

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING
2006 STATE OF TEXAS

Wednesday, August 30, 2006
Capitol Extension Auditorium
State Capitol
1100 Congress Avenue
Austin, Texas

PRESIDING:

BETH ANDERSON

BOARD MEMBERS PRESENT:

VIDAL GONZALEZ
C. KENT CONINE (Vice-Chair)
MAYOR NORBERTO SALINAS
SHADRICK BOGANY
SONNY FLORES

STAFF:

MICHAEL GERBER, Executive Director

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P R O C E E D I N G S

MS. ANDERSON: Good morning. I want to welcome each and every one of you all to the August 30 board meeting of the Texas Department of Housing and Community Affairs. We appreciate you being here this morning. And 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. Gonzales?

(No response.)

MS. ANDERSON: Mr. Flores?

(No response.)

MS. ANDERSON: Mayor Salinas?

MR. SALINAS: Here.

MS. ANDERSON: And I am here. We have a quorum, so we can begin. And I know that Mr. Gonzales and Mr. Flores on en route. Someone might want to call them and make sure they are in route. I don't know who we might ask to do that.

This is a little earlier than we normally start these meetings, because we have a long and distinguished agenda this morning. So it is the Department's custom --

first of all, we greatly welcome public comment. It is the Department's custom to take public comment both at the beginning of the meeting or, if you potential witnesses prefer, at the actual agenda item on the agenda.

I do have a number of people that would like to make public comment during this initial public comment period this morning. And the first witness is State Representative Chuck Hopson.

MR. HOPSON: Ms. Anderson, thank you. Board members, thank you very much for allowing us to be here today. In East Texas, when the hurricanes came this time, as East Texans always do, we opened up our hearts, and we opened up our arms, and we opened up our pocketbooks.

And we stepped up, and we went to work. We were overwhelmed. When the people started arriving, we ran out of gas. When the people really started arriving, we ran out of electricity. We pumped water with portable generators.

We opened up pharmacies with portable generators, so they could fill -- FEMA had assigned certain people to fill prescriptions. The pharmacists said that doesn't make any difference. We will do what we think is best.

Our cities responded; our counties responded,

but we ran out of housing. We didn't have any place to put anybody. We put people in churches. We put people in high school auditoriums. We put people in band halls. We put people everywhere. And we had no housing. We had no showers. We had no restrooms. It was a mess.

We were really overwhelmed. In the State Action Plan that has been approved by this Agency, approved by the Governor, and approved by HUD has a section in there, that it is okay for community shelters.

And we would certainly advocate that you letting our local COGs do what they think is best with this money, so the people of East Texas can do the job when they need to do it.

And thank you for letting me appear here before you today. And I would be happy to answer any questions.

Thank you.

MS. ANDERSON: Thank you, sir. Mr. Darrell Jack.

MR. JACK: Good morning. My name is Darrell Jack, and my firm is Apartment Market Data. We do a large number of market feasibility studies for the TDHCA.

The reason I come to you this morning during the public comment time is that later today, on Item 5A, you are going to be approving the 2007 draft of the

Underwriting Rules and Guidelines that affect the market feasibility studies. There are several changes that have happened from 2006 to this draft. Originally conceived at the market analysts roundtable, the rules had a few minor changes.

A few days later, staff included some sweeping changes, making the entire affordable housing rental program much more restrictive. This falls into three major categories.

The first is, determination of rents not meeting the maximum program rents, making a project infeasible. This is going to have some pretty wide-ranging effects. The most significant one is that it is going to drive affordable housing out of the lower income areas into higher income areas. Not meeting specific needs in low income areas.

The next item was lowering the capture rate to 50 percent for all but urban family projects. And that, and the third one, requiring a capture rate by unit type.

This third one effectively has a potential of shutting down the entire affordable housing program. If you look at this sheet that I have distributed to you, the TDHCA says that the Houston MSA market study commissioned

by the Department demonstrates that demand may exist for one unit type.

For example, two-bedroom units at 40 percent of AMI, while no demand exists for three-bedroom units at 60 percent AMI. If you would turn to the last page of this, you will see that the three-bedroom 60 percent units in Houston are 93.5 percent occupied. So the Department has taken a poorly conceived study on the Houston area, and now we are making policy based on that poorly conceived idea.

You know, I have included a large packet that covers all the major metro areas for the state. If we list the rents, the occupancies, by sub-market, within those different cities, and when I went through it, I didn't see particular unit types or incomes that stood out as not being in demand.

So what I did, is I went and took some of the projects that we worked on in the past. Many of those that were approved, and have leased up successfully to determine what impact this has on the market.

MS. ANDERSON: If you can just wrap up.

MR. JACK: If you will look at the legal page, we took six different projects. Some approved, some in the process right now. And basically, ran it through the

new traps. And five out of six of these properties wouldn't have made the underwriting.

Now what that tells me is, this is a bad idea.

And talking to staff, when these rules came up and as late as last week when I was discussing my findings with them, they haven't run the traps to find out what impact these capture rate requirements are going to have on the entire program.

But as you will see, five out of six of the properties wouldn't have met this test. If you look at the last project, Willowbend, the developer is going to speak here this morning to that one. That project leased up in six months. They were doing 40 plus leases a month when they opened their doors. Yet because of the way that --

MS. ANDERSON: Mr. Jack, I need to ask you to go ahead and wind up.

MR. JACK: Because of the way that the new rules were applied, that project would have never made. So you know, I would like to make the recommendation as you come to number 5A today, that you either table that item until the Underwriting Department has run the traps to know how this affects the program or vote it down completely.

The 2006 rule served us well this year, and they can certainly do the same for us in 2007. Thank you.

MS. ANDERSON: Thank you. Mr. Dan Allgeier.

MR. ALLGEIER: I am Dan Allgeier. I am speaking today on behalf of Key West Village Phase II application for 2006 credits. It is 060140.

This project is located in Odessa. And it is an application for \$215,000 in tax credits for the construction of 36 units of additional housing for seniors. It is a Phase II, Key West Village, which is a successful seniors project, which is owned in part by the Housing Authority in Odessa.

Region 12 in that set-aside, in the last two years, only at-risk projects have been funded in '06 and '05. I realize that the priority for at-risk is legislative in its origin. But at-risk by definition are existing affordable housing units.

So in the last two years in this region, no additional new affordable housing units have been constructed. In fact, in the urban and the rural, only 91 new units have been built -- all in Pecos.

The housing authority spent over \$20,000 a year two years in a row for this application. We are aware that other at-risk projects are going to be submitted in

the region next year; San Angelo and Odessa. And it is going to be pointless for the Housing Authority to make this application again, because they can't compete. This 36-unit is never going to get built with tax credits and never receive an allocation.

Phase I has a waiting list. There is more than enough people to fill this project. The land is properly zoned. It has community support. In short, it would be a successful project.

It needs \$215,000 in credits. It is on the waiting list. We appreciate some consideration, if in fact, you do have any waiting list funds. And if not, we would appreciate a forward commitment.

Thank you. And I might mention that we have a Senator, we have a Senator's representative here to talk about it, and also someone from the Housing Authority if you want to put that all in context.

MS. ANDERSON: I will put them all together. Thank you. Ms. Spears.

MS. SPEARS: Good morning. Bernadine Spears, Odessa Housing Authority. And I am here again from last year. I was here requesting the same for Key West Senior Village in Odessa, Texas.

I echo the sentiments of Dan Allgeier, with the

fact that we do have a waiting list on a very successful development of 136 units -- 120 units; I am sorry. And we are asking for 36 units for the Housing Authority to do on the land.

We have invested well over \$20,000 each year into this development, and would request that you consider a forward commitment or waiting list funds. Whatever you have available, we will take it. We are asking for 216 roughly in tax credits, for these 36 units.

The development, the Housing Authority owns the land. And as Dan has said, it is zoned properly, and we are ready to roll. We have everybody in place, and we are just waiting for you to consider us in making sure that our citizens are given an opportunity to move into this development.

And I would just like to quote your mission statement for the Department. It says, to help Texans achieve and improve quality of life through the development of better communities. And we want our community better.

So that is why I stand before you today, and ask you to ponder your heart, and decide that Key West is where you want to be. Thank you.

MS. ANDERSON: Thank you. Ms. Walker.

MS. WALKER: Good morning, Madam Chair, members of the Board, and Mr. Gerber. My name is Rose Guajardo Walker and I am here on behalf of Senator Kel Seliger. I have given your staff a prepared letter from the Senator, so I will be brief.

Senator Seliger would like to express his support of a forward commitment for the Key West Senior Village, Phase II in Odessa, Texas. He strongly feels that given the growing number of senior citizens in this region, housing needs must be met.

Senator Seliger would like to respectfully request that the Board consider adding Key West Senior Village Phase II to the October agenda for consideration of a forward commitment or current funding from available funds from projects that have dropped out. Thank you.

MS. ANDERSON: Thank you. Randy Stevenson.

MR. STEVENSON: Madam Chair, members of the Board. I am Randy Stevenson. I am also here in support of Key West Senior Village, which I can't tell you how successful that project has been. It has been full since we opened the doors and had people moving in as quick as we could get the units ready.

I think there is a little bit bigger broader stroke item, I would like to kind of touch on. It is not

just that region. And I know this is legislatively done, and it must go through some proper channels. But we also, if a region has only enough tax credits for one project, this is going to be a continuing issue.

We applied in Corpus Christi this year. I understand that the Ninke -- I guess that is the way you pronounce that -- Senior Village got a forward commitment of \$470,000 in that region. This is just another example of the bigger issue here.

There was a rehab unit, an at-risk unit that got the money for the region. They had applied for this in Victoria for a senior property. The reasons that they gave, and I know they deserved it, because I know they need the housing. Was that once that an at-risk applies, they are out of the money, and they understood there was going to be an at-risk next year. So that puts them out of the money, and they got a forward. That is a good thing.

However, that leaves \$600,000 roughly in that region for next year. We represented an area in Corpus that was the most financially challenged area of Corpus Christi. They have got the second highest illiteracy rate in the nation. They have got housing needs in Corpus Christi of seven, five in Victoria. There is 277,000

people in Corpus. There is 66 in Victoria.

And there is the affordable units per capita, Corpus Christi has got .8, Victoria has got .139. The reason I bring this up is, the region where Odessa is, and Key West is, is not the only one.

It looks to me like we need to look as a whole at the regions that are not one of the big four, where there is some balance. There is some hope for these elderly projects to get done, because an elderly project is never rehabbed. I couldn't even find one.

Maybe that is a broad statement to make, but at the same time, you know, those folks are kind of left out of this loop. And I am not sure exactly what to do about that, or applying next year in Corpus. We have got an issue there, with a dubious duty I have got of going back to the neighborhood there, in an area which has never ever been given any hope for the elderly.

So I will end with that. But the thrust here is, Key West Phase II, not the Corpus thing there, though.

Thank you.

MS. ANDERSON: Thank you, sir. Commissioner David Brandon.

MR. BRANDON: Madam Chair, Board. I want to yield my time to DETCOG.

MS. ANDERSON: Okay. I am just looking for a witness affirmation form. I don't seem to have one from DETCOG during the public comment period. Maybe at the agenda item. Okay. Thank you, sir. Mike Hogan.

MR. HOGAN: Good morning. I am here to follow up Mr. Jack's original comments that he made to you here earlier. I am the developer that he dragged down here to talk to you. Now I have to tell you that I don't understand capture rates. I am sorry.

VOICE: Identify yourself.

MR. HOGAN: Sure. It is Mike Hogan, Hogan Real Estate Services and Homespring Residential Services. There is not too many developers that understand the capture rate, because we rely on our market guys. So I can't tell you that I understood it to begin with.

But I do understand and respect Darrell's opinion that the new capture rate has the potential of gutting or shutting down the program. And that is not good for anybody. It is not good for the State.

And I don't think it -- and here is the document that you are going to be -- there is 226 pages that you are going to vote on today to put out for public comment. And I didn't find one thing in here that made me believe that TDHCA wants to continue to encourage

affordable housing. And I can't believe that is not part of your mission. I haven't found your mission, but that is the impression I have got.

The capture rate, moving the debt service coverage, increasing the debt service coverage even beyond what HUD recommends. Increasing your reserves. All of these are designed to make it even harder to get an affordable project through TDHCA. And I just -- there is already so many hurdles out here. We have local hurdles. Trying to make this fit all.

The more you try to do this, the more I think it will hurt affordable housing in the entire state. Not just in the market we operate in, but the entire state. Every local market and real estate is a local market. It has different politics; city politics, county politics, school politics, neighborhoods.

We have planning and zoning commissions we have to get through. We have so many hurdles out here, that for a document like this to come out and throw up some additional hurdles for, I don't see any particular reason, I don't understand.

Willow Creek, I am sorry, Willow Bend. I have a project called Willow Creek, too. I have got too many Willows in my life, that Darrell talked about, would not

have been underwritten by TDHCA. We leased it up in six months; 42 leases, average move-in certified to 100 percent within six months.

And we still have a waiting list. Yet that project would have not underwritten under TDHCA rules, so that doesn't sound right to me. And I don't think it sounds right to you. I know you haven't had a chance to really review all that. So I would support Darrell's comments here, is that this document really needs to go back.

And I talked about coverage and debt service. This talks about roundtable discussions. I have talked to two of the major bond underwriters that do a lot of this stuff here in Texas, and not any of them are uncomfortable with debt service coverage, and none of the them are uncomfortable with the reserves. This is being recommended because the -- it is recommended by the National Council of State Housing Agencies.

No roundtables, but that is the agency that they are taking these recommendations from. And I don't know who they are. They don't operate in Texas, and they are making recommendations on I am not sure on what affordable housing.

And so I would encourage you before this

document goes out, maybe a little more scrutiny. Or certainly listen to the input that comes in, because this is not moving and advancing affordable housing in the State of Texas for the next round. Thank you.

MS. ANDERSON: Questions? Mr. Hogan. I have a question. And the question is, would you do me a favor. And if the answer is yes, then I --

MR. HOGAN: I am married, and I have learned two words. Yes, dear.

MS. ANDERSON: You made some statements that are alarming in the way they are worded. Things like more hurdles in these rules. But you made them in a very broad general way, which is why we have public comment. Okay.

So the favor I am asking of you is to write me a letter. And we will make sure that all the Board sees it. And I would like you to be very specific about what you see as the additional hurdle. Rules changes made this year that create hurdles for development of affordable housing.

I just want to see those itemized, so that I can understand them. The Board can understand them. And then we can take the proper action. It is not helpful to have -- we just need your specific input.

MR. HOGAN: You know, and the reason I am here,

was to support Darrell's thing. But I wanted to make these comments, because I wanted to open your eyes now, so that when the written comments come in, you really look at them this time.

MS. ANDERSON: Right. We just need to see it.

MR. HOGAN: So that is really what I am trying to do here.

MS. ANDERSON: Okay.

MR. HOGAN: So I understand you haven't had a full chance to do it.

MS. ANDERSON: Okay. Well, we appreciate it.

MR. HOGAN: But yes, I will do that.

MS. ANDERSON: Okay. Thank you, sir.

MR. HOGAN: Thank you very much.

MS. ANDERSON: Representative Mendez.

MR. MENDEZ: Good morning, Madam Chair, board members. Madam Chair and Board, I would like to thank you for allowing me to address you this morning, and apologize for not being able to be at your last meeting in July.

I want to thank Mike Gerber and the Department staff for the hard work they have been putting in, in particular on the revised RFP for the San Antonio needs study. I think the round table discussion that was held on August 15 was very productive. I appreciate the staff

that went down, Michael Lyttle and Mr. Gouris and I forget the other staff member that was down there.

But I thought it was extremely productive. And I believe it will serve not only to make the needs of this region more clearly understood by everyone, but also will serve as a foundation for a statewide study program that will accurately identify the regional needs for affordable housing programs. I look forward to the results of these efforts.

Secondly, I want to make a few remarks about two specific projects that I believe further make the point about the need for tax credits in the underserved regions. Being from San Antonio, it is natural that my first priority would like there. But however, as I have said many times, through committee hearings filed legislation and other forms, there is also a fast-growing need in South Texas, and along the border for more affordable housing.

And as you know, colonia initiatives of the Department are an important part of addressing the border in severely underdeveloped rural parts of South Texas. But colonia programs alone are not enough. I believe that every effort must be made to provide as many resources as possible to areas that are struggling to provide economic

growth and development. And that most certainly includes quality affordable housing.

During the 2006 rounds, one project in particular, the North Manor Estates project came through the application cycle with a score of 182 for a 132-unit development in the Weslaco ETJ. This score was obtained without any points awarded for neighborhood input only because there was no neighborhood in this undeveloped, largely rural part of the county to draw support from. I don't want to get into that aspect of the scoring criteria at this moment, except to say had the project been able to add the twelve points for neighborhood support, it would have scored higher than many of the following projects that actually were awarded credit allocations during the cycle.

My specific issue is that this project in the very underserved and underdeveloped area of Hidalgo County, which is my home county of birth. Mayor, I don't know if you were aware of that. And like much of the border region, represents a growing need and an even larger challenge for the State.

In addition to my colleague, Representative Armando Martinez, and Senator Lucio, who represents this district, North Manor Estates project of Hidalgo, is a

Hidalgo County Housing Authority project, who has agreed to absorb the cost of water and sewer infrastructure for this project, if they were to get funded. The significance of that is the surrounding area is also very underdeveloped and currently without adequate infrastructure support.

It would reap an immediate benefit when you consider the high probability of the ripple effect that affordable housing project would have on the entire area.

I believe the investment is worth -- the investment of a forward commitment is well worth favorable consideration of the Board. The situation is that the area, the rural part, the farmland is separated by a canal. And there are no utilities on the other side.

So if this goes through, the City of Weslaco has agreed to extend utilities to this development. And so currently, the only thing that is going up are shacks without utilities. And so if we did this, you would actually possibly see increased private sector development, the possibility, because utilities would be there.

So by having this project serve as a catalyst for infrastructure improvements throughout the community, the project could well serve as a model for future

enhancements of local government participation. In many regions, and particularly poorer or undeveloped regions, the commitment of limited HOME funds is difficult at best, and often impossible to argue in favor of. That is often simply because there is not a foreseeable positive effect on the surrounding area.

This is perhaps another unique situation, but certainly one that the Department has to consider if we are going to continue to find better ways to serve these regions of Texas. Changing locations, because I would not want anyone to think that I was not going to play adverse my most popular song list, I would like to come back home to San Antonio.

I thank you for your decision to award a forward commitment to the Las Palmas rehab project of the July board meeting. I know that the plight of having seniors and having people, anyone in general, live without air conditioning in South Texas is not something that anybody would have to live with. As the testimony was offered then, the conditions of that property are beyond deplorable, and I thank the Board for hearing the cries of the community.

And I am almost done. Las Palmas itself is no longer in my district, but the impact of this rehab will

be felt across this very needful neighborhood. I would also like to make a similar case for another forward commitment, the San Juan II project, which is also very near my district, in one of the poorest parts of San Antonio.

This project scored 203 points, the second highest in the State. Yet, because of already shrinking tax credit allocations, it was not funded. You heard in July from Councilwoman Patty Radle, who strongly supports this rehab of that long deteriorating public-housing project.

And I had previously endorsed this project, as have the neighborhood, my colleagues, Representative Puente, and Senator Frank Madla. Of all these folks, including two current residents spoke to you at the July board meeting. Their message was clear. Sandra Perez and Sylvia Cruz want a decent place for their children to live.

This 60-year-old public-housing development has water heaters that are failing; failing and unusable air conditioning; and simply six decades of being one of the projects. They want and deserve more.

What is so attractive about the project, besides being a key element in completing efforts to

revitalizing the neighborhood, is that it, like its neighboring development, the San Juan Apartments that was awarded credits last year is a partnership between the Housing Authority of San Antonio and the private sector. I firmly believe that these joint ventures in addressing deteriorating public-housing developments in largely rundown parts of metropolitan areas is a very smart and essential business practice.

And it should be developed to its fullest potential by our agency, not only for San Antonio and this project, but throughout Texas, where dilapidated public housing is a huge obstacle to providing quality affordable housing for all Texas citizens. I realize that forward commitments are not on the Board agenda today.

However, I ask you that as you look forward to the final months of 2006, you keep these comments in mind and closely examine any opportunity to find any additional credits for both North Manor Estates project and the Weslaco ETJ, and the second phase of the public housing rehab development of San Juan II in San Antonio. Finally, I would like to talk about the proposed regional allocation for San Antonio that you will be considering later today.

MS. ANDERSON: Representative, I really need to

ask you to wind up.

MR. MENDEZ: I am winding up.

MS. ANDERSON: Okay. Thank you, sir.

MR. MENDEZ: I simply fail to understand that in the face of the evidence, how this year's allocation can be proposed at \$2.3 million. This is \$700,000 less than last year's allocation, even after you made the Las Palmas forward commitment.

You know, San Antonio has taken in, and still has an estimated 10,000 Katrina victims. That the State's own Health and Human Services poll just recently reported 60 percent at or below the poverty level, and requiring assistance. And that is on top of the 12,000 pre-Katrina that were and remain on the public housing waiting list.

The recent stats, the demographer of San Antonio growing to 2,000 citizens a month, and given that, no San Antonio specific study has been done. And if the Department has recognized the original scope, would not have provided the sort of data needed to make an accurate determination. I can't understand how the new proposals would in any way be objective.

I just recommend that the Department examine, reexamine the formula, much like is being done with the scope and the needs study, before making any final

decision. As I have made a commitment to the Bexar County delegation, and I will continue to monitor the situation closely. And I look forward to working with all of you next session. If you have any questions?

MR. SALINAS: Well, the Weslaco project, I think that the Region 11 has gotten a lot of good projects. I think Hidalgo County Housing Authority just didn't get the right application in. And I am sure that Weslaco has been very amicable to work with developers over there, and I am sure they would extend this sewer service.

