOME Program and they did not request that money from the City of Corpus Christi. And we are, in our documents, moving forward, putting language in that says to the extent possible, should there be sources of repayment for pre-development loans that there is an expectation that the entity does apply for those funds, so that the Department can be reimbursed.

MS. ANDERSON: I have public comment on this item. And I am going to mess up this name too. Ms. Telge.

MS. TELGE: You did well. It's Judy Telge. I am Executive Director of Accessible Communities, Inc. And the reason I did want to utilize this moment for public comment is because two months ago, I was before you requesting 100 percent forgiveness. I am here today to say that we concur with the staff recommendation. We appreciate that. And we are prepared to move forward with that and hope that you will take their recommendation. Thank you very much.

MR. CONINE: Move for approval.

MR. GONZALEZ: Second.

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

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next item for the Board's consideration is Item 5(e). And this is consideration of three awards of Housing Trust Fund pre-development loan applications. We awarded, the Department awarded Texas Community Capital \$535,000 for pre-development loans that they would make available to nonprofit applications around the state.

Texas Community Capital is responsible for processing these applications, underwriting, and making recommendations for awards to the TDHCA board. In April of this year, the board requested that staff bring all future requests for awards before them, and so we are bringing those to you today. There are three.

One of them is United Cerebral Palsy of Texas, the Austin Group -- or the Austin Chapter for \$17,700. The second one is United Cerebral Palsy of Texas, El Paso for \$40,500. And Denton Affordable Housing for \$100,000. The three total \$158,200.

One of the questions that was asked last month at the board meeting was the collateral for the repayment

of these loans. And if you will look at your board writeup, you will note that all three of these applicants are receiving funds from HUD under the Section 811 program.

And staff has conferred and confirmed with HUD that the repayment of pre-development loans is an eligible cost under the 811 program. And so staff is recommending these three awards for the amounts previously stated.

MR. CONINE: Move for approval.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next item for the Board's consideration is 5(f). And this is in two parts. It is one item on your agenda, but it is in two parts.

The first would be to consider a waiver of the maximum amount of a HOME award. Our maximum amount of a

HOME award as stated in our rules is \$1,500,000. And then if the Board does agree to waive that maximum amount of \$1.5 million, then award \$1,675,000 in CHDO dollars to a group called Housing Plus, Inc.

They are located in San Benito, in Cameron County. They are developing 52 units of multifamily housing that is targeted to the general population. This was an application that was under our open-cycle NOFA, our rental NOFA. And that NOFA closed November of '04, and we do have another NOFA on the website now, which has about 13 million in CHDO dollars in it.

Staff obviously can't waive what is a rule. The Board can. If the Board does decide to waive and do the award up to \$1.675 million, then staff is recommending that award and \$88,000 in CHDO operating funds also.

MR. CONINE: Do I hear a motion?

MR. SALINAS: Move for approval.

MR. GONZALEZ: Second.

MR. CONINE: Motion and a second. Any further discussion?

(No response.)

MR. CONINE: Seeing none, all in favor, signify by saying aye.

(Chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries.

MS. CARRINGTON: The next item for the Board's consideration is Item 5(g). And this is five 2004 disaster relief program applications for owner-occupied assistance. That is our assistance for single family, for individuals families who have had their homes either destroyed or damaged by a disaster.

Governor Perry did declare five areas under a disaster relief program he declared in December. The tenth of last year, due to severe storms and flooding which occurred during November 15 and December 4, those are Haskell County, Pleasant Valley, San Saba, Iowa Park, City of Seymour.

A total of units requested would be a total of 45 units, if all of these are awarded. Each of them are requesting the maximum in disaster relief, which is \$500,000 project funds, and then \$20,000 in administrative funds, which is 4 percent. And so the total amount of the award would be \$2,600,000.

We do have sufficient deobligated funds to make these awards. And if the Board does approve these today, then we will have approximately \$1.3 million in

deobligated funds available.

MR. GONZALEZ: So moved.

MR. CONINE: Second.

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

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next item is 5(h). We have had with us for probably about a year, year and a half in portfolio management and compliance a group of consultants that are HUD consultants that have been helping us with our HOME Program. And about a year or so ago, ICF pointed out to us an error in some awards that we had made with our HOME CHDO dollars.