I don't know if Mike Lopez did a good job in preparing the application, or whoever he hired. But I guarantee you that our staff looked at it real carefully, and we got some other good projects in the Valley, and I am very proud of the staff, and the way they have taken care of the area that we represent in Region 11.

We have got a lot of projects, and I really want to thank the board and of course the staff. We cannot just give everybody a project. And when you have Weslaco competing with another community like Donna and Pharr and McAllen and Mission, they are all just all together, and all the way down to Brownsville.

I think that Mike Lopez is just crying foul.

You know, I mean, next time he does an application, he needs to maybe hire somebody else to do this application.

MS. ANDERSON: This is just another example of how we have a lot more need than we have resources.

MR. SALINAS: I know that area well, and I think that the Housing Authority needs to maybe look at somebody else to help them prepare the application. So I just think it was a good application that just didn't get it done.

I know my cousin is a county commissioner, and I know everybody there in the Commissioners Court that appoints those people. But I just want to send a message to Hidalgo County Housing Authority, just take a look at somebody else to get them some help, next time we have tax credits in the area. And I am sure that we will work it out.

I just don't want to make it sound like we just didn't give them a break. I think Weslaco -- the mayor is a good friend of mine and would like -- he would extend the sewer service into the area. But I just guess they didn't work together with the City. That is what I hear.

MR. MENDEZ: My understanding, Mayor -- and you obviously know better than I. But my recent meeting with folks in the area was that the cities put the money there.

If this application were to have been fronted, that they would have -- the City would have actually paid for the extension of those utilities.

MR. SALINAS: I agree. But somehow, it just didn't make it.

MR. MENDEZ: Right.

MR. SALINAS: And we just cannot -- simply because Armando Martinez calls and he is the State Representative, we are just going to go ahead and ignore all our rules that we have with our staff.

MR. MENDEZ: No, I understand.

MR. SALINAS: We've got to take things the way they are and follow the rules --

MR. MENDEZ: Right.

MR. SALINAS: -- and make sure that everybody gets a little piece. And I think we have had a good response from this state, to our area, in Region 11. And in San Antonio, which is not our region, but San Antonio has gotten some good projects.

And we responded to that project where they had no air conditioning. I think this Board was very sensitive to their project. And I am sure that we are going to be working with them.

MR. MENDEZ: Yes, sir. I just look at the

recent growth, both along the Valley and in San Antonio has been so dramatic. And then I look at the traditional funding, as far as the tax credits throughout the state, and I see that there is a new necessary growth or a new population base.

Most of the population is growing along the border in South Texas. And therefore, I don't see why we could have a reduced allocation in the San Antonio region. And that is why. That is all.

But I understand your point, sir. And one of the things that concerned me is that they would have scored higher and would have gotten an allocation, had they gone out like maybe some other applications and started a neighborhood association, and maybe created one to get a letter.

MR. SALINAS: As I recall, the Hidalgo County Housing Authority has gotten projects before.

MR. MENDEZ: Yes, sir.

MR. SALINAS: And we just can't just give them projects every time they have an application over here.

MR. MENDEZ: Right.

MR. SALINAS: I mean, there are other people. Now, people in the Valley like to own their own home. They just don't like to live in an apartment.

I think that that is the goal that we have had in the Valley; that we want people to own their own home.

And if you can see that the demand of owning a home, and people owning homes over there, it is greater than anywhere else in the State.

If you looked across the Valley, all the way down to Starr County. But I would be willing to sit down with Mike Lopez and the Housing Authority Board wherever, whenever they want. But I think that the staff was real fair with them.

MR. MENDEZ: He has nothing but wonderful things to say about you as well, Mayor.

MR. SALINAS: Well, they know me very well.

MR. MENDEZ: Yes, sir.

MR. SALINAS: And they know that I am going to do what is right, and what the staff is going to do what is fair for everybody in the Valley. We just are not going to do anything that is not within the rules. That is the way I feel.

MR. MENDEZ: I understand. And I agree completely. Any other questions? If not, I appreciate the time and I am sorry I went over.

But as you know, I want to thank you all for listening, and the staff for coming down. And I thought

it was a productive exchange. And I look forward to working together in the future. Thank you.

MS. ANDERSON: Thank you, sir. Matt Hull, and then the next witness will be Connie Nicholson. If you want to speak, and then Eric Opiela.

We do, just for everybody's information, we have a three-minute time limit in place. And we are delighted when elected officials are here, and we try to give a little latitude there. But we are going to be here a long time today.

There are hundreds of people that want to speak. So I ask everybody else to stay within three minutes or shorter, if possible. Thank you. With that, Matt, that is a great warm up for you.

MR. HULL: Well, Madam Chair, I think I can do better than that. First off, I just want to thank you, and the other members of the Board, Mr. Gerber, for allowing us the time to come up and speak. My name is Matt Hull. I am with the Texas Association of CDCs.

And I would particularly like to thank staff for posting several of the draft rules more than a week in advance. That allowed my members to come together and argue a little bit longer over what comments they wanted me to make on their behalf.

And while they didn't come to agreement on several of the issues, several of our members are in support of a lot of the changes in the QAP. Several of them aren't. So we don't have a consensus on those items.

Where we do have consensus is on some of the real estate analysis rules.

Number one, starting with the reserves from page 7. While all of our members understand that occasionally, there is a need to go up in reserves, in this case, from 250, all of our members are in agreement that they would like to have some sort of set-aside for SROs to keep those reserves at \$200, because they just don't have the cash flow to make those reserves whole at the end of the year.

Also at the same time, many of the SROs, just based upon how they are designed, don't have the reserve requirements. Most of them are more dorm-like instead of single units. So there aren't as many kitchens. There aren't as many baths.

So they just don't have all the appliances, and all the things that would break for the make ready repairs. So for the SROs, our members are saying that the reserves of keeping the reserves for SROs at 200 is more than adequate, and would help them meet their end of the

year financial obligations.

Secondly, and similarly, on page 6 of the real estate analysis rules, related to the management fee, we would like to have SROs inserted into the same category as rural developments where the management fee can be higher than the typical 5 percent. Right now, the rules allow sort of a sliding scale for the management fees, typically using 5 percent for all developments. So that in urban areas, and in some cases, it can be lower, as low as 3 percent.

And in some rural cases, it can be higher than 5 percent, just based on the TDHCA compliance database. What we are seeing is that because that management fee is based upon effective gross income, that for SROs, because the income is so low, that the management fee is actually higher, anywhere between 6 and 8 percent.

So if there is just some consideration that we could put into the rules that would allow more, so that it would be expected that the management fee for SROs is higher, we would appreciate it. That is all that we have.

Any questions?

MS. ANDERSON: That is all you could agree on?

MR. HULL: Well, like in any case, when half of the group is in favor of something, and half of the group

is opposed to something, you probably have struck a good middle ground.

MS. ANDERSON: Yes, right. That was the compliment I was fishing for, on behalf of our staff.

MR. HULL: Well, I took it hook, line and sinker.

MS. ANDERSON: Thank you.

MR. HULL: Thank you.

MS. ANDERSON: Any questions? Ms. Nicholson, do you want to testify?

MS. NICHOLSON: Actually, I am here to answer questions on a CDBG. I'll wait.

MS. ANDERSON: Okay. Thank you.

Mr. Opiela.

MR. OPIELA: [inaudible].

MS. ANDERSON: Oh, I am sorry. I have got things in the wrong stack here. Mr. Craig Young? And the next witness will be Robert Chavira.

MR. YOUNG: I thank you very much. My name is Craig Young. I am with O'Connor and Associates. We are a market analysis and real estate appraisal firm in Houston. And I appreciate the opportunity to speak with you today.

The things that I am going to speak about, and

I will be brief, relate to the proposed changes for the market analysis rules. The first item is the reduction in the capture rate from 100 to 50 percent for seniors, rural and special needs. I think there is a comment related to that, with respect to allowing a secondary market area to be used, that might offset the decision to lower it to 50 percent.

We have been having -- several of the market analysis guys have had a roundtable with the state for several years. We have been working on how to quantify a secondary market demand on seniors and other types of populations. We haven't ironed out all the differences there. I would like to see that be a little bit more formalized before we get to a point where we want to lower the capture rate.

We have seen instances where had the capture rate been 50 percent on some of our studies we have done in the past, the projects would not have been approved. And these projects are doing quite well today. And so I just want to have you, have the staff and have you all revisit that item.

The second is, there is a proposal to show the capture rate by bedroom type. When we are surveying apartments to gather the vast quantity of data that we

need in order to do these studies appropriately, it is very difficult sometimes to get that information, on a project basis, much less on a unit-by-unit floor plan basis. In many cases, the folks just don't want to look back in their records to that degree, to provide us with that information.

Now, most of us in the business have been looking at proposed unit mixes in the market studies when we do them, to check for reasonableness in terms of how many ones, twos and threes are in there. So there is a provision that most of us go by that does consider the proposed unit mix and whether that is reasonable based on the market area.

I would also like you to revisit the infeasible part of the proposed changes. I think Mr. Jack spoke to that earlier. I won't repeat that. I concur with his thoughts on that.

Also, there was the infamous study, infamous from a market analysis perspective, on the Vogt Williams report in Houston. And we had to go back and address that report in all of our market studies. I would just like to plant the seed that that report is getting old now, and if we could maybe not have to address that at the level we had to address it before, that would be great.

And also, that was not written to the QAP, so there is apples and oranges with respect to that. And in closing, I would like the staff to research the impact of these proposed changes, and whether or not they would be any unintended consequences as a result. Thank you very much.

MS. ANDERSON: Thank you, sir. Mr. Chavira.

MR. CHAVIRA: I would like to speak at the agenda item.

MS. ANDERSON: Okay. Ms. Janet Lewis.

MS. LEWIS: I am going to pass until the agenda item.

MS. ANDERSON: Mr. Chris Boone.

MR. BOONE: I would prefer to do the same.

MS. ANDERSON: Sir, are you going to yield, or would you like to speak during the agenda item. The witness form says, public comment.

MR. BOONE: Okay. I would like to yield to Chester --

MS. ANDERSON: Okay. Thank you.

Mr. Tom Warner.

MR. WARNER: Yes, ma'am. I am with the City of Orange. I am here to answer any questions you might have on Item 2.

MS. ANDERSON: Okay. Thank you.

MR. WARNER: I would also yield my time to Chester --

MS. ANDERSON: Chester is going to be up here a long time today. Chester is a wise man. Sally Gaskin. I know, this is for the access gates topic.

MS. GASKIN: Oh, yahoo. Thank you. I am Sally Gaskin, and I am here speaking on behalf of The Woodlands. You have before you on the consent agenda today an amendment for this development for some differences from the original application to what was actually built.

I actually am a substitute general partner in this transaction. So I came into it after the fact. But I do want to speak to the staff recommendation for installing limited-access gates on this property.

The item that was marked in the application was for limited-access gates. But it was in the section of the application that had no points. And we did the things that required points. This one was one of those, I feel like it was an error.

I think they kind of -- there's 22 items; 16 of those items were marked. Maybe it was optimism. The problem is that this property is in -- it has got -- it is fully fenced; it just doesn't have limited-access gates.

We do have a police substation that's on the property. And people coming in and out the front of the property is not the problem. We have got kids coming across the fence in the back of the property, coming to use the pool from another complex. That is a problem.

We do have to hire additional security at times and we do that. My experience with limited-access gates is they sound really good. They are not really effective, because they end up being broken. It is an expense that this property really can't afford.

Our rents have gone down in Beaumont, due to rising utility allowances in the area. We have had storm damage. We were very fortunate; we only had a few units down, but we've had some pretty significant expenses.

And we are just -- we are really trying to use our money as wisely as possible. And I really think that the access gates is just not the best use. So that is my comment. Thank you.

MS. ANDERSON: Thank you. That concludes then, I believe, the people that want to make public comment during the initial public comment period. Ms. Langendorf?

MS. LANGENDORF: [inaudible].

MS. ANDERSON: Well, Ms. Langendorf, if you would come down, and I will look for these forms. Thank

you.

MS. LANGENDORF: Good morning. My name is Jean Langendorf. I am Executive Director of United Cerebral Palsy of Texas. As many of you all know, we serve as the lead organization for the Texas Home of Your Own Coalition.

On behalf of the United Cerebral Palsy of Texas and the Home of Your Own Coalition, I needed to come this morning to officially request the continuation of the Department's commitment to the Texas Home of Your Own Coalition. HOYO, as we call the program, continues to expand opportunities for home ownership among a greatly underserved population, which is low-income persons with disabilities.

TDHCA has been a partner in this public-private initiative since 1996. As a partner, TDHCA has committed down payment assistance and barrier removal assistance. I want you to remember those words to prospective home owners with disabilities. And it is a major activity of the project to promote home ownership.

Because persons with disabilities are considered an underserved population, this assistance is an especially important activity to support. We want and need this partnership to continue. It benefits all of us.

The recommendation in the Consolidated Plan would destroy the partnership. There has been no effort by TDHCA to develop a plan to address the needs of persons with disabilities in their pursuit of home ownership.

Members of the Texas HOYO and representatives of the disability community stand ready and willing to meet with TDHCA Board and staff to address the needs of people with disabilities. It is a need that greatly exceeds the 1.8 percent. Actually, my written comment is incorrect. It is the 2007 HOME funds being directed towards people with disabilities.

Part of the plan says there is a 5 percent commitment to serving people with disabilities. Unfortunately, when you add up the dollars, there is not that commitment. There has been no input, no dialogue.

There are other issues besides the Home of Your Own program; that is a significant one. The disability community has gotten together on this, and basically looked at your agenda, we are not going to come today. Just so you know, I had to come, my Board said, you have to go officially say, this partnership will be destroyed by what is being recommended by staff.

We will be providing written comment from the disability community. We will be coming to future board

meetings. Some may appear at some of your 13 hearings, which I understand you all need to do. But truthfully, over the past ten years, you can go and talk to staff all you want. But the decisions are made here.

There is an activity called promoting independence. It is an activity of the Health and Human Services Committee. It is addressing the needs of moving people out of institutions and utilize Medicaid money, because money follows a person.

An initiative -- the State is going to be competing for a grant. They can get more points if there is an initiative in housing. There is nobody is coming to the meetings. There is no participation. We are concerned about that.

We hope the Department will respond, since truthfully, in the last couple of years, there has been no point person. We don't even know who to talk to at the Department. Since Sara left, we don't have anybody that understands the needs of people with disabilities and we are concerned.

So we are here today to let you all know that. Thank you very much. I will answer any questions. Thank you.

MS. ANDERSON: Thank you. Ms. Rhoda Gersch.

MS. GERSCH: Good morning, Madam Chair, members of the Board, Mr. Gerber. My name is Rhoda Gersch. I am the Executive Director of Combined Community Action, which is located in Giddings, Texas.

I am here this morning to speak in support of the Agency's draft rules 5E and 5F. The rules are for the energy assistance and community services block grant. Our agency, Combined Community Action, receives funding from TDHCA for weatherization, comprehensive energy assistance, and community services program. So we are being affected by this development.

I would like to voice one concern. At the nonprofit organization, most community action agencies do not have cash flow ability to carry programs for even a short period of time. So any delays in funding to our Agency could be devastating to our client services.

So hopefully, the rules, the process will go forward in a way that will keep delays from occurring. In the past, the Department has also been able to put policy issuances out that have enabled us to get money in a very timely manner. For an example, our Agency was awarded over \$494,000 for utility assistance this year.

As of yesterday, 100 percent of that money has been spent or obligated, and yet, we continue to receive

calls -- 50 yesterday we counted by three o'clock -- requesting assistance. Many are from families that have never asked for utility assistance before.

In the past, TDHCA staff has been able to deobligate money from agencies that haven't spent it all, and re-obligate it to those that have, and are in need of further funding. With respect to the community services section, last year during this time of the year, we had the Katrina and Rita situations. And they were able to get money out to agencies like mine, so that we were able to assist the evacuees.

Our agency assisted 245 in the City of Giddings. These types of actions have been carried out through policy issuances, as I have stated. This method allows action in a time-sensitive way that prevents, in most cases, disruption of services for the clients.

And I would like to urge the Board to ensure that these or a similar practice be allowed to continue, so that gaps in funding and services do not occur. Thank you.

MS. ANDERSON: Thank you, ma'am. Ms. Swenson, and the next witness will be Jim Shaw.

MS. SWENSON: Good morning, Mr. Gerber, members of the Board, Madam Chair. I am Karen Swenson. I am the

Executive Director of Greater East Texas Community Action Program based in Nacogdoches.

We are also a small community action agency. We provide services to 11 rural counties situated in East Texas. I wish to also speak in support of Agenda Item 5E of the draft rules of the Department of Energy Assistance and as well as 5F which is the community services block grant.

GETCAP receives emergency assistance weatherization, energy assistance and emergency assistance through TDHCA. I want to applaud the Department for adopting rules that encourage public comment. Community action agencies across the state are on the front line. We are the direct service provider. We actually touch those people.

I also applaud Ms. Rhoda's efforts here, just before me. I also want to encourage any caution about anything that could interrupt, because we also are a small agency. We do not have the ability to operate any program for any length of time.

For instance, in the spring, there was a slight delay in our weatherization contact caused just a pause for us. But when this delay occurred, then we basically stopped weatherization services for a short time, because

that contract was interrupted.

We also were impacted significantly by Hurricane Katrina first, with all of the evacuees. The timeliness of the expedited funding for that was very important. We quickly put that money into the hands of the evacuees who were in our area.

And then we also were brought down by Hurricane Rita. And we spent quite a long time in the dark, as with many of our other friends in rural East Texas. But the response of TDHCA was very important, and the timeliness of this was very important to this very sensitive time.

There was not a lot of time to discuss or deliberate issues. People needed to be served. This is very important, whenever they can deal with this through policy issuances.

In addition to that, this spring, very late, as was mentioned, Ms. Gersch mentioned that when the federal government gave us the enhanced LIHEAP money, TDHCA immediately sprang into action and that money was provided to us as quickly as possible and we immediately began serving individuals. I too am in the issue or under the work problem right now of having run out of this money, and being concerned about what will happen.

I do strongly encourage the opportunity for

public comment and public input, because we are the front line. This gives us time to evaluate and consider exactly how this is going to impact those who do not have a voice. This is very important.

However, there has got to be a balance. And I believe that the wisdom presented before me right now will find that balance, where we can reach some sort of way to reach them quickly, but yet involve the public in involvement of those that are going to be impacted. Thank you.

MS. ANDERSON: Thank you. Mr. Shaw?

MR. SHAW: Good morning, Madam Chair, members of the Board, Mr. Gerber. I am Jim Shaw. I am the Director of the Capital Area Housing Finance Corporation.

And I am here also representing the board of directors of the Texas Association of Local Housing Finance Agencies. I wanted to visit with you on two matters this morning.

In Section 49.9(h)(8)(B), the section dealing with signage on bond transactions, I believe we discussed this last year as well. And visiting with staff this morning, visiting with Robbye, the wording in that section doesn't allow the flexibility that I believe the staff intended.

But we would either post the TEFRA notice

signs, with TEFRA notice hearing dates and time and location on the signs on the property, either 30 days after the volume 1 and 2 were submitted, or 30 days prior to the hearing actually being held. We would encourage you to leave that kind of flexibility in the QAP. I don't believe the wording currently allows that.

As I have indicated before, we managed that TEFRA hearing process as part of our overall management of the projects as they go forward. We don't like to hold TEFRA hearings until we know we have a real project.

The federal requirement is that we post that notice 14 days prior to the hearing. We were more than glad to post it 30 days prior to the hearing, but would simply request that you amend the wording in the QAP to reflect that flexibility.

The second matter I wanted to visit with you about was regarding the local loans on 9 percent transactions. The threshold dollar amounts on loans are being raised very significantly. And I would encourage you to revisit that.

At the current level being proposed, it may preclude organizations like ours, local housing finance corporations or perhaps even local communities, to meet those requirements and be able to loan the dollar amounts

necessary to achieve the 18 or the 12 points. I would be glad to answer any questions. I do want to keep my comments brief.

MS. ANDERSON: Would you go over what you just said about local loans, because that -- I am not --

MR. SHAW: Well, I believe the threshold loan amounts in this year's QAP are significantly higher than they were last year.

MS. ANDERSON: Okay.

MR. SHAW: And that dollar amount, it would be very high in some cases, too high, where to allow a local organization like ours to actually provide that loan amount to get the points for a project that we wanted to encourage, or that a local community wanted to encourage in their community.

MS. ANDERSON: Okay. Well, I would be -- the same question I asked the gentleman earlier. Would you do me a favor. I would like to see specifically where, in the public comment period where you think those ought to be set.

MR. SHAW: Okay.

MS. ANDERSON: Because I think that staff is proposing that change, because it felt like that existing levels are so low, that they are de minimis. And so, you

know, I think the public comment period is a perfect time to get some dialogue about where the right place is to set them; not too hot, not too cold.

MR. SHAW: Try to find that happy medium.

MS. ANDERSON: That is right.

MR. SHAW: Okay. Thank you.

MS. ANDERSON: Any other questions?

(No response.)

MS. ANDERSON: Thank you, Mr. Shaw.

MR. SHAW: Thank you.

MS. ANDERSON: Okay. I have witness affirmation forms from Maureen Moulton and Kirt Shell, who both yielded to Mr. Jack. And I apologize to Mr. Jack, because I didn't see these until just now. So when I was trying to -- did you say everything you wanted to say?

MR. JACK: I believe so.

MS. ANDERSON: Okay. Thank you. Now again, I believe that is the end of the public comment to be made in the public comment period. Is there anyone else who wants to speak at this point in the agenda, before we go into the agenda itself?

(No response.)

MS. ANDERSON: Very well. Then we will proceed with the agenda. I want to welcome Mr. Flores, and we are

checking with Mr. Gonzalez. The first item on the agenda is the consent agenda. Item 1, there is several items on this agenda.

Mr. Gerber, do you have any comments you want to make about the consent agenda?

MR. GERBER: No, ma'am. It is fairly straightforward. If there is any questions from members, but we are seeking unanimous consent to approve these items.

MR. CONINE: Madam Chair, I would like to pull Item 1D off, please, and have staff testimony on that.

MS. ANDERSON: Okay.

MR. CONINE: But otherwise, I move to approve the consent agenda with 1D removed.

MR. SALINAS: Second.

MS. ANDERSON: Thank you. I do have two items of public comment on this item. Mr. Collins? Ms. Gaskin? This may be a duplicate form. Okay.

MR. CONINE: That was her --

MS. ANDERSON: I think it is the same topic, so I just have a second form. Okay.

MR. CONINE: Do we have to pull that whole item off, or can I just pull that one project off?

MS. ANDERSON: I don't know.

MR. HAMBY: Kevin Hamby, General Counsel. You do not actually have to pull it, unless you desire to make a change from the staff recommendation. But you would have to pull the entire 1G item.

MR. CONINE: Okay. I will amend my motion then, to pull Items D and G off the consent agenda for future consideration.

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.

(A chorus of ayes.)

MS. ANDERSON: All opposed, no.

(No response.)

MS. ANDERSON: The motion carries. So then, now let's come back to Agenda Item 1D, which is the possible approval of an RFP for property management services. Mr. Gerber?

MR. GERBER: Madam Chair and board members, the staff is seeking approval of an RFP for property management services. The property management services will be for properties that are foreclosed by the Department.

There are currently two properties in the foreclosure pipeline, as early as October, but more likely by the end of the year. Tom, do you want to touch on some of the highlights of the RFP?

MR. GOURIS: Tom Gouris, Director of Real Estate Analysis. What we are trying to do here is to be prepared for what may be an inevitable situation, which is that we are needing to operate a property. Obviously, we don't have the in-house expertise to do that.

So what we are trying to do is to hire a property management firm or firms across the state to be ready and available to take on that obligation for us. And I can go through the RFP if you want, or just take your questions.

MR. CONINE: The reason I pulled it out, I just wanted to hear, the staff explanation of what we were going through. What have we done in the past? Have we not had this situation in the past? Is this the first time for this?

MR. GOURIS: At least in the last four years we haven't had any multifamily property as owned real estate.

MR. CONINE: Okay. And in our RFP, I am curious. If we are requiring or requesting tax credit experience with this management company, or is this just a

conventional deal?

MR. GOURIS: We are requiring that they have affordable housing experience. These properties would not necessarily be tax credit developments and probably would not be tax credit developments because these properties are going to be probably where we have a first lien with the HOME loan primarily, or a Housing Trust Fund loan. And it is extraordinarily rare that we would have a tax credit development with a first lien home.

MR. CONINE: And can you give me some of the methodology behind the scoring system that was created in the RFP please?

MR. GOURIS: That is a good question.

MR. CONINE: It is early.

MR. GOURIS: I think what we were going for there is to attempt to identify the -- ensure that the property management company was qualified. And frankly, once we have met that qualification threshold, what their plan of attack would be, if they could handle the whole state, or what parts of the state they could handle, and what kinds of services they would provide for us.

And then, our thoughts were that the fee structure would be the most critical. This is the first time we have done an RFP for property management services.

And so we are feeling our way as we go with regard to what the priorities and what the weights were.

MR. CONINE: On the last point structure, there where it says, Identity of interest threshold requirement at zero points, can you help me with that?

MR. GOURIS: Yes. That was intended to indicate that if there was an identity of interest with ownership, they would not be able to manage property for us.

MR. CONINE: Oh, so, the same property, you mean.

MR. GOURIS: Yes.

MR. CONINE: Okay. I have got you. All right.

And is there a time frame on the thought process of the Department on how long? I would think that you would want, once you make a decision on a property manager, you want some sort of time frame consistency here. Are we talking a year, two years?

MR. GOURIS: We are looking at a two-year time frame, I believe. And our expectation is that these properties are going to be returned to the private sector as soon as possible. And so our interim ownership of them, and management of them through the property management company would be as short as necessary to

facilitate a new owner.

MR. CONINE: No further questions.

MR. BOGANY: I have one question. In regards to, I guess in the contract, if they are turned back over to the private sector, does the management contract go away at that point in time?

MR. GOURIS: Most likely, it would. I mean, we would have provisions in our contract that would call for that to occur.

MR. BOGANY: Okay.

MR. GOURIS: But should the new owner wish to use that property management company, they would be --

MR. BOGANY: So the two-year contract that you are proposing that they sign, that if we sell this, and it gets back into the private hands, that that two-year contract would then go away?

MR. GOURIS: Actually, what we will sign is a contract with one or more parties to potentially do property management for us. It will be a one-year with actually a two-year additional potential period. We may not execute any specific properties to them, because we may not foreclose in the area that they are able to serve.

MR. BOGANY: Okay.

MR. GOURIS: If we do, they will be our

servicing agent, our property management agent in that are until this contract with them expires or is extended, or the property is sold.

MR. BOGANY: Okay. Thank you.

MR. CONINE: I move for approval of 1D.

MR. BOGANY: 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.

(A chorus of ayes.)

MS. ANDERSON: All opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Now we move to Agenda Item 1G, which is requests for amendments on housing tax credit applications.

MR. CONINE: I pulled it, Madam Chair, specifically for the discussion on The Woodlands, and the gate situation that Ms. Gaskin testified to. If we could get some staff comments before any other questions, that would be great.

MR. GERBER: Ms. Meyer.

MR. CONINE: I feel your pain.

MS. MEYER: No, you don't. Robbye Meyer, acting Director for Multifamily Finance. We have gone over and over this particular application, trying to find a substitute for the access gates. What Ms. Gaskin was asking for was just to omit it, because she doesn't have anything equivalent that she can actually put forward.

MR. CONINE: I guess she, I think, alluded to the fact that she had a police substation located within the property.

MS. MEYER: Yes.

MR. CONINE: That would obviously be of some deterrent, I guess?

MS. MEYER: It is a plus. It is not manned completely 24 hours a day. The police department has total control over it. It is open 24 hours a day. However, it is not -- there is not somebody in that guard station 24 hours a day. Usually at night, but not all the time.

MR. CONINE: By the same token, if they put in access gates, and left them open all the time, wouldn't you have the same issue?

MS. MEYER: I would tend to agree with that, sir.

MR. CONINE: There is no requirement to close

the gates, I guess is my point, because sometimes they can't. I had that experience on some properties of mine where it wasn't the front gate, but it was the back gate.

And it kept getting tore up all the time. I finally decided to leave it open, just because it wasn't worth the time and effort.

But the Department's intent here, it says, or a substitute feature of equivalent value and utility. Am I hearing you say that the police substation doesn't do that for you?

MS. MEYER: It wouldn't be the -- I guess at this point, if you wanted staff to take that recommendation, we could. If the Board wanted to direct us to do that, we could take that as a substitute.

MR. CONINE: Okay. No further questions.

MR. BOGANY: I just had one. What is the purpose of having a controlled access gate? I know what the -- I mean, why are we requiring it?

MS. MEYER: It is actually a point item. But for this particular application, they didn't actually mark it as a point item. It was marked on just the amenities, and it was checked by mistake. And then when these guys actually developed the property, that was just something that wasn't feasible.

MR. BOGANY: I notice they said, by mistake, that they were going to do it, but it hasn't --

MS. MEYER: Right. It was the same thing with one of the other items that they checked on there in error.

MR. BOGANY: Okay.

MR. CONINE: Madam Chair, I would like to move that we approve Item 1G with an amendment on The Woodlands recommendation that we allow the police substation and the additional security that the applicant has put forward as a substitute feature of equivalent value and utility.

MR. BOGANY: 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.

(A chorus of ayes.)

MS. ANDERSON: All opposed, no.

(No response.)

MS. ANDERSON: The motion carries. The next item on the agenda, is Agenda Item 2, which is presentation, discussion and possible approval of community development block grant HUD disaster recovery

items. Mr. Gerber?

MR. GERBER: Madam Chair and board members, Item 2 is intended to provide a description and clarification on projects on the non-housing, critical infrastructure part of the CDBG disaster award allocation that has been made available to the State for areas of Southeast Texas recovering from Hurricane Rita. Charlie Stone, who is the head of the Office of Rural Community Affairs is here, along with Bill Dally to describe that part of the funding.

MR. STONE: Good morning, Madam Chair, members of the Board, Mr. Gerber. Good to be here this morning. My name is Charlie Stone, Executive Director of the Office of Rural Community Affairs.

Madam Chair, you have four action items before you this morning. In addition to those four, we have supplemental approval requests that we need to propose to the Board.

My super staff has prepared some additional information for you, that we have, that will highlight those changes, and make it easier for you to follow the recommendations this morning. If you would like to have those, I would be happy to present those to you at this time.

MR. FLORES: Mr. Stone, before you start?

MR. STONE: Yes, Mr. Flores?

MR. FLORES: Is this over and beyond what is in our paperwork here?

MR. STONE: Yes, sir. It is.

MR. FLORES: Okay.

MR. STONE: You have a Board action request that will be changed in accordance with what we are presenting to you in the green folders. So when you get that, when you all receive it, I will walk you through how we will do this, this morning.

If you will look on the left side of your package, you will see another piece of paperwork called Board action request. And there will be a lot of red lettering on there. And that is what we are going to highlight.

But we need to run through this very quickly. I need to go over the action items, and then we'll get right into the other changes and go through those as per your directions.

Action 1 is approval of funding awards for non-housing projects as previously allocated on July 28, 2006, for each eligible city or county government and federally recognized Indian tribe in Deep East Texas Council of

Governments, the East Texas Council of Governments, the Houston-Galveston Area Council, and the Southeast Texas Regional Planning Commission as listed in Attachment A. Attachment A is on the other side of that packet. It doesn't have it listed at the top, but those are the line item budgets and identifications of each one of those projects. And we will talk about that later.

Action 2 is approval of non-housing project delivery cost funds for the DETCOG eligible cities and counties and federally recognized Indian tribes. Action 3 is approval of the revised method of distribution for DETCOG. They moved a lot of money between projects, and so their Board has met subsequent prior to this meeting, and they have approved this, so you should note that.

Action 4 is to authorize the Executive Director of the Office of Rural Community Affairs to execute contracts for non-housing projects as approved by the TDHC Governing Board. Now you have before you in red letters there some information that I need to share with you.

And this information is designed specifically to continue to move these projects forward. And I will explain those. They are bullet-pointed, highlighted, and I will explain those as we go through those one at a time.

The first one is an approval of a waiver of the

50 percent overall benefit requirement for each application submitted under the funds as required in the State of Texas Action Plan for CDBG disaster recovery, which will require an amendment to the Action Plan and authorize staff to make changes to the Action Plan following HUD requirements for public notification concerning Action Plan amendments, because DETCOG did not have sufficient funding toward the benefit to low to moderate income persons national objective activities. And that first one is basically a backup plan, in case all else fails, which is what we are going to continue to talk about. This will ensure that if we cannot reach the 50 percent low to moderate in any other way, then this will allow them to meet that, and the funds can flow.

The second bullet point right there, is approval of the non-housing funding for DETCOG by project, and authorization of Michael Gerber, Executive Director of TDHCA and Charles, that is Charlie Stone, Executive Director of ORCA to continue to work with DETCOG to clear the low to moderate income overall benefit deficiency as presently required in the State of Texas Action Plan for CDBG disaster recovery and execute contracts as detailed in Attachment A. Basically, what we are asking there is to continue to work with DETCOG to reach the 50 percent

low to moderate income.

The third bullet point is approval of those projects in the DETCOG regions that have met the low to moderate income requirement and further approve the execution of subsequent contracts as detailed in Attachment A, once the low to moderate income requirement is attained, either by an individual project, or the entire DETCOG region in aggregate. Currently in the application that we have received, there is \$1,062,905 that we know absolutely meets the low to moderate income.

And what this is asking is that we move forward and approve those, and then continue to approve those by individual contracts as they meet the 50 percent low to moderate income requirement and not have to wait until the entire region reaches 50 percent.

And the last one, and also a critical one is to authorize a waiver of the requirement that project amendments in excess of 5 percent be approved by the TDHCA Board for the purpose of the DETCOG region and compliance with the 50 percent overall benefit requirement. Now let me explain that to you.

All we are asking is a waiver during the time that we are trying to change those individual contracts just to get to the 50 percent low to moderate for the

DETCOG region. We are not asking for that waiver for the whole thing. It is just for that, to get to 50 percent for DETCOG.

So you have those four, that we would like for you to consider this morning. And we have other information, subsequent to what has been presented in your original board book, that have been changed. And we want to go over those for you so that you will know what is coming before you today.

I don't know if you want me to read through the background information. I think we are pretty well familiar with that. But I will read as much as you want me to read, Madam Chair.

MS. ANDERSON: We have a lot of public comment from elected officials and others on this item also.

MR. STONE: If you like, I can read the highlights, and we'll just go through as quickly. And I think there are people here that would be interested in that.

MS. ANDERSON: Why don't you just hit the highlights and summarize the revised numbers by column on page 3, et cetera.

MR. STONE: Okay. Well, at the bottom of page 2, you will see a sentence at the very bottom. It says,

Based on the applications received from the four COGs, this is August 17, 2006, three of the COGs met the 50 percent overall benefit requirement for low to moderate income activities. The DETCOG region has not yet met this requirement.

I do want to insert that much progress has been made in that area, and we anticipate that it will continue, and we'll be successful. If you will turn to page 3, if you will look at, we will go item by item.

Deep East Texas at the top right there. On July 28, you approved allocating the funding. The funding that is approved in the black column is the money, the funding that was the estimate that they send in, not having applications in their hand at that time. Now the revised numbers, after we know the exact applications that they have, and this is the revised numbers that they have come up with.

You will notice that the grand totals have not changed. Money has changed within the areas. You will notice that the total project delivery for DETCOG has grown from 88,259 to \$827,000, \$820,008. That is because that information was not included in the original application and it needs to be in there. That is project delivery costs related to the individual communities

managing those contracts, and DETCOG has the largest number of contracts in the region.

And the other column, the box column below that, that just is a breakdown of the project costs, engineering costs and project delivery cost that was not included in your board book when it was printed. So that is in there for your information.

If you will look at East Texas Council of Governments, you will notice the totals have not changed there. Just changes within the numbers. But that is now because we have actual numbers to deal with.

Moving down to the bottom of the page, Houston-Galveston Area Council of Governments, that totals \$3,690,712 has not changed. Just changes within those categories above that. And on Houston-Galveston on the top of page 4, there were some changes in the project costs, and so those particular ones are highlighted for you.

The project costs have increased now which means that is actual delivery dollars to construction: \$3,330,308. Engineering costs, 126,874. And project delivery costs has been reduced to 158,974 for the total of 3,616,156.

And then the next COG is Southeast Texas

Regional Planning Commission. And those grand totals have not changed. 12,468,656 are the actual numbers for that particular one. And if you will notice on Southeast Texas, there is \$11,751,336. That was a typographical error only on that one. So we want to highlight that for you.

So here are the recommendations, finally, Madam Chair and members, for your approval. Action 1, in conjunction with the other action items that I read, staff recommends approval of funding awards totaling \$30,537,574 for non-housing activities for the four affected COG regions.

Action 2, the staff recommends approval of the revised non-housing funds for project delivery costs for DETCOG eligible cities and counties. Action 3 for your consideration, staff recommends approval of the revised method of distribution for DETCOG.

And Agenda Item 4, staff recommends that the ORCA Executive Director be authorized to execute contracts for non-housing projects as approved by the TDHCA Board. And then in red, the subsequent recommendations with the previous ones that I read.

Staff recommends approval of the waiver of the 50 percent overall benefit requirement for each

application submitted under the funds, as required. The Texas Action Plan for CDBG disaster recovery which will require an amendment to the Action Plan and authorize staff to make changes to the Action Plan following HUD requirements for public notification concerning Action Plan amendments, because DETCOG did not have sufficient funding directed toward benefit for low-to-moderate-income persons' national objective activities.

The second one, the staff recommends the Board release the non-housing funding for DETCOG and authorize Michael Gerber, Executive Director for TDHCA, and Charles S. Stone, Executive Director for ORCA, to continue to work with DETCOG to clear the low to moderate income overall benefit deficiency as presently required in the State of Texas Action Plan disaster recovery and execute contracts as detailed in Attachment A.

Staff also recommends approval of those projects in DETCOG region that have met the low to moderate income requirement, and further approve the execution of subsequent contracts, as detailed in Attachment A1, so that the low to moderate income requirement is attained either by the individual project, or the entire DETCOG region in aggregate.

And last but not least, staff recommends a

waiver of the requirement that project amendments in excess of 5 percent be approved by the TDHCA Board for the purpose of the DETCOG region in compliance with the 50 percent overall benefit requirement. You also have your packet the Attachment A that I referred to, that goes line by line item on here.

It shows the changes that have been made in the budgets in the various regions, starting with Houston-Galveston Area Council. If you need me to read those changes, I can do that too.

MR. CONINE: No.

MR. STONE: Thank you. I appreciate that.

MS. ANDERSON: Let's don't, and say we did.

MR. STONE: Okay. Do you have any questions? There are people here that would probably like to ask.

MR. CONINE: I had one question. How long has the staff -- our staff had a chance to look at this revised list? Have they seen it?

MR. STONE: They have not, and you have not.

MR. CONINE: Have not. Okay. Then could I get Mr. Hamby to comment on the agenda items, the revisions to the action items and his opinion? There is a lot of legal mumbo-jumbo in there that I would like to hear your comments on, before we go any further.

MR. HAMBY: We -- and it is a good clarification to make, because ordinarily, as you know, our rules prohibit -- if the Department is in control of something, we cannot give it to the Board after the posting has gone up within seven days.

But the Department has not been in control of this document at all. ORCA has, so that is why you could get a revised copy and I didn't jump up and down and say no.

The general concept is something we have talked about. The only thing that I know of that is new, is the 5 percent waiver between the Department or in between projects, that the Department has requested. We think that all of these are perfectly fine, and you know, probably the major difference in the discussions is, it is our belief that because of the structure of the program, ORCA is the department that will be working more closely with reaching the low to mod.

And then after that, they would bring it to Mr. Gerber and say, we have reached these agreements. But otherwise, we believe that the Action Plan amendment is fine.

MR. CONINE: Okay.

MR. BOGANY: I have a question for Madam Chair.

If it is appropriate for us to just go ahead and move forward with Item 2. And I move that we approve.

MS. ANDERSON: A motion is certainly in order.

MR. BOGANY: I motion that we approve Item 2.

MR. CONINE: As amended.

MR. BOGANY: As amended.

MR. CONINE: Second.

MS. ANDERSON: Discussion? Gentlemen, Representatives, are you comfortable with us going ahead and doing this?

VOICE: Yes.

MS. ANDERSON: Any more discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote.

MR. HAMBY: Let me make one clarification. That is with ORCA staff. What is written is actually that Mike has to be in there with them, working the cleanup. But with ORCA staff doing that, and bringing it to Mr. Gerber is my understanding.

MR. CONINE: Yes.

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

(A chorus of ayes.)

MS. ANDERSON: All opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. DIGGLES: Madam Chair?

MS. ANDERSON: Yes, sir?

MR. DIGGLES: I am Walter Diggles, Executive Director of the Deep East Texas Council of Governments. And I would be remiss if I didn't make a comment with this considerable entourage of East Texas elected officials and representatives.

You know the extreme difficulty that our regions have experienced in Hurricane Rita, and we certainly appreciate the Board in moving forward with your action. The low to mod beneficiary issue that we were notified by on Monday of this week was one of those issues that was like a surprise attack for our region.

We have no concerns about the low to mod beneficiary, because we believe if you went to Newton County, and you went to the Valley where the Mayor is from, you would be no different, other than there would be Hispanics, and there would be white and black people in Newton County, because it is colonia. And so we believe that the low to mod beneficiaries are going to be met.

As a matter of fact, for the record, we have

already submitted to ORCA a revised data to meet that criteria and we look forward to expediting this process. Thank you very much. My last comment would be that hopefully, I know we'll be learning quite a bit in this process.

And I would certainly urge you, Madam Chair and members of the Board, to strongly consider how you are going to be implementing the next phase of this project, to maybe avoid the duplicative processes that we have been able to have to go through. And it would certainly help up in getting to where we think we need to be with regard to recovery. Thank you very much.

MS. ANDERSON: Thank you, sir. I did have one individual that wanted to make public comment on this item, so I would ask Mr. John Henneberger to come up and make public comment, because I think some of his comments are forward looking.

MR. HENNEBERGER: Thank you, Madam Chair, members. My name is John Henneberger. I am the co-director of the nonprofit Texas Low-income Housing Information Service. I wanted to first of all, congratulate Governor Perry and the Board and particularly Ms. Anderson and Mr. Gerber on the huge success that they achieved for our state when they were able to get the

Department of Housing and Urban Development to approve an additional \$428 million of community development block grant funds.

And I think those of us who worked on this have been to Washington, and tried to make the case for this realize that it was your work. And the credit does go to you all.

And this is a hugely significant amount of money. This is more than nine times our annual HOME allocation funds. But at the same time, it is important that we recognize that even if we devoted every penny of that \$428 million to providing assistance for the homeowner whose homes were destroyed, or suffered major damage by Hurricane Rita, that money would not replace all of those homes.

In our estimates, it would replace about half of them. And Texas is in a difficult situation right here. The Governors of Mississippi and Louisiana made a decision when community development block grant funds were authorized for their states, that they would provide first of all, that every homeowners whose home was destroyed would receive housing assistance.

In Texas you have just made a decision to divert funds away from housing purposes and it will

guarantee that not every homeowner in Texas will enjoy the benefits that every homeowner in Mississippi and Louisiana will receive. That basically means there won't be enough money to even to get to half of the homeowners who need assistance.