Basically, what we were doing was providing homebuyer assistance only, and we were not including a development component of that. There were 11 applications that were affected, and so we have given all of these 11 applications an opportunity to -- well, we have been working with them to allow them to restructure their applications. We actually have four today that are looking to restructure, that were ready for today.

Midland CDC and Denton Affordable Housing were 2003 awards of HOME CHDO dollars. Futura Communities [phonetic] and Grayson County CDC were 2002 awards of CHDO dollars. And the CHDO award will go up because we are not only providing homebuyer assistance, but we are also providing dollars for development assistance. When you add the four of those together, it is an additional \$948,000 in CHDO dollars.

And so the total amount that would be awarded would be \$1,118,000. And what will happen is that this additional money will be used for development of the single-family housing.

And then a portion of that will go for down payment assistance and then we will be paid back when the home is sold. We will be paid back the dollars for the development of the single-family housing. And staff is recommending these four awards as so stated.

MR. CONINE: Move for approval.

MR. GONZALEZ: Second.

MS. ANDERSON: I have several questions for Mr. Gouris. If we take the Midland one, as an example, there is in the underwriting report on the financing structure, on page 4 you know, you note that -- you point out that you can't build all of these homes with the amount of

money that we are providing to people.

I mean you would have to build the first five, get the money from those, build the second four. You know, et cetera. You know where I am talking about.

So is it your -- I mean, I see what your recommendation is in the underwriting report. But I think I also read that somewhere in here where you suggested that we might want to start out by just having them build the five and see how that goes, before we commit to build the entire 20. Was that your recommendation?

MR. GOURIS: Yes, ma'am. Tom Gouris, director of Real Estate Analysis. Our recommendation was that they look to use these funds and not revolve them internally, but send them back to us as they close transactions. We have since talked to the applicant and they have indicated that they are okay with that way of doing things.

They may use some additional funds, as they may end up doing more than five. But they will only use our funds for a home one time, and not try to recycle our funds again into a second home.

MS. ANDERSON: I mean, I think this is a real interesting opportunity to do something different with these. I like the idea of the program, but I don't like the recycling and taking three years to see if they can

make it work or not. So if you have worked that out with them, that is great. Thank you very much.

MR. GOURIS: Yes, ma'am.

MS. ANDERSON: Is that just with them, or is that will all of these.

MR. GOURIS: That was the only one that had that internal recycling feature that we had a problem with.

MS. ANDERSON: Okay. Any other discussion?

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: Item 6(a) is the second quarter investment report. And I will ask Bill Dally to come and do this report for the Board.

MR. DALLY: Good afternoon, Madam Chair, board members, Ms. Carrington. Given the lateness of the hour, I am going to hit just two highlights that I think I want you to be aware of in this last quarter.

We hit \$75 million in mortgage-backed

securities. And put that into perspective, we have had the previous two quarters have been about 53- and 51-. But a year ago, we had purchases of \$17.6 billion. Which is to highlight the fact that we had to do some restructuring, do some buy-downs, our new money is now competitive in the market, and so we are moving our money.

And I think that is some very good news.

We also had an opportunity last quarter in December to sell some mortgage-backed securities for some ten-year-old bonds. And we actually had a gain out of that. And that residual, you have already programmed into going into the bootstrap program. And those are the highlights. Are there any questions?

MR. CONINE: Have we got any money in the bank?

MR. DALLY: We do.

MR. CONINE: Good.

MS. CARRINGTON: Item 6(b). Item 6(b) is requesting approval on staff's recommendation for three firms to be co-senior managers in conjunction with the sale of TDHCA's single-family mortgage revenue bonds.

Last month, the board did approve the criteria that would be used to rank the firms. Or staff has reviewed, has done the ranking. Has been reviewed by our financial advisor. There were seven factor that were used

in that ranking and all of that information is provided for you.

We are recommending three firms. You will remember that in March, you selected your lead bankers to be senior bankers. And those are Bear Stearns, Citigroup Global Markets, and UBS Financial Services. So of course, they came off then, that large list we had, leaving 15 firms that were in the co-manager pool.

So what we did was evaluate those 15 firms, and those 15 firms, the three that rose to the top with the highest score are Goldman Sachs, George K. Baum, and Lehman Brothers. And the remainder of the 12 firms that are remaining will be in the co-manager pool. And so staff is recommending these three firms as co-senior managers.

MR. GONZALEZ: I so move.

MR. CONINE: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: Item 6(c). We are requesting that the Board approve the issuance of a request for qualifications or an RFQ for guaranteed investment contract brokers and reinvestment agents or GIC. A GIC broker.

The Department, the last time the Department did an RFP for GIC providers was in 1999. And we had five firms that were selected at that point. And I think we selected seven, and now we have five left, due to mergers and some of them being out of the market. And what we are doing is asking for you all to approve the RFQ.

And we will go out, and then we will bring back recommendations to you. And it will be a pool of GIC providers as we do now, and we just rotate that. So it is on a rotational basis. They will come off the list that has been approved by the Board.

So we do have a copy of the RFQ. It has been reviewed by our financial advisor. It does have a response date of July 1 of 2005. And we do hope to bring this to the Board at the July 27 meeting for the Board's approval.

MR. CONINE: Move for approval.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next item related to your approval is Item 6(d). And this is to approve the issuance of a request for qualifications for an interest rate swap advisor consultant for TDHCA. Unlike our GIC providers, we don't have one of these right now.

So we do not have anyone providing this particular service to the Department. Some of this has certainly been provided by Dain Rauscher, our financial advisor, but as we have now done three single-family transactions that include swaps, we have felt like from a prudence standpoint and an additional level of independence and oversight standpoint, that we would do this. The swap policy that the Board approved last year says that we will do this.

So we are asking for your all approval of the RFQ. And again, it has been reviewed by financial advisors. It is on the same time frame as the GIC RFQ, due to us on July 1. We would hope to bring it to you for your approval at the end of July and in this particular case, we will only be making a recommendation of one entity to provide a swap advisor services.

MR. CONINE: Move for approval.

MR. GONZALEZ: Second.

MS. ANDERSON: Mr. Johnson, I have a couple of quick questions. It will be quick. The first one, while you are coming up there, 33 different questions on here. And in the scoring, most of them are sort of like one or five point items.

But item 3 is a ten-point item. And it says specify any branch offices, any other associated firms, any unrelated firms which will perform or assist in performing the work to be performed. And what I can't tell from this if whether you think that branch offices, associated and unrelated firms are a good thing that will get you to ten points, or a bad thing that will keep you from getting ten points.

And I also don't understand why it gets ten points. So could you just go through that with me?

MR. JOHNSON: The industry still is kind of regulated and still in formation, shall we say. And we just want to make sure that the firms are independent; that they are not submitting a proposal from XYZ firm, and it is really Goldman Sachs or Bear Stearns or somebody actually doing the services.

So, we think that a greater level of independence would receive a higher score. I can make that more clear.

MS. ANDERSON: Yes. That wasn't clear to me, so you might want to just go back and look at that language, to see that if it would be clear to bidders.

MR. JOHNSON: Okay.

MS. ANDERSON: And then the second question I have is, you pose in terms of fee structure, you pose these scenarios where they are supposed to price their services to us. And I thought that was a creative way to do that.

I guess my question is, would we look to these people we say in there to perform additional services, including but not limited to special projects at our request. Do we have a mechanism in the RFQ to get some sort of hourly rate or something to address what they would charge us for those kinds of things?

MR. JOHNSON: I thought I built something in, but let me take a quick look.

MS. ANDERSON: We don't need to --

MS. CARRINGTON: I think our answer, if we don't have something in there, we'll put something in there.

MS. ANDERSON: We'll put something in there? Yes.

MS. CARRINGTON: Yes. Absolutely.

MS. ANDERSON: Good. Anyone else have any questions?

(No response.)

MS. ANDERSON: Seeing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: Thank you.

MR. JOHNSON: Thank you.

MS. CARRINGTON: The last item for the Board's consideration is Item 6(e) and this is to approve resolution 05032, which will be our application to the

Bond Review Board for reservation of our -- it is the remainder of our 2005 single allocation private activity bond authority.