This, on top of the problem that that \$428 million is seen by some at the federal level as the money that Texas is going to have to rely on to assist the evacuees from Hurricane Katrina who choose to settle permanently in our state. So they have been in essence, we have been dealt a kind of shorthand, even with the huge efforts and the huge successes that we have made.

I would like to ask the state to move aggressively to seek a portion of the \$400 million of FEMA funds that are now up for a 30-day RFP for modular housing production. This is a competitive application among the four Gulf Coast states, and there is only a 30-day window to make application for these funds. These are the so-called Katrina cottage monies, and it is vitally important that Texas move aggressively to secure its fair share of that money.

It is also important, though, as we move forward beyond this point, that we step back and we reestablish the notion that housing and the homeowners

whose homes were destroyed should be the first priority for the remaining funds. Until they are made whole, as I said before when I spoke to you, government needs to get behind them and needs to put its interests subservient to those of people who have lost their homes.

And I would suggest that the Board consider a process to directly allocate money to individual homeowners whose homes were destroyed instead of going through intermediaries as it moves forward on how to allocate the \$428 million. Thank you very much.

MS. ANDERSON: Questions? Thank you, sir. In conclusion of this Agenda Item 2, I want to note, I am not going to read these letters into the record.

But I want to note that we did receive letters from the following elected officials that asked that their letters be put into the record, and the Department certainly has copies of these letters available for public inspection; from Senator Tommy Williams; from Senator Kevin Eltife; from Representative Tommy Merritt; from Representative Stephen Frost; from U.S. Congressman Louie Gohmert; from Representative Allen Ritter. And I think that is it.

We are going to take a 15-minute break at this point. And I appreciate everybody being with us this

morning. And we will reconvene in 15 minutes. Thank you.

(Whereupon, a recess was taken.)

MS. ANDERSON: Okay. I will call this board meeting back to order. And we are ready now to proceed with Agenda Item 3, which is presentation, discussion and possible approval of multifamily private activity bond items. And the first item, 3A, is with TDHCA as the issuer. Mr. Gerber.

MR. GERBER: Madam Chair and board members, Item 3A is Pleasant Village. This is a bond transaction with as you said, TDHCA as the issuer, for the acquisition and rehabilitation of an existing 200-unit development located in Dallas.

The bonds will be privately placed with U.S. Bank as the bond purchaser and with WNCN Associates [phonetic] as the syndicator. The applicant is requesting \$3 million in bonds and \$370,152 in housing tax credits. The Department has not received any letters of opposition. Staff recommends approval as presented.

MR. CONINE: Move approval with Resolution 06-02E.

MR. BOGANY: Second.

MS. ANDERSON: Hold on just, if the Board will hold on just a second, let me just make sure. I don't

think I need public comment on this, but -- I had a question for Mr. Gouris, if you would come up? Okay. There is no public comment on this item.

Mr. Gouris, on this, I am looking at the underwriting report. This one was on the July agenda. So I am looking at your underwriting report of July 21. And I just had a question.

On that underwriting report on page 2, the conditions talk about review, receipt and acceptance of the revised project based rent subsidy, and HUD's concurrence prior to cost cert. And then on page 11 of the underwriting report, the condition, it says revised project based rent subsidy, indicating HUD's concurrence with anticipating future increase in HAP rents prior to closing. And I am just wondering which it is.

MR. GOURIS: It is the one on page 2, in the conditions. The one at the end should have been a reference to a risk, not a condition of the report. I apologize for that.

MS. ANDERSON: Okay. And this is our normal practice? Because it is -- the deal doesn't work without the HAP contract, and so it is our normal practice not to have to have that until cost cert?

MR. GOURIS: Well, they have a HAP contract.

What we are going on is everyone, ensuring that everyone is under the same assumption that the HAP contract rents are going to go to these levels.

And so we are kind of putting the owner and the lender and the syndicator on notice that these are what our expectations are. And so that they know what they are getting into. It doesn't come as a surprise at the end that the deal doesn't work, because they didn't get those subtotals.

MS. ANDERSON: All right, thank you. So we have a motion made, and seconded. Mr. Gerber.

MR. GERBER: Let me just ask to clarify. The bond amount again, is \$6 million. And the housing tax credit is \$324,532. I am sorry. \$370,152.

MS. ANDERSON: And did we put the resolution number in the motion?

MR. CONINE: Yes, we did.

MS. ANDERSON: Thank you. Any other discussion?

(No response.)

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

(A chorus of ayes.)

MS. ANDERSON: All opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. GERBER: The second item, Madam Chair and board members is Center Ridge Apartments. This is a bond transaction with TDHCA as the issuer for the acquisition and rehabilitation of an existing 224-unit development located in Duncanville.

The bonds will be publicly offered through Merchant Capital, with Breakstone Service Incorporation underwriting the transaction for Fannie Mae, which will be credit enhanced and carry a triple A rating with a 30-year term. The applicant is requesting 8.5 million in bonds and \$324,532 in housing tax credits.

Due to an administrative error in publishing the transaction to the Department's website for the July 28 board meeting, staff is requesting a reduction in the origination fee to the Department in an amount of \$17,500 for the cost incurred by the applicant due to our error. I apologize to the Board and to our applicant for this error.

The Department has not received any letters of opposition on this development. Staff is recommending approval as presented.

MR. CONINE: Should we go ahead and take it out of your salary, or what?

MS. ANDERSON: Mr. Conine, we'll take it out of your salary as a board member.

MR. CONINE: I just wanted to know how he would react to that. Move for approval.

MR. BOGANY: Second.

MR. GONZALEZ: Second. 06-029.

MR. CONINE: 06-029.

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.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. GERBER: The third item, board members, is Meadowland Apartments. This is a Priority 3 bond transaction with TDHCA as the issuer for the construction of a 236-unit development proposed to be located in Harris County.

The developer has elected to restrict 100

percent of the units at 60 percent of AMFI for both rent and income. The bonds will be privately placed with UNMATI Holdings, LLC [phonetic], with a fixed rate and term for 40 years. The applicant is requesting \$13,500,000 in bonds, and \$951,354 in housing tax credits.

Staff is recommending approval of this development. The Department has received letters of opposition from State Representative Gary Elkins, County Commissioner Jerry Ebersole, and 45 letters from the community. A petition was also submitted to the Department that contained 1,142 signatures.

Staff has facilitated two public hearings and one public meeting for the community to give comment. That most recent public meeting taking place on August 21. There were 180 attendees and 36 people who spoke for the record at these combined events. A summary of the public comment from all three of these meetings is in your board books.

However, the key issues were a saturation of affordable housing developments and apartments in the general area, high vacancy rates in other developments in the area. An impact on property values. An impact on the schools and local services, fire department, and emergency medical services, traffic congestion and others.

MS. ANDERSON: I have a great deal of public comment on this item that we might want to hear before. Okay. Representative Gary Elkins?

MR. ELKINS: Good morning, Madam Chair and members. Thank you for allowing me to speak today.

When I saw the name Michael Gerber up there -- pardon me for taking just a little sidetrack here -- I thought, uh-oh. Here is the author of the E-myth. You are not the Michael Gerber that wrote the E-myth, though. Are you familiar with that series?

MR. GERBER: Sorry. Familiar with the Gerber baby, but that is the only series we are familiar with.

MR. ELKINS: The Gerber baby. Anyway, it is a great book. You should get it. A very inspiring book. All right, thank you.

Madam Chair, members, as you are aware, I have written a letter opposing this project and for the tax-exempt bond in this area. You know, I know that Michael Gerber there read a lot of comments and he stated a lot of things. But there is a lot of new statistics that have come forth in the last few days.

As you are all aware, Houston reached out with open arms a year ago to the devastating effect of New Orleans and Hurricane Katrina. And we had over 100,000-

something evacuees come to Houston. But our hospitality has brought some other problems.

And one of the problems that it has brought is a 30 percent increase in the crime rate in Houston. And I know that you guys are all trained and said that nobody wants these projects in their backyard. So when people talk about ancillary things like increased crime and so forth, it just kind of falls on deaf ears.

But in this situation, it is a reality. Crime has increased undeniably by 30 percent. Our constituents have risen up in opposition, not to every affordable housing project, because there is other ones. There is another one coming up in a minute that there is not one voice of opposition on.

So we don't oppose every project that comes to our district; just a couple of them, when there is valid reasons. This is a valid reason. If there was such a demand for apartments, then they wouldn't be needing bonds or government subsidies to implement or supplement this project.

Economics 101 tells us, if there is a need, people are going to feel the need. So my opposition is because of this. And then also, it has just been reported in the last couple of weeks that the schools that are

going to be attending is one of the most dangerous schools in America.

You can imagine the shock that I felt, when I found out that one of our schools in our neighborhood, that is, quote, you know, one of the best in the state, has the most dangerous school in America. The fifth most dangerous school in America. I know you are sitting there looking. And that is what I was thinking. But it is undeniable. It is public record.

Now we are going to subject the people that are going to be moving in to the school to go to the most dangerous school. I think it is a bad idea. Currently, right now, my district, we have five TDHCA-financed developments in my House District.

There are two affordable housing multifamily complexes that are located just right adjacent to where this project is. I also have four multifamily project bond program applications in my district right now. Two of them are up for votes today.

My constituents are just very frustrated with the process. They get involved, and think that government is supposed to represent them. And when they rise up in a unified voice of opposition, it is like, Well, we are not supposed to listen to you, because you all say the same

things.

I would urge you today to listen to the people. Not give them one more frustrating experience that government just ignores their outcries. But today as I was reading your mission statement, it says that it is to help Texans achieve and improve quality of life. Well, I can say that if you approve this project, that you will not be helping the Texans in my district improve a quality of life. Thank you.

MS. ANDERSON: Thank you, sir. Mr. Verma?

MR. VERMA: Before I begin, I would like to present you with handout, which I will refer to during my presentation. And I would also like to note that Greg Thorse has deferred his time as well to mine.

MS. ANDERSON: Noted.

MR. VERMA: Good morning. My name is Manish Verma, and I represent both the owner and the developer of the Meadowlands Apartments. We are excited that we have an opportunity to develop affordable housing in such a great location.

We have met with the community on numerous occasions, to notify them of the project, and address any comments and concerns they may have. In Exhibit A of your handout, you will find a timeline which outlines all

correspondence and communication with the community, starting as far back as November of 2005. We approached all organizations that we discovered in the vicinity or that we were referred to.

As you can see, we initially met or had conversation with one or more board members at each of the neighborhood groups. We then had four public meetings, three of which were attended by the neighborhood groups. This is in addition to our meetings with the public officials and phone calls with the residents.

Further, after our TEFRA hearing on August 9, we sent out 167 letters to those that attended. A sample letter is attached in your Exhibit B, expressing our desire to meet with them, or discuss with them individually their issues and concerns. We received only one call to date.

We understand the concerns of the neighborhood groups and their members. As such, we have attempted to meet, discuss, and assuage their anxieties. Unfortunately, they have refused to cooperate, or collaborate with us.

As you can see by the countless number of remarks made at the public meetings as noted in the board book, which clearly demonstrate their strong and

discriminatory attitudes to affordable housing. The matters voiced have been nothing more than NIMBY concerns of traffic, property valuations, market, crime and impact on the school district.

We believe that the neighborhood organizations and their members have unwarranted concerns. Yet, we have continually made best efforts to do what we can to address their apprehensions.

I would like to address three of their concerns specifically. First, the market. We have completed two market studies for this development. One from apartment market data, and one from O'Connor and Associates.

What you will find is that the market has an overall occupancy rate of 93 percent, 97 percent occupancy for affordable product, and a capture rate of 17 percent.

The analysts from both of these firms are here today, and will provide further information indicating the strength of the market.

Crime, again, numerous studies have been done showing that affordable housing doesn't increase the crime in the area, and our research does support this. Also, we have heard from the community that they have paid for two additional deputies to service the area.

We have offered to contribute towards bringing

in a third deputy to the area. Angela Belcher with the United Apartment Group will speak further about how Meadowlands will be managed, and the policies that will be in place, with efforts to keep the property and community safe.

And finally, impact on the school district. Once again, our research has shown that multifamily has no more additional impact on the school district than that of single-family. We have met with the school district and they are not opposed to this development.

According to the school district, please see Exhibit C, only 10 percent of the students in the district come from the apartment communities. Two-and three-bedroom apartments yield similar yet fewer students, compared to a two- and three-bedroom single-family home. And according to the school district, Meadowlands will have 72 students, and not necessarily new students.

I also note that Cypress-Fairbanks ISD is the third largest school district in the state, with nearly 80,000 students. The district has anticipated that it will grow by over 17,000 students over the next five years. Meadowlands is contributing less than 1 percent of the projected growth for the school district.

And as noted by Representative Elkins, there is

a school, Cypress Ridge, which has been classified as a dangerous high school. The school district believes this classification is unwarranted, and they are fighting to get this changed. At the same time, if there is concern about sending your students to that particular school, you can call the school district, and they will allow your student or your kids or whatnot to go to a different high school in the area.

And finally, in cooperation with the Cy-Fair ISD, we will be participating in an after-school tutoring program. We are one of four communities in the entire school district that they are going to participate with. Two days a week for two hours, from grades kindergarten to eighth grade, with the program supporting the district curriculum.

We want to be a partner with the neighborhood, as we have on all of our other developments. Our objective is to bring quality safe housing to the community, for their police officers, their bank tellers, their store clerks, and we believe that Meadowlands will help us in achieving this goal in improving the quality of life for its residents. I thank you for your time and consideration.

MS. ANDERSON: Thank you. Mr. Darrell Jack.

MR. JACK: Thank you. My name is Darrell Jack, and I am with Apartment Market Data. We did the TDHCA market study for this project and found that, through the course of our study, that the project fits the requirements, as far as the requirements for the market study and capture rate.

You know, there has been a lot of talk about this project. And I attended the TEFRA hearing on May 9 to address any market study concerns that the community had. But Representative Elkins was talking about the opposition and the Katrina victims and what they have contributed to Houston.

But the opposition to this project didn't start with Meadowlands, because I did the market study on this same exact site in December of 2003, and the opposition that came out of that was very much the same.

The comments that have been made in this round you know, are things like, we don't want this trash in our area; let them build it in Southeast Houston. You know, it is going to be full of mothers with their little children by 15 different husbands and boyfriends. And you know, this is the classic NIMBYism that unfortunately happens with affordable housing.

But let me tell you the reality. In December

of 2003, the overall market was 90 percent. The affordable housing projects were 97.4 percent. When we did the market study in June of 2006, the overall market had increased more than 3 percent to 93 percent. The affordable housing again was 96.8 percent.

You know, I have been tracking these properties, and I have been watching the affordable housing projects in this neighborhood, and I know what has been going on. These projects are effectively full. And there is a need for another housing project in this.

You know, Red McCombs has built a market rate project just across Highway 290 called Las Ventanas. And the average rent there is over \$1 a square foot. So there is a need for affordable housing. And the units are coming into the market today aren't going to provide an affordable place for these folks to live.

So you know, the opposition you know, needs to be clear. It didn't originate from Katrina victims. It goes -- it is deep seated.

The most dangerous schools, I talked to the school district, and the school district told me that they had incentivised the students of that school to report any violation of school rules, including the most minor of violations. And they feel that they have been penalized

because of the number of violations has increased.

It is not that the school is any more dangerous than any other school in Houston. They have just provided incentives to students to report those violations.

You know, a few years ago, Mr. Bogany, you and I were in much the same case. If you will remember Little York Villas Apartments. A busload of people came up in opposition to that project. And you know, I went by there a few weeks ago, as I was in Houston doing research on this project. That is a beautiful project that is 100 percent occupied today.

And what I am telling you today is that the market proves up that this project is needed in this location. You know it meets the TDHCA underwriting requirements for capture rate and market study.

And I am going to ask you again, Mr. Bogany, trust me. This project is going to fill up, and it is going to serve a need in the community that is obvious and apparent today. Thank you.

MS. ANDERSON: Thank you. Mr. Bob Coe.

MR. COE: Good morning. My name is Bob Coe. I am an appraiser with O'Connor and Associates. I performed an analysis for this development, relating to the Harris County concentration policy.

The project met all three of the criteria for Harris County's consolidated plan and consistency policy, and was granted a certification on June 22 at 2006. I was going to update you all on the market. Darrell did a great job of that.

I just will add that over the past twelve months, the sub-market has absorbed over 350 units. So there is still continued demand in that market.

The last issue I would like to address, this kind of relates to a bunch of stuff from the TEFRA hearings. There was a lot to do about a property that is very close to the Meadowlands that has filed for bankruptcy; The Point at Steeplechase.

I just wanted to give you all some more information on that. Number one, it wasn't just The Point at Steeplechase that filed for bankruptcy. That was one out of 16 properties owned by the same company that filed for bankruptcy.

I went by and looked at that property yesterday. And the property appears to suffer from a significant amount of deferred maintenance. Despite that fact, they reported a current occupancy of 90 percent and 92 percent preleased.

So if anything, this shows the demand in the

area if the project is in bankruptcy, not well maintained, and still over stabilized occupancy. It shows that there is desperate need in the sub-market. That is all I have got. Thank you.

MR. CONINE: Is that project conventionally financed, do you know?

MR. COE: Yes, sir. Thank you.

MS. ANDERSON: Ms. Belcher?

MS. BELCHER: Good morning. My name is Angela Belcher, and I represent United Apartment Group. First, I wanted to give you a little background on our management company.

We are a third-party property management company. And we were established in 1995. And we do have a reputation for providing the highest quality in property management. We manage a lot of our investments like they were our own. And we have a strong commitment to professional excellence.

We offer affordable housing, student housing, retirement living. We have communities in Houston, Dallas, San Antonio, and now Austin. And we are growing nationwide. Currently, we have nine affordable communities, and 24 conventional communities.

In regards to tenant screenings, United

Apartment Group has a zero tolerance policy. We use a system called Track One, which uses the highest performance methods for conducting background screening. And this service can also be tailored to meet your specific needs of what you are requesting when you screen an applicant.

It provides instant access to criminal backgrounds, credit checks, social security traces, sex offenders, check-writing history, eviction data, and also employment history. In regards to unauthorized residents, which was a concern at one of our other meetings, everyone must be listed on the lease. And either you are a leaseholder, or you are an occupant.

This is verified each year, and randomly throughout the year. Any leaseholders who have unauthorized occupants will be in violation of their lease, and they will be served a notice to vacate.

In regards to re-certification, that happens every year as well. Each year, each resident is required to be re-certified. And they must qualify as though they were a new resident. If they don't qualify, again, they will be asked to move.

My Houston properties do have Harris County and Houston police officers onsite. They patrol randomly.

And they have the lawful right to make arrests, issue citations, check for identification, issue trespassing citations and such. This can be set up on this property as well.

And I did want to point out that there is a difference between courtesy officers and police officers on property. Courtesy officers are there, really for the benefit of the building: They do light checks; they check for doors that may not be locked, as opposed to Houston police officers or Harris County officers that can actually issue citations and arrest any individual that may be breaking any state laws, rules or regulations on property.

So on my properties and a lot of the UAG properties, we do use actual police officers versus courtesy officers. In regards to preventive maintenance, UAG does have a reputation again, for holding high standards.

And we hold our staff accountable for the appearance of the property, annual inspections, quarterly inspections, monthly inspections and even daily inspections are conducted. We are involved in the maintenance and appearance of our property in regards to signage, capital improvements, repairs, access gates and

such.

Many of our employees also live onsite, so they do have to take pride not only where they work, but where they live as well. So there is a benefit for them in that aspect. And that is all I have.

MR. CONINE: You might want to respond to the RFP that the Department is going to issue.

MS. BELCHER: Thank you, sir.

MS. ANDERSON: Ms. Hattman.

MS. HATTMAN: Madam Chair, board members, thank you. My name is Elizabeth Hattman, and I am here representing our neighborhood association in Northwest Houston, the Steeplechase Community Improvement Association which is 1,650 homes.

As a former teacher, I have been called a lot of things behind my back, you know, at the blackboard. I have never been called a racist until we got into this process. Those of us who have opposed this have been labeled by Mr. Jack and all as all kinds of things that are simply not true.

Here is what our concern is. This is not a Not in My Backyard. We folks have two low income tax credit properties in the same vicinity. We have eight other apartments.

One of my other neighbors will be here this morning to read a letter from Sheriff Tommy Thomas, which unfortunately was not submitted in time to be in your public comment, but in which he expresses serious concern about the Sheriff's Department ability to service yet another apartment, and particularly a low income apartment in our area. Our sheriffs are overstretched, and our residents are not opposed, as I said.

This is not a case of Not in My Backyard. We have apartments. We have low income apartments. The Point at Steeplechase, which was just referred to is renting one-bedrooms for \$450 a month. So I mean, they are lower than what the developer is proposing his lowest rate of \$625.

And the developer has in our belief chosen this site simply because it is easier to build on. We are outside of the city. A lot of the requirements, a lot of the fees. There is no Metro tax, because we have no Metro service. So folks have no local bus service to get to school, jobs, work, et cetera.

And finally, I would not underestimate the severe problems at Cy-Ridge High School. To simply blow that off is entirely inappropriate. The State has declared it a persistently dangerous school.

As a parent under the No Child Left Behind Act, you have the right to have your child go to any other school. But now if you are in an economically disadvantaged family, are you going to be able to provide your own transportation to another school in the district?

So I ask you not only to consider the concerns that we have for our community, but also is this really the best place to put more low-income people? With a bad high school, no public transportation, an overstretched Sheriff's Department and a volunteer fire department? Thank you.

MS. ANDERSON: Thank you. Mr. Green.

MR. GREEN: Good morning. Thank you for letting me have the opportunity to talk with the Board. My name is Ronald Green. I represent Steeplechase Subdivision. And I agree with the comment that were preceding me in regards to transportation.

In a report by the developer, they were talking about there will be public transportation. The only public transportation that will be provided in that area is a park and ride, Metro park and ride, which goes from the Northwest part of Houston to downtown and back.

There is no other local vehicle that goes back and forth around that area, whatsoever, taxis, or

whatever. So it would be a real disadvantage for the individuals living in this type of development.

Again, I am not opposed to multifamily living.

I am a product of that, long ago. I understand how that works. But unfortunately, with this situation, there is no way that the folks in this type of environment would be able to get back and forth to where they need to go, because there is no public transportation whatsoever, and this poses disadvantage to them.

Just as opposed to going shopping, or food shopping or retail shopping. There is no way to get there. A lot of times, because of the low income or the multifamily places that we have, you see people walking up and down the streets with shopping carts. And once they have finished with the shopping cart, it is left in the street.

When you live in a single-family resident area, this is not what you want to see. And this is the situation where this is going to continuously happen when you agree to have these type of residents there. So I totally oppose the situation altogether.

In regards to the school, the impact on the school, as I said earlier, it is going to be the same. It is going to be a situation where we are going to have

crime, where we just built a new school four years ago. Even though the figures are being disputed, but we have a situation where it is a newly built school, they spent millions of dollars for this.

Now we have a poor rating. And as part of the situation where you have multifamily residents in the area. This is not a good thing for the residents that are living there now as well as the people that may come. It does not benefit them whatsoever. So I strongly oppose this situation. And I thank you.

MS. ANDERSON: Thank you, sir. Ms. Dowling.

MS. DOWLING: Good morning, Madam Chair, and Board. My name is Mary Dowling, and I am a twelve-year resident of the area in Steeplechase subdivision.

I would like to read a letter that I have from Sheriff Tommy Thomas, the Harris County Sheriff, that is to the Board. However, we didn't have it to submit it by the written deadline.

It is to the Texas Department of Housing and Community Affairs. It is dated August 29, 2006. From Tommy Thomas, Sheriff, regarding TDHCA application 060610, Meadowlands Apartments:

"The recommendation of my office regarding the application above is to deny approval of multifamily

mortgage revenue bonds and TDHCA tax credits for the developer MCAT-HT Seattle Slew LLC.

"The allocation of tax dollars to support this development should not go forward without further consideration of the increased law enforcement efforts that have been associated with government-subsidized housing projects. In some cases these developments demand a disproportionate level of attention from law enforcement officers. This strains departmental resources, and potentially creates the need for additional personnel.

"The location of the Meadowlands project in Northwest Harris County is among the fastest growing areas in the state. The Harris County Sheriff's office is keeping pace with that growth, and will make every effort to do so, regardless of the TDHCA's decision.

"However, moving forward with this project without a better understanding of the local impact on law enforcement efforts is not in the best interests of the taxpaying public at this time. Sincerely, Tommy Thomas, Harris County Sheriff."

Since the other two projects have been built in our area, there has been increase in crime in our area. And I have been a victim of that. In my own home, we have had things stolen from our garage, and our fence which

lines a thoroughfare through the center of the subdivision had graffiti you know, written all over it.

And when I called the Sheriff to report this, he reported to me that it was the same graffiti that was seen inside some of the apartments at the Sugar Creek Apartment complex, which is also a low-income housing project in our area. And he thought it was the same gang-type activity.

I also have children in the school district, and a son that attends the high school that we have talked about earlier. And it is very scary as a parent to have your child in one of the five most dangerous schools in the state.

So I would just like to discourage you from approving these. I have heard this morning testimony regarding other projects that I think are more worthy of my tax dollars, and I would like to encourage you to spend them there, and not on this project. Thank you.

MS. ANDERSON: Thank you. Cynthia Bast.

MS. BAST: Good morning, Cynthia Bast of Locke, Liddell and Sapp. Ms. Anderson, board members, in recent meetings over the past few months, I have heard you implore developers on these bond deals to be proactive in their reach-out to the community.

And in all the bond deals I have worked with, I have to say that what the developer has done here is truly extraordinary, and exactly what you are asking developers to do. In your handout that you received from Mr. Verma, it takes two pages to describe the various contacts that they have had with state and local officials, the school district, and the neighborhood associations.

They held four public meetings. You heard that after the last public meeting, they even wrote letters to 167 surrounding households offering to have one on one meetings to hear any additional concerns. I don't think I have ever worked with any developer that has done that.

When they were asked questions, they did the research and they provided the answers. When there were concerns raised about crime, which you just heard in the letter from the Sheriff, they offered to help pay for an additional Sheriff's deputy. When there were concerns about property values, they presented national studies to give indications as to what has been found with regard to property values and tax credit housing.

When there was a concern about the burden on the schools, they met directly with the school districts to calculate the number of school age children that would be placed in the school. A number came out at 72. In the

public hearing, when the developer reported this meeting with the school district, they were called liars.

When there was a concern about the bankruptcy of a nearby property, as you heard, and that that might be indicative of a market problem, they researched it. They found that this was a multi-portfolio bankruptcy with financing from CitiGroup where the developer was supposed to buy the portfolio and then sell it off, and didn't do so timely, and had management issues as well. So it is not indicative of the market for this particular property.

When there were transportation concerns, the developer tried to select a site that is near qualified employment for the residents. You heard that this is one of the fastest growing areas of the Houston Harris County area, which means there is employment for residents here.

But frankly, most of the residents of these properties do have cars. There are lots of people who work in my very law firm who are qualified to reside in the Meadowlands property. They all have cars to get to work every day.

This site is rated excellent by TDHCA staff. That is as good as it gets. This is a piece of property that, given lack of zoning in Houston, its price, and its

location, is going to be developed as multifamily.

In fact, you heard from Mr. Jack that there was a proposal for it to be multifamily in December 2003. You have heard two market analysts who have verified the need for and the viability of this property. With occupancies in other tax credit properties being at 97 or 98 percent.

And TDHCA staff has accepted those recommendations.

Harris County has verified that this property meets not only the consolidated plan, but their concentration policy as well. This is a proven developer with a quality track record. This is a proven property design that has even been used in other contexts for market rate tenants.

So we urge you to please accept the staff's recommendation and approve the Meadowlands for funding. Anyone on our team will be happy to answer any questions that you might have. Thank you.

MS. ANDERSON: That concludes the public comment on this item. I am sorry.

MR. FREDERICKS: [inaudible].

MS. ANDERSON: What is your name, sir?

MR. FREDERICKS: Fredericks. Greg Fredericks.

MS. ANDERSON: If you would go ahead and come up? I don't have a form for you, but I have got a big

stack of forms here. It would help me if after you speak, you just fill another one out. Okay. Thank you.

MR. FREDERICKS: Good morning, Madam Chair and members of the Board. My name is Greg Fredericks. I live in the Steeplechase community, which is in close proximity to this project.

I am responding to comments made in a letter to the Board by Mr. Darrell Jack, president of the Apartment Market Data company. Through his comments, he places himself in the category of bigotry that he accuses our residents of being.

Mr. Jack attended a meeting at the Harris County library on August 9. He indicated in his letter that he roamed the back of the room. And I happened to be in the back of the room as well. And heard people voicing their racist remarks without it being recorded for the public record.

As in all meetings of this type, you always have one or two or three or four individuals who say things that they shouldn't say and can be heard by other people. I know the gentleman in particular, one that he is speaking of. Whenever we have just homeowners' association meeting, this man can't stop running off at the mouth.

But we had 206 people attending that meeting. So only two or three in the back of the room represents a pretty small percentage. Of that 206 people in attendance, all the members or signees objected to this project. The letter states that the vast majority of public comment made resemble what you would expect to hear at a Ku Klux Klan rally.

Clearly, a few of the public comments indicates no such comments. There was never any mention of race at all. This is just a desperate attempt by Mr. Jack to label everyone opposed to his project as a racist. He has offended our entire community, including our elected State Representative Gary Elkins.

In the letter, he states, quotes Representative Elkins as saying, San Antonio is begging for this money. Let them go build this project in San Antonio. Earlier today, I believe I understood people were talking about projects being needed in Corpus Christi as well as the Valley.

So why doesn't the developer go to where the market is demanding their services and their projects? I would hope the Board not consider Mr. Jack's characterization of what he thought he heard in the back of the room as being indicative of our whole community.

I would like to apologize to Mr. Manish Verma on behalf of the community for the supposed comments made by one attendee. Comments made by this individual represent himself and not the community.

One other comment I would like to make is based on Mr. Jack's presentation to the Board this morning, with regard to rules changes that are in the process of being made. If I understood it right, he was saying that there was one rule change which would force low-income housing into the higher income areas, which he is against. But at the same time, he is supporting this project which is doing exactly what he says he is opposed to, moving it to a higher income area. Thank you very much.

MR. CONINE: Mr. Fredericks.

MR. FREDERICKS: Yes.

MR. CONINE: Could I ask you a question, please?

MR. FREDERICKS: Sure.

MR. CONINE: I am little concerned about the testimony we heard from the developer, who said after the meeting where everybody showed up, that he sent letters to all the residents that were registered. Did you get one of those letters?

MR. FREDERICKS: I did get a letter from him.

MR. CONINE: And why would you say that there was minimal response back to him at that point?

MR. FREDERICKS: Because I believe that everybody is just that opposed to it, and felt that sitting down with them face to face with two or three other individuals, they would probably be intimidated with that small of a setting, especially if it was in their office, or wherever. I don't know where they intended on meeting.

MR. CONINE: Okay. Thank you.

MR. FREDERICKS: Thank you.

MS. ANDERSON: And I did find your witness affirmation form, so I am sorry I didn't call on you at the time. Thank you for your testimony, sir.

So that now does, I believe, conclude public comment for this item.

MR. CONINE: I have got a question of staff, at least one, anyway.

MS. ANDERSON: Mr. Gouris?

MR. CONINE: Yes, I guess. No. Yes. I want to ask something about the market study and all that, so I guess it is his area. There was a couple of different market analysts that testified here. One said he did the actual market study, and the other said he did a

concentration analysis.

Was that for Harris County's Consolidated Plan or was that for our concentration policy? Do you recall?

MR. GOURIS: I believe we only received the Department market data study. I don't recall seeing the O'Connor study which I think he was referring to the local concentration issues.

MR. JACK: That would be our study.

MR. CONINE: Sure. Come on back up and help me.

MS. BAST: That was for Harris County concentration policy.

MR. CONINE: So it was for Harris County?

MR. JACK: Yes, sir.

MR. CONINE: How -- we heard testimony that there was two low-income projects in the neighborhood, along with eight other conventional projects.

MR. JACK: Yes, sir.

MR. CONINE: When were our two low income projects built? Roughly, how old are they?

MR. JACK: '96 and 2003, I believe.

MR. GOURIS: There are actually three within a mile that I know of.

MR. CONINE: Okay.

MR. GOURIS: Sprucewood Apartments is a '97 vintage award.

MR. CONINE: Okay.

MR. GOURIS: So it was probably built in '99.

MR. CONINE: Okay.

MR. GOURIS: Sugar Creek is an '01 bond transaction, so it was probably completed in '02 or '03.

MR. CONINE: Okay.

MR. GOURIS: And then there was an elderly transaction in the area also. The Manor at Jersey Village. And that is an '03 award. And so that is probably still under construction.

MR. JACK: That is correct.

MR. CONINE: Is that correct?

MR. JACK: Yes, sir. The Manor at Jersey Village was not included in the concentration for Harris County, because it is not a like project. And the other two are well above stabilized occupancy. And the third criteria, other than not being in the flood plain is that the average occupancy for all Class B properties built within the last ten years within three miles is over 87 percent, which it was.

MR. CONINE: How old is the Steeplechase project that is in bankruptcy that has been referred to?

MR. JACK: It was built in the early '80s and renovated supposedly in '97.

MR. CONINE: Under this pool of properties?

MR. JACK: Yes, sir.

MR. CONINE: When that acquisition took place.

MR. JACK: Yes, sir. And like Ms. Bast said, there are numerous complaints against the management company, not only on this project, but on several other projects. So it is not a function in my mind of the market, but of the property and the management company.

MR. CONINE: And given this particular sub-market, are there several other vacant land tracts that are likely to go multifamily, or is this the only one left?

MR. JACK: There are a few. This one is the most likely, because it is surrounded on three sides by apartments already. There are others that could have retail or office use. But the ultimate use for the subject tract is going to be multifamily eventually.

MR. CONINE: And the three projects or the three sides that this vacant tract is surrounded by, are those conventional projects, or affordable projects?

MR. JACK: One is affordable. The other two are conventional.

MR. CONINE: Okay.

MR. SALINAS: Are they --

MR. CONINE: Go ahead. That is all my questions.

MS. ANDERSON: Question, Mr. Mayor.

MR. SALINAS: Are they outside the city limits of Houston ETJ?

MR. JACK: Yes, sir.

MR. SALINAS: Are they controlled by, or they get services from Houston?

MR. JACK: From Harris County.

MR. SALINAS: But no utilities?

MR. JACK: They get sewer system from -- I believe the sewer system is a MUD.

MR. SALINAS: It is a MUD, but it is not controlled by the City of Houston?

MR. JACK: No, sir.

MR. SALINAS: It is controlled by the county commissioner's court?

MR. JACK: I believe so. Yes, sir.

MR. SALINAS: So I would eventually think that all those areas that are empty would be apartments eventually.

MR. JACK: I think you are probably correct.

MR. SALINAS: So what is the process for the community to go to the elected officials over there in trying to bring their problems to the elected officials in their county? There must be the guys that would have to decide where those things, where those apartments are going to be built.

Why do we have to be the zoning board of adjustments here, and why do we have to -- and why can they just bring a project that is approved by the community, by their elected officials, county commissioner's court, City of Houston, elected officials. We usually have that problem here with Houston all the time.

And it is very unfair that they have a, what, public housing of 200 people, and how many were against it? -- 186 or however more against? Would it be fair that those 200 people represent everybody there in that area, do you think?

MR. JACK: I would think that probably against would show up.

MR. SALINAS: But I mean, are there more than 3,000 people living around there?

MR. JACK: Oh, many more.

MR. SALINAS: So 200 people were the only ones

that went to object to this project?

MR. JACK: Apparently.

MR. SALINAS: Apparently. But do you have what? How much is the population around this area?

MR. JACK: Roughly --

MR. SALINAS: Mr. Mayor, he didn't prepare the market analysis on this deal. So if you are asking him specifically about this market analysis, we might ask that market analyst. There is more than 200 people living in that area, I would think.

MR. JACK: I would guess that is in the 90,000 range.

MR. SALINAS: 90,000. Okay. That answers my question that only 200 people showed up for the opposition of this project. Okay.

MS. ANDERSON: Mr. Bogany?

MR. BOGANY: Tom, in staff's recommendation, I am looking at, what type of affordable housing? You said it was three surrounding this unit? The one that is there, what type is it?

MR. GOURIS: There are three within a mile. I think there are two other conventional deals immediately nearby, but this project, there is two family deals within a mile, and one elderly deal within a mile.

MR. CONINE: And which one is adjacent?

MR. GOURIS: It is called Sugar Creek. It is a bond transaction.

MR. CONINE: It is a 4 percent bond transaction, mainly?

MR. GOURIS: Yes. And I believe it has 50 percent units in addition to 60 percent units. And I think I looked at it just a few minutes ago. It has two vacancies, or four vacancies, I think. So I mean, it is very well leased.

MS. ANDERSON: I have a question, Tom. Relating to one of the witnesses who talked about the actual market rents in the area being \$450 or \$475 as opposed to the \$625 rents that are proposed in the underwriting analysis, do you have any independent verification of what are the actual rents in the area today?

MR. GOURIS: Yes. In fact that is why I looked, based on that calendar I looked it up in what we have in our database for what the other property owners in that market have presented to us as their rent roll. And I wasn't able to digest it all, but they look to be consistent with the rents that were here, and not consistent with one bedroom at \$425.

I mean, there were some 50 percent units at 490, but those are 50 percent units. The same one bedrooms at 60 and market were getting 700.

MR. CONINE: I think he referred to those units as being in that bankrupt project.

MS. ANDERSON: I can't remember exactly what the witness said.

MR. GOURIS: That is what I wrote down, too. And in fact, that is not the name of the projects that are nearby. So I think your supposition there is correct.

MS. ANDERSON: Okay. Mr. Bogany?

MR. BOGANY: As usual, I went out and took a look at this location. And you know, I am real big on the concentration issue, and I continue to ride that horse. But I personally believe that there are apartments in that area, but it didn't seem to be an overconcentration as some of the other areas we have got in Houston.

I also went to the public hearing, and I stood in the background and just listened to the comments. And I was appalled at some of the comments that were made. You don't have to -- well, I won't make that comment, but let's just say that I truly was appalled.

The comment that I heard at the first public hearing, that was what made me go to this one here,

because I just could not believe that Houstonians would act the way they were acting. And so I went to that public hearing, and stood there a while and just listened to some of the comments, and it was very classic.

I didn't hear one comment that I agree with. I am a realtor. And there was a realtor that I knew that was there. And I actually talked to them after, as they walked out of the room. There was also a news reporter there that I knew, and I also talked to him when he walked out of the room.

And it was just -- the comments that I heard, I just could not -- in talking to them, it was just, it kind of reminded me of the '60s, when somebody said to somebody a minority was moved in the neighborhood and everything was going to go to hell. And it just kind of reminded me of that.

And I just honestly believe that if this is, if you put another one over there, you may be in trouble, but I just didn't think it was an overconcentration of units.

There are a lot of apartments in that area, but it is not a Greenspoint. It is not a Fondren Southwest. It is not a Mesa-Tidwell area, where that is all you have got.

And I just believe that it is a good spot, and it is going to go multifamily. Bottom line, there is

nothing you can do with that. I think somebody made a comment, turn it into a park. And that is the only thing you could possibly do at that particular project. And I would like at this point, I would like to move that we approve Meadowlands.

MR. CONINE: I'll second it.

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.

(A chorus of ayes.)

MS. ANDERSON: All opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. GERBER: Madam Chair and board members, the last complex in this item is Stonehaven Apartment Homes. This is a Priority 2 bond transaction with TDHCA as the issuer for the construction of 192-unit development proposed to be located in Harris County.

The bonds will be privately placed with Washington Mutual, with a fixed rate and term for 40 years. The applicant is requesting \$11,200,000 in bonds, and \$686,616 in housing tax credits.

The Department has not received any letters of opposition. Staff is recommending approval as presented.

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.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. For the information of the audience, we are going to take a lunch break and have an executive session. And we are going to do that between -- I am guessing we won't stop mid agenda item, but I am guessing that we are going to be about 11:30 or quarter of 12:00 to take that break and that executive session, you know, and then we will come back afterward.

But because we have an executive session, I will ask the General Counsel before we adjourn to guesstimate the length of time of that executive session, to help you with your planning.

With that, then, we are ready for Agenda Item 4A. Mr. Gerber.

MR. GERBER: Board members, Item 4A is a reconsideration of Parkwest Apartments in Houston. The Board requested this item to be placed on this agenda at the July 28 board meeting. This item regards a potential motion to rescind a vote taken by the Board regarding the Parkwest Apartments and their plan for Houston.

This agenda item does not address the issue of whether to approve the development directly, but only whether the Board chooses to rescind its prior vote taken at the board meeting on July 12, 2006. If the Board votes to rescind its prior vote, then we will move to Agenda Item 4B, which would be heard as to the merits of the development again, as if for the very first time.

If the Board does not rescind its prior vote, then Agenda Item 4B would be passed as a moot item. To refresh your memory, the Board heard significant public testimony on this item at the July 12 board meeting and by a three to two vote, denied the issuance of multifamily bonds for the development. It is solely within the Board's discretion as to whether or not to set aside its prior ruling.

MR. CONINE: Madam Chair, I had asked, based on

a lot of public comment that we have had, both during that process, as well as afterwards, that this be put on the agenda. So I move that the Board rescind its vote of July 12 regarding Parkwest Apartments and rehear the issue de novo in today's board meeting.

MR. GONZALEZ: I second the motion.

MR. FLORES: Point of order.

MS. ANDERSON: Sir?

MR. FLORES: There were three persons voting for this. Those are the only three people that can make that motion and that second.

MR. SALINAS: I think I had just left.

MR. HAMBY: You had just left.

MR. FLORES: He is trying to get away.

MR. HAMBY: Actually this being the case, it is a vote to rescind the prior vote, so anyone who could make that motion. If it were a motion to reconsider at the time, then that could be made by someone who had to moved it, but under Robert's Rules of Order, the motion to rescind is a brand new motion of privilege and can be made by any person on the Board.

MR. FLORES: Counsel, I think you are picking at straws. It is one and the same thing: rescind, reconsideration, Robert's Rules of Order.

MR. HAMBY: Actually, reconsideration is during that particular meeting -- is to reconsider a vote that occurred at that meeting. That was the reason that, at t Mr. Conine's request last time, when he asked about doing this, I said you cannot do it unless you get a notice put on board. And it has to be a majority of the vote. Without notice, it would have to be in this case [inaudible] board's vote. But reconsideration is -- according to Robert's Rules of Order, at the meeting, rescind -- is an entirely different meeting that's posted. And it is a --

MR. FLORES: Counsel, be it far from me to challenge you in front of this group and get into some gymnastics here, but being that I had three votes last time, I will go ahead and take my chances.

MR. HAMBY: Well, I have spent a lot of time parsing this. I originally believe your position is correct. When I got into it, motion to rescind is different from a motion to reconsider.

MS. ANDERSON: Okay. There is substantial public comment on this item.

MR. SALINAS: We got to vote.

MS. ANDERSON: Excuse me?

MR. SALINAS: We have to vote.

MS. ANDERSON: No. There is comment on this item.

MR. CONINE: On the rescind?

MS. ANDERSON: Yes. Absolutely.

MR. CONINE: Oh, okay.