We have approximately \$107,925,498 that is available through the Bond Review Board. Our total allocation was about \$167 million. We issued 60 million in mortgage credit certificates, and staff is looking to get this application in. It is not due until August 15, but we are going to go ahead and get it in over to the Bond Review Board.

The new program that you all approved about three months ago, two months ago was \$100 million bond issue, and our lenders have originated over 30 million in that particular bond issue. So it is moving very quickly.

And we are looking to have another bond issue probably early fall. Early to late fall.

MR. CONINE: Move approval.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. All in favor of the motion, please say aye.

(Chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The last item is the Executive Director's report item. And the board has copies of several of the items related to this. The first is the report that we give you all on a monthly basis which outlines our outreach activities for the month of April. This is various meetings that we have had, conferences that we have attended.

Seminars, testimony over at the Capitol on a variety of events, and actually this one amounts to almost three pages. And we would be happy to answer any questions that you all have related to this.

I might also say at this point, we are going to be very busy during the month of June. June is National Home Ownership month. And my single-family staff, it looks like from the schedule they have given me, they are going to be out most of the month of June at various events either that we are sponsoring or that HUD is sponsoring or that we are piggybacking with other entities.

The next item for your consideration is update on legislation impacting TDHCA. And I think at this

point, what we can say is there is one piece of legislation that has been passed and has been signed by the Governor and that was Representative Chavez's bill, House Bill 1099, which has TDHCA's manufactured housing division doing the inspections for migrant farm labor housing around the state. And that will be implemented September 1 through Tim Irvine's division.

And we are doing it cheaper, and we will do it better than the Health and Human Services Commission was doing it. And at least as of this morning, that was really the only piece of legislation that had a direct impact on TDHCA. Is that correct, Ms. Reynolds?

MS. REYNOLDS: Yes.

MS. CARRINGTON: Thank you. Okay. Cedar Oak Townhomes, the Board heard public testimony this morning from citizens in El Paso. In executive session, discussing Cedar Oak Townhomes so the Board is familiar with the El Paso transaction.

Item 4, the transfer of vouchers to Brazoria County. That happened officially on May 1. And what we did, what we had to do, of course, was terminate all of our vouchers. We terminated TDHCA's participation in those vouchers.

And so Brazoria County then has to take

applications and renew those vouchers. But that is now all in Brazoria County's hands. And my staff has done a really good job in making that transfer I think, as smooth as possible for the folks who are receiving those vouchers.

Marketing on single-family, you have a report on TKO's advertising initiatives. That is in your packet, if you have any questions on that. Eric Pike or myself will be happy to do that for you.

We are moving, as you all know. We are continuing to do our risk analysis on our move and go to the building on a regular basis. Working with staff on beginning to assign now, where our divisions will actually be and getting furniture that will fit with those divisions.

Tomorrow morning, from economic development from Jeff Moseley's team, they are our fourth floor neighbors. And so they are going to come over and talk to senior staff in the morning about issues related to the move and sort of how they made the adjustment. And what it is like to be in that building.

MR. CONINE: Do we have a nice big meeting room like this one?

MS. CARRINGTON: No, sir. We do not. But we

will be part of the Capitol complex, and of course, we will have access to many meeting rooms for board meetings in the Capitol complex. We will just be sure that we schedule way ahead of time.

The next item is a congratulations. Our agency has earned the State Risk Management Goal Safety Award for Fiscal Year 2004. So very good to Trish Randel and her staff.

And then just an article for information that was in the Housing and Development Report, HDR, on a lawsuit, a court case in Tarrant County related to a housing finance corporation and the issuance of tax-exempt bonds. And so we have provided a copy of that for the Board's interest. And with that, Madam Chair, I am through.

MR. CONINE: Move for adjournment.

MR. SALINAS: Second.

MS. ANDERSON: We stand adjourned.

(Whereupon, the meeting was adjourned.)

C E R T I F I C A T E

IN RE: TDHCA Board
LOCATION: Austin, Texas
DATE: May 26, 2005

We do hereby certify that the foregoing pages, numbers 1 through 267, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Barbara Wall before the Texas Department of Housing and Community Affairs.

Transcriber 6/03/2005
(Date)

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