MS. ANDERSON: Sorry. I didn't mean to get --

MR. CONINE: 4A or 4B?

MS. ANDERSON: 4A.

MR. CONINE: Okay.

MS. ANDERSON: Mr. Kenneth Cash. The three-minute time limit is in order and will be strictly enforced. Mr. Kenneth Cash.

The next witness will be Eric Opiela. The next person will be Brian Gault, then Stephen Fowler.

MR. CONINE: Are they going to talk on 4A or 4B?

MS. ANDERSON: Yes. They are talking on 4A.

MR. CONINE: Okay.

MR. SALINAS: Have we voted on the motion?

MS. ANDERSON: We haven't.

MR. SALINAS: We haven't voted on the motion?

MR. CONINE: Not yet, no.

MS. ANDERSON: Uh-huh.

MR. CASH: Madam Chair, members of the Board, I

would like to thank you for your consideration and the opportunity to speak and to present the Parkwest Apartment Home project again. My name is Ken Cash, and I represent the borrower, Houston 3601 Parkwest Apartments, L.P.

Members of our development team have spoken with representatives of the Great Woods homeowners' association, local businesses, community organizations, Senator Janek's staff, Senator Hubert Vo, and his staff members as well as Talmadge Heflin, the Harris County Housing Authority and the Alief school district. We have explained that the high quality nature of our project services and amenities will benefit the community.

Our effort to communicate with local organizations and elected officials have continued as recently as this week. And we will continue to do so in the future.

We met with the school superintendent to try to negotiate a compromise. Unfortunately, no concessions could be made. As stated in his letter, the superintendent did not want additional tax credits units within his school district.

With me today to present our information are Brian Gault, with the marketing firm of Williams and Bowen, and Cynthia Bast of Locke, Liddell and Sapp. Once

again, I would like to thank the staff of TDHCA for their hard work, and the members of the Board for your time and consideration. At this time, I would like to yield the remainder of my time to Mr. Gault and Ms. Bass.

MS. ANDERSON: We are taking the witnesses in the order that I called them. Okay.

MR. SALINAS: Did we make a motion to reconsider it? And did we vote on it?

MS. ANDERSON: No, because we have public comment on Agenda Item 4A, which is the motion to reconsider.

MR. SALINAS: But we haven't voted --

MS. ANDERSON: Now it is the Board's pleasure if we want to go ahead and take a vote and not hear comment, we can do that.

MR. SALINAS: No. You want to reconsider it, so you need to take a vote on it, no?

MR. HAMBY: Mayor, the way this works is that the comments should be germane just to the vote under rescission. And so to some degree I understand Mr. Conine's concern as to exactly what the public comment could be.

MR. SALINAS: And then vote on the --

MR. HAMBY: And then you would vote on the

rescission. And then if you agree to the rescission of the vote, then you would have the public testimony on the merits of the project itself, as though it were brand new.

So you have a two-step process. You have not yet voted on whether or not to hear any public comment on the merit of the case. I would assume that most of the public testimony is going to argue as to why you should hear it.

MR. SALINAS: Okay.

MR. HAMBY: And to that extent, it would be the new information that might be presented that is to what new would occur in this particular round that you hadn't heard previously, that would cause you to rescind your prior vote. So there is a germane question and I think it is within the Chair's prerogative to call people out of order if they veer too far from that.

MR. SALINAS: Okay.

MS. ANDERSON: Thank you. And I am mindful of the Board's discretion.

MR. FLORES: Is he satisfied --

MS. ANDERSON: I am prepared if someone will call the question.

MR. FLORES: I don't want to call the question. I think we ought to extend the courtesy to these people.

They have traveled to be here. And Mayor, if you would indulge us. Some people have traveled from Houston to present testimony. I think we ought to go ahead and hear them.

MS. ANDERSON: And so then, if you all heard Mr. Hamby's comments, your public comment at this stage ought to be on the Board's vote on whether or not to rescind its prior vote to rehear this. And I know I called some names, but I neglected to note that we have a representative from Representative Vo's office, so I would ask David Holmes to please speak.

MR. HOLMES: I can speak on this or on B. I think it is kind of an interesting situation.

MS. ANDERSON: Right. You might save us a lot of time if you would speak now.

MR. HOLMES: Okay. I am David Holmes, and I am here on behalf of Representative Hubert Vo. Representative Vo has business in the district today and could not be here, so he asked me to read this brief statement on his behalf regarding this rescission vote.

"As stated in my previous letters, and in my testimony to the hearing in July, I am opposing this project, primarily because of the existing high concentration of both market rate and tax credit apartment

units in this area. The Board has been given rent rolls and audited financials that show that City Park I and II, two of the complexes within one mile of the proposed complex have not had 90-percent occupancy rate for a period of twelve months in a row, the occupancy rate that the TDHCA requires for a complex to be stabilized.

"There are over 53,000 apartment units in Alief, with over 23,000 tax credit units. TDHCA calculates a capture rate which is based on apartments available in the area and future demand. Their own market study says that if City Park I and II were included in the survey and were unstabilized, the capture rate would be unacceptably high and the proposal would not meet TDHCA guidelines.

"I ask you to deny the issuance of the tax-exempt mortgage revenue bonds and housing tax credits for the Parkwest Apartments, because there is no demonstrable need for such housing in the area, and existing tax credit complexes in the area would be harmed by this project. Sincerely, Hubert Vo."

MS. ANDERSON: Thank you, sir. Mr. Brian Gault. And then the next witness will be Eric Opiela.

MR. GAULT: Good morning, Madam Chair, members of the Board. My name is Brian Gault. I am with Williams

and Bowen. I have traveled down here from Columbus, Ohio, to speak today.

What I would like to talk about are some of the concerns that have been raised by the Alief school district since the appeal hearing last month. In regards to the information gathered by the Alief school district and submitted to the Board. This information has been taken slightly out of context, and it includes data on specifically selected properties located up to eight miles away from the subject site, and also does not provide an overall analysis of the entire sub-market. The information also includes properties that are under renovation or that are uninhabitable and have damaged units that are not reflected in the overall occupancy rates.

An important factor to consider in this, is that the Alief Independent School District and the Parkwest primary market area are two independent geographic areas. In determining a primary market area, we have determined the area that will provide approximately 60 to 70 percent of support for the proposed apartment project. The Parkwest PMA includes the western section of the Alief Independent School District.

The Parkwest site PMA for the project

encompasses 14.6 square miles or approximately 40 percent of the school district area. The 2005 population per square mile on the site, in the site primary market area is 5,725 persons per square mile. While in the Alief Independent School District as a whole, the population per square mile is 6,687 per square mile, almost 1,000 persons per square mile larger.

When the area encompassed by our site primary market area for Parkwest and Western Alief is excluded, the population per square mile in the remainder of the Alief Independent School District is 7,325 persons per square mile. This is important, because it simply illustrates that the eastern portion of the Alief Independent School District is significantly more densely populated than the western portion where the proposed project will be developed.

As would be expected, there are more apartments located in the eastern portion of the school district than in the western portion of the school district. Many of these in the eastern area are aging, low quality projects.

Additionally, when we projected at least 60 percent of the support for the proposed project will come from renter households already residing in this market as determined in our PMA description I mentioned earlier. It is very

important in that the majority of the school age children who will reside at this proposed Parkwest Apartments homes, it is acknowledged that those children are already residing in this market area.

Some community members have also voiced opinions about declining property values in the market. Apartments that are mismanaged or not well-kept will drive down property values of course, be they tax credit apartments, Section 8 apartments, public housing, or conventional market rate units. Mr. Cash has stated multiple times in several different pieces of documentation that he fully intends to maintain the Parkwest project to the highest standards which would be comparable to those at the nearby -- I will make it quick.

To the nearby Villas at West Oaks, which is leasing units for twice the proposed rents at the subject site. Thus, it seems the projects that are not being well-managed and kept up are doing much more to impact property values in the area of the proposed Parkwest project would.

Finally, Vogt, Williams and Bowen must point out that the overall Houston MSA market assessment that was completed in early 2006 for the TDHCA looked at need for low-income housing, rather than want. While few

properties continue to experience difficulties as a result of financial problems, the fact remains that when the Parkwest PMA was surveyed in May of 2006, the occupancy rate overall in the market was 96.7 percent.

Additionally, tax credit projects like Matthew Ridge, which is a true comparable to the site continue to maintain an occupancy rate of nearly 100 percent, or potential renter traffic of 20 to 30 families per week. This is an excellent indication that there is still strong demand for the affordable apartments of high quality in this market. This is further evidenced by the TDHCA capture rate of 14.4 percent.

MS. ANDERSON: Sir, I need to ask you to wind up, please.

MR. GAULT: That is it. Thank you.

MS. ANDERSON: Thank you. Mr. Eric Opiela.

MR. OPIELA: Chairman Anderson, and members of the Board, thank you for the opportunity to address you yet again, unfortunately, on this project. I am here representing Finley Development Company which is the owner of City Park I and City Park II, the two developments that seem to be the basis on which this decision to rescind turns on.

What we come to in your discussion, I am

available to answer questions either under this item or under B. It was confusing, arguably, as to which one you should testify under. And I don't want to duplicate any testimony that we gave at the earlier two meetings, but I will be brief.

If you turn to the last two pages before the tab, the end of that tab on this agenda item, what I have prepared for you for this meeting is just a summary of the information that we provided at the previous meetings on the occupancy rates at City Park I and City Park II. As mentioned in Representative Vo's testimony, the issue of whether or not you can consider this as a financially feasible development turns on the occupancy rates of these two developments, because if these two developments are included as unstabilized, it rises to an unacceptable 34 percent inclusive capture rate. And what I have laid out for you, and also provided additional information in terms of the financials for the property of 2006 that weren't available at the last meeting is a summary showing the occupancy rate month by month.

From the beginning of the time when these properties were leased up all the way to the present, and you see during that period, there is no time during the period that these properties have been in service that

these properties have reached twelve consecutive months as required in the underwriting rule that governs this analysis. From then, to the present.

And currently, the occupancy in the month of July, which is the latest data that we have on both of these properties is 72 percent for City Park I and 76 percent for City Park II. I am available to answer any other questions. And I am happy to do that at this time under Item B.

But I just thought it would be better, before we get too far down the road, that we have this data in front of us, and actually look at the actual data for these properties, and see whether they meet the standard in your underwriting guidelines or whether they don't meet the standard. Thank you.

MS. ANDERSON: Thank you.

MR. CONINE: I have a question for Mr. Opiela. Mr. Opiela, are both of those projects still under the construction loans, or have they been converted to permanent loans?

MR. OPIELA: It is my understanding that they are both in the process of trying to get converted. They haven't reached stabilized occupancy. And so they haven't actually been converted. That is my understanding. I am

not 100 percent sure of that.

MR. CONINE: Do you know whether the loan documentation on those projects requires three months of stabilization for conversion?

MR. OPIELA: I do not know the answer to that question.

MR. CONINE: Most of them do, that I am familiar with. And both of these properties have a couple of occasions where it looks like to me they have had the three months.

MR. OPIELA: Yes. And then again, I do not know the answer to that question. And I would be happy to find that out if you need me to.

MR. CONINE: I would love to know.

MR. OPIELA: Okay.

MR. CONINE: Thank you.

MS. ANDERSON: Thank you.

MR. OPIELA: Thank you.

MS. ANDERSON: Mr. Stoerner. And the next witness will be Charles Woods.

MR. STOERNER: Good morning. I am Louis Stoerner, Superintendent of the Alief school district. And I am glad to have the opportunity to visit with you again.

We are opposed to this project. We are opposed to you rescinding your earlier decision. Unlike the Cy-Fair school district that we heard about earlier, 50 percent of our children reside in apartment complexes; 70 percent of them are classified as economically disadvantaged. So we are not against low income multifamily housing.

We think in this area, you can prove by occupancy rates, we don't have a need. The only people who are in favor of this project are the people who are going to benefit from it monetarily. Thank you.

MS. ANDERSON: Thank you, sir. Mr. Woods. And the next witness will be Stephen Fowler.

MR. WOODS: I have some letters to give to you. My name is Charles Woods, Assistant Superintendent, Alief Independent School District. I spoke to you last time regarding concentration.

I have heard today Mr. Gault, I believe it was from the market analyst speak. And I am sure that our sophistication with regard to demographics is not as high level as the folks who do this for a living. But I do want to point out a few things that have transpired since the first time we saw this data.

The market study has proven in the

documentation of that market study was utilizing census data to project population. What is currently there in 2005 and what is expected to be there in 2010. Also, the tax credit apartment concentration issue in Alief is there. There are three complexes within one mile of this proposed location. We have stated that before.

And what has been at issue is the occupancy rate of City Park I and City Park II. I believe at the last meeting, on the 12th, the meeting before last, it was mentioned by Madam Chair that maybe somebody could provide those renter rolls. And I believe those have been produced.

And then at the last meeting, Mr. Conine asked for it to be put back on, to be put to bed once and for all. So hopefully, that data has been provided, and we know now that it is not 100 percent as the developer has been stating.

The age of City Park apartments, they are basically about three years old with being in full production on both units here in the last two years. I want to show you, point again out to what Mr. Opiela said on page 906 is the summary of occupancy rates for the City Park Apartments. And in those twelve months have they both been at 90 percent occupancy.

These folks are also taxpayers to the Alief School District too. So we don't want to see them being foreclosed on, as well as any other apartment complexes in the area. So one of the things that you try to do with these complexes is, while trying to benefit the individuals who need low-income housing, you also don't want to, at the detriment of the existing projects in the area, to bring them down. And so hopefully, we have provided the information that there are some struggling complexes.

On page 689 of your board book, again, maybe up to 4B, once again, this item has been brought back to you as possibly, if it is rescinded that it will be reconsidered. And you would think by the second time that this came to you for consideration that that summary page that is prepared by TDHCA staff would include a summary of all the input that has been received, and it does not. And I have provided those letters again from Mr. Janek's office.

Real quickly, the study from Vogt, Williams and Bowen, we received a copy of the letter that was dated July 5 to Mr. Tom Gouris, Executive Director of TDHCA and Mr. Gault states in there that there are no clear or concise methodologies to forecast the need for tax credit

housing. That was a statement in that letter. This is especially true as we get further from the 2000 census. We are now in 2006.

He also states that income eligible renter household growth between 2006 and 2007 is just 67 people or 3.6 percent of the estimated 2007 demand. So the rest of it is turnover from existing complexes, that we have shown you from another market analysts data that we subscribe to, O'Connor and Associates, that most of those complexes are less than 90 percent occupied. So hopefully, we will pay attention to this data.

There has been no mention also of the fact that in that primary market study, page iv(3) by Vogt, Williams and Bowen, they found this to be in the Houston ISD. That is a pretty big point to miss. This is in the Alief Independent School District.

So you would think that after you weigh all these points, you have to come to the conclusion with the outcry of folks who live, work and support these areas that we can't just cast it aside and overlook the data that is being brought back to you is consistently wrong about our area. Thank you.

MS. ANDERSON: Mr. Stephen Fowler, and the next witness is Sara Winkler.

MR. FOWLER: Once again, I am Steve Fowler. I am fire chief with the community volunteer fire department. We serve the very area in question. Our fire department is much like many others in the United States. We provide fire and emergency medical services to the area in question.

Words like general population units, million dollars in bonds, housing tax credit and census tracts are common vernacular to your business, and understandably so. You are the Department or board of directors for the Department of Housing and Community Affairs. What I would like for you to think about for a moment is the community affairs side of the business, setting the other aside.

I am sure there are plenty of arguments to support doing what the initiative calls for. In our business, we deal with human suffering and adversity. Harris County does not provide an emergency ambulance service.

The unincorporated areas of Harris County throughout the county are provided emergency medical services through volunteer fire departments, or emergency services organizations. We happen to be one.

As a kid many times you counted dimes on a table, and you would rake them two at a time: 20, 40, 60.

Seems like of late, our ambulance runs come as 2, 4, 6, 8, in that order. We don't get onesies and twosies anymore.

In our area, there is really one hospital that is close. It is not a trauma center. And quite often, that hospital is overwhelmed with emergency center traffic. Not because people are necessarily suffering and dying. But because they have no means by which to get medical care, other than that available presumably free at an emergency room.

In their situation, I would probably do the same, particularly if I had children. Unfortunately, the choice of transportation is 9-11. And nobody in the business I am in is not going to take somebody by ambulance.

The Yellow Pages in Houston are thick with attorneys. In a litigious society, we would wind up in the court arena only too quickly.

There are capacities to everything in life. There are capacities to law enforcement. There are capacities to the budget that you have to work with. We have seen certain evidence that there is just not enough money to go around. There is capacities to emergency medical services.

Affordable housing represents a certain drain on our resources. We have worked diligently to support the multiple units now. Units whose names are Park Village. Really one ownership, I suppose, but two large halves on either side of a street called Rio Bonito. City Park I, City Park II, often discussed here in Austin. Matthew Ridge, a very large complex.

One other that hasn't been mentioned, because it doesn't affect the school district. It is Laurel Point Apartments, comprised basically of people in my generation. Those with little to grey hair on top. And these folks are in high need of ambulances.

I ask you to consider this morning the community affairs part of your business. We need your help. Please stay the decision that you have made July 12. Thank you.

MR. CONINE: I have a question.

MR. FOWLER: Yes, sir.

MR. CONINE: Thank you for coming back, because I have had a question on my mind ever since you were here last month. And that is, I now recognize that this piece of property is not literally within the city limits of Houston.

MR. FOWLER: Correct.

MR. CONINE: Therefore, you don't have the typical fire and ambulance services. In your opinion, how long will it be before the City of Houston annexes this property and provides that service to these individuals?

MR. FOWLER: The City of Houston used some strategic partnership agreements, annexation agreements that I am not really that versed on. But essentially, what I generally understand, by going into an agreement with the MUDs and splitting that 1 percent sales tax, the MUD getting half, the city getting half, and I believe there was some water applications to that as well, whereby the MUDs would buy water from the City of Houston.

It could be as long as 25 years from the time that it was enacted. And that was some two years ago, I believe.

MR. CONINE: Is it true then, that when the City does come in and provide those emergency services, police, fire ambulance, that it takes the pressure off of your organization, because now you don't have to cover that geographic area?

MR. FOWLER: In a heartbeat.

MR. CONINE: Okay.

MR. FOWLER: Yes, sir.

MR. CONINE: Thank you.

MR. FOWLER: We used to be the Alief Volunteer Fire Department. Then there was a contest to rename it. I submitted Nomad Fire Department. We kept going west. Thank you.

MS. ANDERSON: Thank you, sir. Sara Winkler, and the next witness is Connie Fowler.

MS. WINKLER: Madam Chair, I believe you have enough information on this item.

MS. ANDERSON: Okay. Thank you. Ms. Fowler?

MS. FOWLER: I'll do the same.

MS. ANDERSON: Okay. Mr. Michael Cranson?

MR. CRANSON: I also want to defer.

MS. ANDERSON: Thank you. Ann Williams?

MS. WILLIAMS: I would like to defer to 4B.

MS. ANDERSON: Thank you. Mr. Henry Williams.

MR. WILLIAMS: Defer as well.

MS. ANDERSON: Thank you. Ms. Bast?

MS. BAST: Thank you. Cynthia Bast of Locke, Liddell and Sapp. Thank you, Mr. Conine for giving this project the opportunity to be heard in this manner again.

Rescission of an action and then reconsideration is a privilege that is not granted lightly, and taken very seriously by this applicant.

The reason this applicant requested this

reconsideration is that he felt there was vital information that was somehow lost in the translation. And there has been a lot of information about this particular proposal and some of it is directly applicable.

And some of it sort of clouds the issues. So I am trying to be the one that helps to clear the path of the cloud to find the way to the sunlight, and would like to briefly go over just a few of these items.

We know that TDHCA did induce this project in March 2006, and at that meeting, they did specifically address this site, because they had just engaged in a long and difficult conversation about concentration in Houston.

And they wanted to make sure that this site was not going to be a concern before the developer-invested funds.

The staff does approve the transaction and it finds it to meet the TDHCA criteria. One of the things that we have heard is that there are too many apartments in this area, whether they are restricted or not. If you look to the board book, the site is surrounded by a church, retail shops, restaurants, medical and dental offices, and undeveloped land. Parkwest does not abut any other apartment complex.

You received a copy of the newspaper article from the Houston Chronicle May '06, saying that Alief is a

very hot area for single-family housing, because it is affordable for people. There is another article saying that the Alief school district expected the construction of 3,500 new homes between 2003 and 2006.

So trying to clear the way here, that this is not just all apartments in this Alief area. There are some apartments. Also they are very high end, that the developer has provided you, charging approximately \$1,760 a month. Another Houston Chronicle article in June 2006 indicates that the energy corridor is rife with commercial development, 95 percent occupancy. People gobbling up land before they even have tenants for their commercial developments.

This growth will directly bring jobs and opportunities that the residents at Parkwest could serve.

One of the things we have heard many times, that there are a disproportional number of units per square foot in Alief. Mr. Gault referred to this, and I want to try to clear this one up. What you have heard, is that there are more units per square foot in Alief, than in the City of Houston, than in Harris County, and then in Fort Bend County.

Well, I submit to you that Alief is a fairly concentrated dense area. Houston, lots of vacant land

there. Harris County, lots of vacant land, Fort Bend County, lots of vacant land. And so I think you have an apple and an orange. And I would like to submit that units per square foot is not a proper calculation of concentration.

In fact, TDHCA has a proper calculation of concentration and that is called units per capita. You have a rule that says that if an area has more than two times the units per capita, then additional approvals are needed. Well, the Alief school district website says that the Alief school district area has approximately 244,000 people. It is about the equivalent of a Midland-Odessa area. So it is a pretty big population.

They also claim in one of the handouts that you have received that there were 2,055 tax credit units within the school district. So if you apply TDHCA's units per capita calculations, to see if it is more than the statewide average, it is not. We are below. Very succinctly put, this would be below the two times per capita state average calculation that is typically done to assess concentration.

You have heard about burdens on the schools. The one thing that I don't think has been brought into the testimony is that there is a new school very close to

Parkwest, under construction slated for coming online in Fall of '07.

You have heard about the burden on health care. And Mr. Cash put into the record a letter from an urgent care clinic right across from the property that has indicated that it is available and welcoming patients. You have heard that there is 30 percent vacancy of apartments in the area. Well, what is the area? As I mentioned, Alief is a big place.

Some of the units that have been claimed are vacant are under renovation. Some of the units that have been claimed as vacant are eight miles away. So again, there is so much data here, and you have got to take the data and get to the right data that will address this particular property accurately.

So with that, and with my beep, I will finish by saying that we think that there is enough information out there to first of all, support reconsideration of this property under Item 4B and ultimately support the development itself and the funding by TDHCA. Thank you.

MS. ANDERSON: Thank you. That concludes public comment on this item.

MR. FLORES: Madam Chair, I appeal to this Board to stay with the issue as it was. The concentration

issue is still there, and I think that that is what the problem is. There is nothing wrong with the project. We just want it to move somewhere else where it obviously fits better than this area.

You have heard enough testimony. These people don't travel 200 miles every day to come down here and tell us all these things. I think we need to pay attention to what they said. And I think this is a concentration issue.

MS. ANDERSON: Is that a motion, sir?

MR. CONINE: There is a motion.

MR. FLORES: You have a motion on the floor. I am asking that you vote against the motion.

MR. CONINE: I made the motion. It was seconded by Vidal.

MS. ANDERSON: Okay.

MR. CONINE: And I would like to respond to Mr. Flores' comments. And they can differ, Mr. Flores, in that I have heard some pretty conclusive evidence that the concentration issue is not one, based on the most recent revelation that we have had by Ms. Bast and others. And again, I would urge the Board to move to rescind and reconsider.

MS. ANDERSON: I am going to ask someone to go

find Mr. Gonzalez, because I would like the full board here for this vote.

MR. CONINE: Where did he go?

MS. ANDERSON: I don't know. But since he was your second, I think he ought to be here for this vote.

MR. SALINAS: I think he went back to Del Rio. That is where he lives.

MS. ANDERSON: That is his home town. Hopefully not. So with your indulgence, we will just sort of --

MR. CONINE: Hang tight.

MS. ANDERSON: Hang tight for a minute until we can round him up. While we are waiting, Mr. Gerber, do you have a clarification that you want to make about the prior agenda item?

MR. GERBER: Sure. I have just been asked by Counsel just to clarify that Rolling Creek was passed at the applicant's request.

(Pause.)

MS. ANDERSON: All right. We will come back to order.

MR. GONZALEZ: I was getting nervous about what to do -- hoping you all could work it out.

MS. ANDERSON: Okay. You went and consulted

the sheet rock out there?

MR. GONZALEZ: Yes.

MS. ANDERSON: Okay. So we do have a motion on the floor, and it has been seconded. Is there other discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. And this is a motion to -- the motion is made to reconsider.

MR. CONINE: To rescind our vote.

MS. ANDERSON: To rescind the vote.

MR. GONZALEZ: If it is to reconsider then I want a second reading here.

MS. ANDERSON: Yes. I am sorry. I am very sorry. It is to rescind the vote from the other meeting.

MR. CONINE: Right. July 12, 2006.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, say no.

(A chorus of noes.)

MS. ANDERSON: The motion fails. Okay; then we are right on time. We are at our band of when I said we would break for lunch. We will break for lunch at this

point. And we think we need about 45 minutes.

So we will say an hour, and then we will stick to, we will try to stick to that. So we will be in recess for approximately an hour. On this day, August 30, 2006, at a regular -- do I really need to read this? If I could ask you all to vacate the room, because I do have some required language that I need to read, thank you.

On this day, August 30, 2006, 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 Board will begin its executive session today, August 30, 2006, at 11:45 a.m. The subject matter of this executive session and deliberation is as follow. The Board may go into executive session and close this meeting to the public on any agenda item if 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 purposes of discussing personnel matters, including to deliberate the appointment, employment, evaluation, reassignment of duties, discipline, or dismissal of a public officer or

employee, or to hear a complaint or charge against an officer or an employee of TDHCA. Consultation with attorney pursuant to Section 551.071 of Texas Government Code.

The Board may go into executive session and close this meeting to the public on any agenda item if 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 -- this is duplicative here, Mr. Hamby -- for the purposes of discussing personnel matters, including to deliberate the appointment, employment, evaluation, reassignment of duties, discipline, or dismissal of a public officer or employee.

Consultation with attorney pursuant to 551.071 Texas Government Code, number one, with respect to pending litigation styled TP Seniors II, Limited versus TDHCA, filed in state court, Travis County, Texas; number two, with respect to pending litigation styled Gary Traylor et al versus TDHCA filed in state court in Travis County, Texas. Number three, with respect to pending litigation styled Deaver versus TDHCA filed in federal court.

Number four, with respect to pending litigation styled Ballard versus TDHCA and the State of Texas, filed

in federal court. Number five with respect to pending appeal regarding Hyperion et al versus TDHCA et al, filed in state court in the 3rd Court of Appeals.

Number six, with respect to request to request from Representative Kino Flores for an opinion from the Office of the Attorney General regarding statutory implication of Texas Government Code 2306.6710(b). Number seven, with respect to Honeycreek Kiwi, LLC bankruptcy in bankruptcy court. Number eight, with respect to any other pending litigation filed since the last board meeting.

(Whereupon, the board met in executive session.)

MS. ANDERSON: I will reconvene the board meeting if everyone will please come to order. Thank you.

The Board has completed its executive session of the Texas Department of Housing and Community Affairs, on August 30, 2006, at 12:45 p.m. I hereby certify that this agenda of an executive session of the Governing Board, Texas Department of Housing and Community Affairs was properly authorized pursuant to 551.103 of the Texas Government Code.

The agenda was posted to the Secretary of State's office seven days prior to the meeting, pursuant to 551.044 of the Texas Government Code, and that all

members of the Board were present. And that this is a true and correct record of the proceedings pursuant to the Texas Open Meetings Act, Chapter 551, Texas Government Code.

We are now ready to proceed with Agenda Item 5, which is presentation, discussion and possible approval of draft apartment rules to be released for public comment. And we have several sections, several different sets of rules to deliberate on. Mr. Gerber?

MR. GERBER: Thank you, Madam Chair and board members. The next eleven parts of Item 5 are Departmental Rules. We are a department of rules, and our intent is to have these rules provide clarity, transparency and accountability in our Department's programs, to make them more easily understood to the public.

We will start with the REA rules, but I should note for all of your benefit, that as you consider these, keeping in mind that with your approval, the staff will take your direction to go and proceed with 13 public comment periods to be held in each of our 13 service regions across the State of Texas. And those hearings will be held in late September and early October.

The first set of rules deals with real estate analysis. That is Agenda Item 5A. This item requests

approval of the draft rules governing the activities of the Real Estate Analysis Division. Changes from the current rules are itemized in the writeup, but included, providing open-ended flexibility and the contents of the underwriting report, adjusting several criteria items, such as the minimum debt service and reserves, modifying feasibility criteria to reflect recent concerns that have been raised by this Board, and requiring capture rate calculations by unit type and income level, to be in line with other standards.

Staff is recommending the approval of these rules. And Tom Gouris is available and will provide a little additional overview.

MR. GOURIS: I am Tom Gouris, Director of Real Estate Analysis. I just want to reiterate that the changes that we are proposing are to help clarify many of the positions, many of the rules that are out there. Many of the issues that have come up in the last year.

There have been a number of things that have come up in the interim hearings. And we have tried to address them by considering issues such as DCR and the reserves to match with the National Council of State Housing Agencies, and their best practices. We have also addressed some issues with the National Council of

Affordable Housing Market Analysts to try to address their best practices in market studies. And so those are the things that are key.

One of the comments that was made earlier was a concern about how much research we have done with regard to the capture rate issue. And while it is true we haven't done a comprehensive amount of research, we have done a fair amount of research before we came to the conclusions that we should recommend these as draft rules.

And the kind of research that we have done is you know, looked at our data sources to see if there are data sources available to get unit type, household size and income level information. And then we believe that there is at least one, if not more sources to get that kind of information.

We also looked at the national best practices.

And we have also sampled some of the transactions we have done in the past, to see how they would fare. And primarily, they would have been that the senior transactions that we would have been concerned about, and we have sort of a mixed bag with that.

There are, the transactions that we looked at, if under the new capture rate, would not have been approved. It also would not have been approved because of

the unit mix issue. It appears that if it had been approved, the transactions we looked at, if they had been approved on an overall basis, they would have also been approved on the unit basis.

So we feel like where we are at with those proposals are pretty good. We will continue to do that kind of research.

And actually, Brenda Hull is here, and did some of that research, if you want to ask her more questions about that. But I wanted to make that point. And I will be glad to go through specifically the changes if you like.

MR. BOGANY: In regards to the SROs being considered designing this rule, we had a comment on them, in regards to the management fee. Any thoughts on that?

MR. GOURIS: That makes some sense to us. We have a separate support of housing rule section. And we certainly can make additional adjustments to that, to make that reflective, what we have in that support of housing section is intended for SROs. We call them support of housing because they have that rent subsidy.

They have all those things that go with that type of housing that is meeting the folks with the greatest need. And then we think it makes sense to have

more flexibility there.

MR. BOGANY: I have one more question. In regards to reserves and debt coverage, I know you were going and looking at nationally, what is being done. But you know, considering that Texas sometimes goes at a different beat, can you tell me your thoughts on raising the reserves and dealing with the debt coverage is from, Texas?

MR. GOURIS: And in fact, this is an issue that has been out there. Both of those have been issues that have been out there for a couple of years now. And we have resisted, based on our knowledge of the public comment that was coming in, to resist doing that. We heard enough, I think.

I feel like if we have got enough information during the interim hearings that suggest that we should probably go ahead and put it in the draft. See what kind of public comment we get back. Not just from the -- from the entire community. From the lenders and the syndicators as well. So we feel like that is something that we can test to see what kind of comment we get.

MR. BOGANY: My last question. In regards to, there were some comment made that we are trying to move this into the higher income areas, which may, in other

words, pushing this out to more higher income areas as far as putting, I guess, tax credits. It was something made by one of the market analysts comments, and he thought that may hurt affordable housing.

Any thoughts on that? I thought that was what we were supposed to be doing, anyway.

MR. GOURIS: Yes. I don't know that that would be very easy to discern, quite frankly. I think that is a pretty difficult statement to test in the real world. Of course, our capture rate deals has a lot to do with turnover.

And turnover occurs where there is units to turn over. And so if you are in a high end area where there aren't too many units, the turnover rate may be less. So it could go both ways.

MR. BOGANY: Okay. Thank you.

MS. ANDERSON: Again, public comment on this item. Diana McIver.

MS. McIVER: I am Diana McIver. President of DMA Development Company. And this is probably the shortest written comments you will ever get with me. But I will be testifying on the draft QAP a little bit later. But you know, I had to come pick on Tom a little bit.

I just have a couple of comments. And

essentially, the capture rate, and I think you all know that I do predominantly rural deals. And I have found that the capture rate of 100 percent is actually working in our rural communities.

And two transactions that I have done were capture rates roughly right at 100 percent, and both of those, they were small deals, in small towns. But they are staying very easily, pretty constant, 95 percent occupancy. So I guess I am pretty comfortable with the old way of the 100 percent capture for rural and senior deals in rural areas, in small cities.

But I would say that because when you get to the larger areas, seniors have more options. I think a 50 percent capture rate in your urban areas for senior deals does make a lot of sense. I think there is a big difference of whether you are a senior in a small community, versus a senior in Houston where you have got some options.

The second comment that I have is that the sitework costs have remained at 7,500 per unit since 2003.

And we are four years into this. You all know, we try not to whine a lot. But costs are killing us, and sitework costs are really big time.

So I guess I would ask that after four years of

drought, that you increase this number to 9,000 per unit, because that is an increase over a four-year period of 20 percent. And I think, you know we have 20 percent just last year alone. So if you could grant us some relief in this particular area.

And my last comment was just on developer fee.

I notice that in the 2007 QAP, you are proposing allowing a 20 percent developer fee on small projects, 49 units and under. And I didn't see the matching site for the real estate rules. So I was just pointing that out.

I think it was supposed to be in there. I think it was even Tom's idea. Never mind. That is the end of my comment. I quit there. Thank you.

MS. ANDERSON: I have a question, Ms. McIver. On the sitework costs, you know, this is something that has come up the last couple of years. And if I remember, the policy argument this way, is the Department allows more than 7,500 a unit for sitework costs, but that 7,500 is a safe harbor.

And in the past, it seemed like a prudent way to handle it, because it doesn't just automatically give a 9,000 per unit safe harbor if it is not needed. And therefore, we are not burning up more credits than the safe harbor, unless you submit additional information.

MS. McIVER: Yes.

MS. ANDERSON: I guess I am just wondering about them.

MS. McIVER: Yes. There is quite a bit of additional expense that a developer has to go to, to justify those additional site costs. But also, it is included. Even though you extract it from the costs of underwriting, and you do a flat number there, or a justifiable number higher, plus your Marshall Swift analysis. When you get into the QAP and the cost per square foot, you get penalized because of that number, the actual number being there. So the 7,500 is enveloped into that \$80 a square foot number, the \$85 a square foot number.

MS. ANDERSON: You are saying there is still an incentive to keep it low, and not just escalate to nine.

MS. McIVER: Yes. Exactly. Yes. But in reality, I think you would find that a safe harbor today could easily be \$9,000.

MR. CONINE: The reality of it is, at the time they put together the applications, they don't know whether it would 7,500, because they haven't had their civil engineering done yet.

MS. McIVER: Yes.

MR. CONINE: They could take a wild guess, but after the project gets approved, and then they go get all the plans drawn, then boom. Here comes that big number that they have got no way of dealing with.

MS. McIVER: And if we had not had a 25 to 27 percent construction hike across the board in this past year, we wouldn't be whining as much. But it has been just a huge increase to swallow. And if we could get some relief in this area, then it helps in the rest of our cost estimating at the application stage.

MR. CONINE: We would rather you come whine, than those big guys on the back row.

MS. McIVER: I think you are talking about the brand new president of TAP.

MR. CONINE: That is what I am saying. I would rather you come whine.

MS. McIVER: Thank you.

MS. ANDERSON: Now I have a witness affirmation forms for Sally Gaskin yielding time to Craig Young. But I don't have a witness affirmation form from Craig Young. Sort, it is sort of a -- who is Craig Young?

MR. CONINE: He was a market analyst. He spoke this morning.

MS. ANDERSON: All right. Maybe they gave up.

MR. CONINE: Were they speaking on QAP?

MS. ANDERSON: No. It is draft underwriting market analysis, 5A.

MR. CONINE: Okay.

MS. ANDERSON: Okay. And then I have a witness affirmation form from the brand new president of TAP, and it is kind of hard to read which Agenda Item he wants to speak on.

MR. MCDONALD: 5H of the QAP.

MS. ANDERSON: 5H? Okay.

MR. CONINE: Right.

MS. ANDERSON: And then, Mr. Jeff Spicer.

MR. SPICER: I would like to speak on the real estate analysis rules and specifically address the capture rate. What I would like to propose is looking at a capture rate that differentiates the urban and exurban.

We have discussed a long time some problems in getting developments, really, in exurban areas outside of the major metropolitan areas that are growing rapidly. And one of the problems there is as Tom has noted earlier there are quite a bit fewer apartment units in these exurban areas.

And what I would like to propose in looking at, is looking at a 50 percent capture rate in exurban areas,

but having that capture rate based solely on household growth in the area, and not renter turnover. I think as a Board, what you want to see is, you don't want to cannibalize units. And we have talked about having too many units in other areas, and cannibalizing other deals.

What we really need to look at is, population growth in these outlying areas, that we can get, really truly get new developments in areas outlying the MSA. And right now, our capture rate calculations and definitions are preventing us from doing that.

So I think a 50 percent capture rate based solely upon household growth, I think would give us really a good approximation of what I believe the Board has been trying to do for a while. And I would like to make that proposal, and have that in the draft real estate analysis rules.

I also want to make a comment on the real estate capture rate as it relates to the bedroom type. And I see a disconnect in the QAP, and specifically, the ineligible building types, where we have a prescribed number of units that we have to put in the projects that we are doing.

And the capture rate that we are trying to get,

on a per unit type basis, if you are going to tell us that we have to do, have to meet what is out there in the market, on one hand, and do that in the market analysis section, under real estate rules and then prescribe a polling unit mix in the ineligible building type, there is a potential disconnect that these two will not meet.

And I think it is either one or the other. Either tell us in the ineligible building types what we need to do, or tell some of the market analysis what we need to do. Thanks.

MS. ANDERSON: Thank you. That is the end of the public comment for this item. Are there questions?

MR. CONINE: Yes. I have one or two. I presume those comments that we just heard from Jeff and the others, somebody is taking those down and when these things come back a couple of months from now, we will kind of have a smorgasbord of things to look at. Okay.

MR. GOURIS: Yes, sir.

MR. CONINE: Because he is right about that point, by the way. Tom, we had a case not too long ago where we had a discussion about a property tax number that took into consideration the new legislation that was passed by the state Legislature in property tax reduction and so forth. And I think your comment at that time was,

the rules didn't give you the flexibility to take that into consideration.

Have we written these rules so that situations like that -- and I am speaking more of a broad brush now, as opposed to a single property tax issue -- but let's say on any expense issue, or anything that might come along, if there is something that happens in between the application time and decision time if you will, or underwriting time, that would materially affect the expenses of a piece of property. That you would have the flexibility to make those changes, based on whatever it was in the environment that changed, that would give somebody, I guess it could work to their benefit or detriment either way. But I want to make sure that in the rules, we build in some sort of flexibility for underwriting to do that.

MR. GOURIS: Yes. I think we have done that, but let me see if I can split that comment, just to make sure that we capture the essence of what you are asking. On the bottom of page 8 are the draft rules.

MR. CONINE: Okay.

MR. GOURIS: That we talked about the long term feasibility issue, and long term pro forma. And we did go ahead and include in that, on point to the deal that we

were talking about a couple of meetings ago. There was a transaction that, indicated to us that because of the new law, that the property taxes down the road would be different, and we had a flat 4 percent increase in expenses. And that is how we addressed long term feasibility.

This allows for that issue to be addressed. It allows for us to be able to consider and contemplate what the taxes would be down the road, if we can prognosticate that in some useful, meaningful way. As far as an overarching flexibility to accept any new information at any point in time, I don't know that that kind of flexibility is quite there, although we try to use that. And we try to do that.

I don't know that we specifically added any language that gives us that authority more than it did before. The issue in the past was this 4 percent increase. And in expenses, that is what we are fixed on. So I hope I have answered that question.

MR. CONINE: As I recall, in that particular case, there was a second issue of an identity of interest on the management of the project. And he wanted to drop it to 3 percent so he could serve a deeper discounted, 30 percent income renter, as opposed to having 4 or 5

percent. Do we allow that flexibility in the rules?

MR. GOURIS: On page 6, we struck the words "third party," which would allow an identity of interest management company then to document that they can do management fee at a lesser rate. And we think that will address that issue.

MR. CONINE: I got it. Okay. I see that. Again, back to the 30-year, versus I see where we have gone to the 20-year.

MR. GOURIS: Twenty years.

MR. CONINE: What made you pick 20 instead of 15? Just out of curiosity.

MR. GOURIS: I think that was from the input that we received.

MR. CONINE: I am sure the public will comment on that as time goes along. I would be interested to hear some of that.

MR. GOURIS: I would throw out the caveat that the reason -- that is one area where we have some concern with regard to the state statute. It doesn't specifically say that we have to do a feasibility test for 30 years, but it does say we have to assure affordability.

And our argument has been that this is one of the things that we do to assure that the properties remain

affordable for 30 years. It is going to lessen our capacity to say that with regard to the statute, but it is something that I agree with you. It is difficult to get a gauge on whether it is going to be two years from now, much less 20 or 30 years from now.

MR. CONINE: Well, if you refinance after 15 or 17 or 18 whatever the number is, you still have a built-in governor on the engine of 115 debt service coverage, do you not?

MR. GOURIS: Yes, sir.

MR. CONINE: Okay.

MR. GOURIS: I think I need to point one other area out that kind of wraps around that issue. And I don't know if you would have noticed it. But it is one that I expect we will have some comment on. And that is with regard to the percentage of expense to income ratio.

Lisa, can you help me with it? Do you know what that cite is? And the reason I point it out is because it is another way of theoretically looking at long term feasibility, but also it shows up this year. And it looks at the expense to income ratio to ensure that the expense to income ratio isn't significantly high.

And of course, there is an exception if it is

an SRO, if it is support of housing or if it has got rental-based assistance, significant project-based assistance. But the intent is to kind of cover that issue that we have been hearing about these deals are too tight, by ensuring that they are all below the expense to income ratio that you have recommended here, which I still haven't found. I am sorry. It should be right in this section, and I am not seeing it.

MR. CONINE: I am surprised you don't have it memorized. You sleep with it every night.

MR. GOURIS: Well, I stopped doing that about a year ago. I am sorry. It is on page 13, and I was looking right at it. I just couldn't see it. On page 13. Initial feasibility.

The one-year annual total operating expense divided by the year-one effective gross income is greater than 65 percent. That would be if it is greater than 65 percent, that is an infeasibility issue for the initial year.

And I suspect we will have some public comment on that issue, and on that percentage. But I felt like that was a new thing that I need to bring out and make sure you all are aware of it.

MR. CONINE: That is all for me.

MS. ANDERSON: That is all the public comment.

MR. CONINE: I think we let him off light.

MR. GOURIS: Really.

MR. CONINE: Are we going to do it? Make a motion. Move we approve the market analysis rules for public comment.

MR. BOGANY: Second.

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.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. GERBER: Agenda Item 5B is the rule on staff appeals. This set of rules is an administrative process that cuts across multiple programs, and lays out the appeals process to be utilized at the staff level. The changes reflected in these rules provide for additional review of determinations made by the Department.

These rules are not related to any one single program, but provide an appeals process to the Board. The result of the changes in this rule could in fact, be additional appeals to the Board, as staff moves to hold people doing business accountable to perform in a timely and efficient manner on contracts, LURA and similar documents designed to provide affordable housing to our targeted populations.

The prior rule only addressed applicants, and therefore limited the appeals process for others with relationships with the Department. Staff is recommending the approval of the rules for public comment.

MR. CONINE: Any public comment? 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.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. GERBER: Item 5C is a rule on board appeals. This set of rules is also an administrative process that cuts across multiple programs. The changes reflected in these are designed to reflect the changes that were just discussed in what would be rule section 1.7.

The change in this rule section provides the appeal procedure of a decision made by the Board. These changes reflect the expanded appeals that are now available, that would become available under the section I just referred to, and clarify the deadlines for filing materials with the staff for review by the Board. Staff here is also recommending the approval of the rules for public comment.

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.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. GERBER: Agenda Item 5D is a rule for action on any outstanding balances. This is a set of rules that is also an administrative process that cuts across multiple programs. This is a brand new rule that will replace a prior rule that is being merged into the compliance rules.

And we will talk about that in just a little bit. But this is a new rule that would allow the Department to require all outstanding funds that are not current, to be paid prior to the Department taking any voluntary action requested on any transaction.

Failure to pay past due accounts would not stop compliance monitoring or other statutory requirements that could jeopardize intended beneficiaries or established housing, but could impact items like amendment processing or reviewing and scoring applications for future funding cycles. Staff recommends the approval of these rules for public comment.

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.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. GERBER: Agenda Item 5E are the energy assistance rules. And this item provides clear rules for our energy assistance programs. As you all know, the energy assistance section administers two different programs addressing the energy needs of low-income persons.

The weatherization assistance program, which provides cost-effective weatherization measures to improve the energy efficiency of eligible client households. And the comprehensive energy assistance program, which provides utility assistance to eligible client households.

The weatherization assistance program is funded by the U.S. Department of Energy and the U.S. Department of Health and Human Services through the LIHEAP program.

The comprehensive energy assistance program is funded by the U.S. Department of Health and Human Services through the LIHEAP program as well. Previously, the Department provided CEAP and WAP administrative

requirements to sub-recipients through contracts and the Department policy issuance system.

This is the way they placed many of these policy guidances into a clear set of rules. Staff is recommending the approval of these rules for public comment.

MR. CONINE: Move for approval.

MR. BOGANY: 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.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. GERBER: Similar to the energy systems rules, the CSBG rules are also going to provide clarity on how the Department will process the CSBG program. Previously, the Department provided guidance on CSBG requirements to sub-recipients through the CSBG contract and through Department policy issuances. Currently, there is a CSBG section in the state Administrative Code.

However, the Department will delete that section and replace it, will delete that section, which is Section 5.1 of TAC rule Title 10 Part 1 Subchapter 5 Subchapter A and replace it with new Section 5.1 through 5.15.

The CSBG rules comply with all HUD requirements, and include application requirements, application processes and a process for review of applications, application scoring funds, distribution and program administration. Staff is recommending approval of these rules for public comment.

MR. CONINE: So moved.

MR. BOGANY: 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.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. GERBER: Agenda Item 5G is the rule on an alternative dispute resolution process. This set of rules is also an administrative process that cuts across

multiple programs. This is a revision to the ADR process already in place.

The changes to this rule encourage the early use of ADR to assist the Board in its deliberative process. The most significant of the changes is to provide an incentive for the early use of ADR by binding the executive director to accept an agreed resolution by the parties and the ADR process to the extent that it is allowed by law and the rules.

The changes make clear that the ADR resolution does not bind the Board, but where Board approval is required, the Executive Director will present the results of the parties' agreed ADR resolution as its recommended to the Board.

To overcome the challenges of timing, the Department also agrees to use a mediator from the State Office of Hearing Examiners where possible if no other agreed party is available. Staff is recommending the approval of these rules also for public comment.

MR. GONZALEZ: So moved.

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.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. GERBER: Agenda Item 5H is the Qualified Allocation Plan. Staff is recommending the approval of the draft QAP for public comment. Staff held internal meetings to discuss what changes to the multifamily rules would make the process more efficient for staff and more understandable to our proposed applicants.

On July 24, 2006, staff held a roundtable discussion with industry, and the general public concerning all of the proposed multifamily rules, including the real estate analysis rules and the regional allocation formula to discuss what changes the industry thought would better serve the programs. Staff has made revisions to multiple sections that are further outlined in your board book.

But these changes include definitions, streamlining notification processes, new ineligibility categories to minimize concentration, alterations to the administrative deficiency process and several changes to

scoring items. The staff is recommending approval of the QAP for public comment.

MR. BOGANY: So moved.

MR. GONZALEZ: Second.

MS. ANDERSON: I have public comment on this. The first witness will be Granger McDonald, and two people have yielded time to him. I'll protect the identity of those two people.

MR. McDONALD: No, I didn't want you to forget how Diana kept the meetings going. The first item I would like to discuss on the QAP is page 13. The item is number 10, in reference to the paying of the predevelopment loans.

It should say TDHC predevelopment loans, I believe, because there is a chance that could be confused with a predevelopment loan that someone might have from a private lending institution. And I think the thrust of this was predevelopment loan from the Agency.

MR. CONINE: Is that on Item 10?

MR. McDONALD: Yes, sir. Item 10 on page 13. Then, the next item that I want to talk about is on page 14. The limitation of development in certain census tracts. We favor this for the larger metropolitan communities, but we think that, and this is Item G at the

top of page A and B that that should be limited to cities bigger than 100,000.

There is a chance that in rural communities, you could have greater than 30 percent or greater than 40 percent of the housing product being low-income housing and tax credits. And in our rural areas, trust me, the tax credit properties are the nicest properties in town.

And this could be a problem. And I think it needs to be addressed in communities greater than 100,000 but not in lesser than 100,000.

MR. CONINE: Did you say page 14 G?

MR. McDONALD: Sixteen; excuse me.

MR. CONINE: Sixteen.

MR. McDONALD: 16G. Correct. This is bad light, and my eyes are bad. Age.

MR. CONINE: Okay.

MR. McDONALD: Then on page 22, and the bottom of the page, Item C, which is the new allocation of how the funds will be blended, when the excess funds in a region, the rural and the urban will be mixed together. I have a little concern about this.

I am not sure that this flows quite as well as it could, and I would like for there to be a little chance of revision on this. I see that the rural areas could be

slighted in this formula, because if you have \$300,000 or \$400,000 left over from the urban area, a couple of \$100,000 left over from the rural area, the rural area would probably get only one deal, and then their money would be folded up into doing a project in an urban area.

Then the one that always seems to make everybody real happy, year after year, is the quantifiable neighborhood support. I think Representative Mendez, and this is on page 39, I think Representative Mendez has brought out the point that what we are doing now is, we are penalizing areas that don't have neighborhood associations.

We are actually discriminating against communities that don't have neighborhood associations. And that is not the intent of the legislation. If necessary, the Board needs to seek an AG's ruling on this.

Our recommendation is, I think you do have to follow the legislation which will allow 24 points for those areas that do have neighborhood support from a certified neighborhood organization.

But I think you need to come up from twelve to something like 22 points for people who have no neighborhood association. I see you looking at General

Counsel, and General Counsel looking back to you.

Again, I would suggest that if there is a quarrel here, that we get an AG's ruling on this, because I don't think that was the legislative intent to discriminate against certain areas of the state.

Then on the bottom of page 41, this is a rewrite of this section in regards to not giving credit for Section 8 vouchers where people are housing people of 30 percent of median income. I think this could potentially be a Fair Housing issue as well. I think there is some extreme negative effects here.

When I don't get credit for a Section 8 voucher against my 30 percent, if my rents are high enough, I don't have to take any Section 8 vouchers. And I don't think that is the intent. I don't think that is what this Board really set out to do.

Plus I would also want to remind you that if we had had a rule like this, all the people that worked so hard to help the Katrina evacuees and the Rita evacuees wouldn't have been able to do anything. It would stop that.

Then a few other comments that I have, is in regards to commitment of funds by local political subdivisions. In areas where there are no HOME funds,

they need to be able to use TDHCA HOME funds and get credit for it. We have eliminated the TDHCA HOME funds from this year's QAP, and being a source for HOME funds and to get your points, because there's many areas of the state that do not have HOME funds, for one reason or another. And we need to make sure that is protected. Also, there has been an extreme change in the amount of points for funding.

Last year, you got six points if you had \$36,000 worth of leveraging, twelve points if you had \$72,000 worth of leveraging, 18 points if you had \$252,000 in leveraging. Those numbers are now up to \$299,000 for six points, \$599,000 for twelve, and \$898,000 for 18.

Those are unobtainable numbers except for the extreme large urban communities where there is a tremendous amount of HOME funds available. And it will also suck up a lot of those HOME funds and mean that some projects will not be able to get done because of that.

One of my final comments is against anonymous challenges. This Department wasted a lot of time this last year on anonymous challenges. I think the challenge system is good.

But I think if you want to challenge somebody's project, you need to sign your name to it, plain and

simple. And having anonymous challenges is a way that people have been using those in the past just to harass other folks at the apartment's expense. Thank you.

MS. ANDERSON: Thank you.

MR. CONINE: Did you do that all yourself?
Good job.

MS. ANDERSON: Michael Langford?

MR. LANGFORD: I am here [inaudible].

MS. ANDERSON: Oh, I am sorry. I didn't read the thing. I didn't read it right. Yes. Diana McIver. Three people wish to remain anonymous and allow her to speak.

MR. CONINE: Well, one didn't.

MS. McIVER: I promise, I won't take the full hour that has been allocated to me, because I am here requesting big time favors today. My name is Diana McIver. And I am president of DMA Development Company. And my comments are on the 2007 draft QAP.

One thing I want to do is to compliment staff on adding that whole section whereby I think we are going to really help with some of those concentration areas. The idea of discouraging applicants from going in to heavily impacted QCTs, I think that is a really good thing.

And I also want to thank Jen Joyce and Robbye Meyer for joining us at our TAP board meeting yesterday, and walking us through some of the changes to the Qualified Allocation Plan. Part of my plea here today deals with the fact that as you know, the Section 42 law itself requires public comment on the QAP.

And yet our Texas rulemaking process says basically -- and Kevin Hamby can say this much more eloquently than I can, I am sure -- this is basically that if you go out with a rule, and then you make material changes to that rule, then you have to go back out with that rule again. And obviously, we don't have time to go out with this rule over and over and still reach the Governor's signature by the requisite date.

So what I am going to ask you today is to seriously consider putting some of these things that I am going to ask for in, particularly the one relating to quantifiable community participation, to put it in the QAP, so that we can talk about it for 30 days. And then if you come back and say, no, Diana, you are dead wrong; the community doesn't like that, and we don't agree with it, at least we know we have had that chance. But if you don't put it in today, then it can't be talked about, and all you are going to say is, oh, we will think about that

next year.

And part of the problem that we have, and that you have, is that we are working from a very bad piece of legislation, and we all know that. But we have a Legislature that is not meeting until next spring.

And one of the issues that we have all suffered through is the overprescriptive legislation that is there.

And one place that is overprescriptive and has had unintended consequences we think, is this whole concept of quantifiable community participation.

And again, as Granger echoed, and you have heard time and time again, it is just simply unfair that if an applicant goes into an area that does not have a neighborhood organization, they shouldn't be penalized. And so getting that twelve points for neutral and not 24 points for the letter of support, it is not fair.

And so I quit arguing, but I would take it if you go along with it. I quit arguing that the solution is to take the applications that don't have neighborhoods and give them the full points. I am giving up on that one, for the time being.

But I am asking you to consider something that would at least have an eight-point item which is below the line. It is within your purview to do this. An eight-

point item for applications that are not located within the boundaries of a neighborhood association, and the developers are willing to go out and get letters of support from civic organizations, from community organizations, validate those and submit those as part of their application.

So here is the language that I am asking you to consider putting in the QAP. And then if we can live with it for 30 days, if it goes out, at least we will all know that it is tested. And that is basically a whole new section.

If an applicant correctly certifies to the Department that there are no neighborhood organizations that meet TDHCA's definition of neighborhood organization, then in addition to the twelve points awarded for neutral under QCP criteria, that applicant can receive two points for each letter of support it receives from a community or civic organization that serves the community in which the site is located. Letters of support must identify the specific development and must state support of the specific development at the proposed location.

The community or civic organization must provide some documentation of the existence of the community to include but not be limited to, listing of

services and/or members brochures, and reports, et cetera.

Letters of support from organizations that are not active in the area, that includes the location of the development will not be counted.

For purposes of this exhibit, community and civic organizations do not include neighborhood organizations, governmental entities, taxing entities or educational activities. Letters of support received after March 1, 2007, will not be accepted for this exhibit.

Two points will be awarded for each letter of support, not to exceed eight points. Should an applicant elect this option, and the application receives letters in opposition, then two points will be subtracted from the score for each letter in opposition, provided that the letter is from an organization serving the community. At no time will the application however, receive a score lower than zero.

So that is the section that I am asking you to add. It won't get to a total level playing field, but it will get us partway there. Okay. Now the remaining part of my comments, I really don't know, except on one, whether you would be able to change them as part of the 30-day process or not.

And the rule of thumb that we have been told to

go by is that if you have lined through something in last year's QAP as part of the strat, if it has been stricken, then we should assume that it can't be considered during the 30-day period. So it has to be text, not stricken. And if Kevin will rule differently -- but what --

MS. ANDERSON: Well, we had a pause here.

MR. HAMBY: I don't know where that guidance came from. It certainly didn't come from me, because the test, and it is a materiality test, and the materiality test comes on notice. Is somebody on notice that they could be affected or impacted.

Whereas, Ms. McIver was right, if you are going to do the adding in letters by increasing who can submit them in a separate section, that would be needed to be put in now. If you are talking about changing a point structure, if it ended up being 12-24 whatever on the above the line question, if you will.

The amount of points, people have already been put on notice. They are completely fungible, if you will, as long as they are on notice, and they make comment to the concept that they just skewed the points. Those are easily changed, as you propose the final rule.

Brand new concepts that no one has had any ability to look at are not so easily changed. Anything

that is either added to or struck through in a QAP can certainly be commented on, and put back into the process. That is what the public comment period is for.

And I would argue, unless it was something completely odd, and I don't have a crystal ball and know what everybody would put in, that anything that is published, either struck through, or added in, the people have sufficient notice that they need to comment on that, if they have a desire to put it back the way it was, or to be changed in a different manner.

MS. McIVER: I like that answer a lot. I will just go briefly through the rest of my comments, then, because I think that that is the only place that I am really saying something that would totally be different. And the second one is just commitment of funding by local political jurisdictions.

And Granger has already addressed this. We very definitely need to be able to use more than one source of financing. And we'll address that in the public comment period.

The types of funding, I really want to encourage you to reinstate the HOME funds for non-PJs. That is about the only source we have there. And you allow HOME funds when they are with the City of Dallas, or

the City of San Antonio.

So we really do need to have those reinstated, and it has been in the last two QAPs that way. And then the amount of funding to qualify for points. And I mean, it has gone up dramatically. And if you were to look back at last year's the percentage would have been a half and 1 and 3-1/2 percent.

And to go to 4, 8, and 12 percent is just going to rule out significant participation by any cities out there, and as you heard this morning, by any housing finance agencies. And really, it is going to be the housing authorities that are the only ones that are able to bring money of that sorts to the table.

The other issue, costs of development by square foot. The one issue there is those cost limits. And I would propose that you grant us the full 14 percent increase that you have seen in Marshall Swift, which would take those to elderly of 90, elderly Tier 1 of \$92 a square foot, family of \$80 and family Tier 1 of \$82 a square foot.

The next item reflects a change, but I think it might be one that would not be material. And that is just, it is very complicated when you are doing those per square foot on how you are doing net rentable area. And

it becomes so critical to us, because that is how we reach those points.

If you are doing senior high rise housing, and you have air-conditioned and heated corridors, then that is not included in your space. And I would like to be able to work with the staff on doing one, a good definition of net rentable area, because it sort of got dropped last year, when it got moved off of the form. It is not in the definitions anywhere.

But then I would like to ask further that where you have a senior high rise with air-conditioned corridors, that that definition include to the midsection of the hallway instead of just to the exterior of the apartment unit before it reaches the hallway.

So that when I am not sure whether that has to be addressed or whether it is material or not. I agree with Granger on the income levels of tenants, I think, that by saying that if I choose to have 80 percent of my units at 50 percent for that 22-point item, you are basically telling me I can't have vouchers in those units, which I think we are going to find that that is in violation of Fair Housing.

And then the one other one I have, that again, I think we can do in public comment. This year in the

QAP, the Board approval for extensions of commitment letters is being removed. And yet I think you are well aware that when you grant those tax credit commitments, you can give waivers of the dates on which that information is submitted back.

You cannot waive zoning, but you can waive, for instance, if they don't have their political subdivision funding yet, you can grant a waiver. And at this point, this year's QAP, that has to be approved by the Board. I think that is a good thing, because there is no restriction on when you have to do that by.

So right now, it is an open book. And as long as someone comes in by the end of the calendar year, with their political subdivision contribution, they are okay. They are meeting that, and they can get extensions in the 2007 QAP, they can get it at staff level.

And I think that it is important to the development community, if someone can't prove up those funds, that they have to show that quickly, so that we can use the waiting list, and get more applications out there.

By having that provision go to the end of the year, then we are denying applicants who do have their funds from being next in line, and utilizing that waiting list.

So that is my last comment. And I do very much

appreciate your consideration, and hope you especially will consider putting in this language of quantifiable community participation. Thanks.

MR. CONINE: Hang on. Counselor, if we put in this language, and take out the current language, does the inverse also hold true? That if we don't like this new language, if the public comment goes against it, the new language, without the other language being in there, we can't change it back?

MR. HAMBY: Can we clarify what language we are talking about?

MR. CONINE: This is on the quantifiable community participation.

MR. HAMBY: Well, we can't take out the current language, because it is statutorily required to be in that we have. And the people who are on record with the State include the boundaries of the property that we have to accept their comments and base our opinion --

MR. CONINE: No. She is talking about the point structure.

MR. HAMBY: Right. If you are talking about adding in that, one, I think I disagree a little bit. I believe it has got to be seven points or lower.

MR. CONINE: Yes.

MR. HAMBY: And I think you can do that. And then you could take it out, if you did not like it, as long as people were on notice that it could or could not go in. I believe that is an option.

We have actually put in some things in the staff level drafting and just couldn't make it work to where we thought it would work consistently, because you end up in the same problem of what is a definitional of the types of groups that Ms. McIver has placed in that. And because if she and Granger got together and decided to form the current and past President's association of TAP, is that a neighborhood organization?

(Simultaneous discussion.)

MR. HAMBY: Fund raising for TAP. So that comes in. That is where we ended up in that same kind of discussion, whenever we were looking at it, because this is obviously a matter that we have taken some great discussion on.

And I am going to use this opportunity. I get to speak so rarely. Right. That I am going to use this opportunity to point out that currently, the Attorney General's office is looking at the QCP question that Representative Kino Flores has filed an AG request. And the executive director of TAP had received a copy of that

notice, that he is looking at the QCP.

And unfortunately, I think the deadline is tomorrow. But TAP could certainly file any sort of request, and try to expand that discussion right then, if they want a clarification, if they don't believe our clarification is correct. That is certainly already on the table.

So I mean, I don't know that we have to make that request. But that is already there and already present, if that discussion wants to go forward.

We have read the rules, as I am sure you are tired of hearing. Myself, and I think most of my predecessors read the rules, that there has to be a neighborhood association with the property in the boundaries in order to get points.

MR. SALINAS: What if we change that here today, and we put it out for 30 days to change it to where we can go ahead and not penalize those people that don't have a neighborhood association?

MR. HAMBY: Eventually, I have to sign off on it, in order to send it to the Governor's Office. And I could not, in good conscience sign off on that, unless the Attorney General gave me an opinion to the otherwise.

MR. SALINAS: So you are going to get one,

right?

MR. HAMBY: Well, we don't necessarily know we are going to get one. But the avenue is open there, if people have an interest in that.

MR. SALINAS: We can always go ahead and kind of agree that we kind of agree with Diana that those people should not be penalized, or at least get full points.

MR. HAMBY: I don't agree.

MR. SALINAS: I know you don't agree, but I can go ahead and agree. I mean, I am one person. And I am a board member.

MR. HAMBY: Sure.

MR. SALINAS: Then I can agree with what they are saying.

MR. HAMBY: And they can --

MR. SALINAS: I just don't think, and I agree with them, that they are going to be competing with the housing authorities. And I think it is only fair for the private sector, that they are competing against people that are operating with taxpayers' monies. And I think we should kind of bring it to an even stand.

MR. HAMBY: Well, this is where we have a difficulty in that I have to sign off on it before it goes

to the Governor's Office.

MR. SALINAS: I agree, but --

MR. HAMBY: And so, I would not sign off on that particular language. And we will not have an Attorney General opinion until the earliest, most likely, December 18 or 20 I believe, is the deadline.

MS. ANDERSON: If I heard you right, something below the line is better than nothing. And that would be, in your opinion, permissible under the existing statute.

MR. HAMBY: As long as it went below 6710B and it was under that point structure. That is where we are mandatorily required. There are obvious reasons throughout our statute that encourages to have public participation. And that would indeed be public participation.

Obviously, the questions that I was bringing up earlier, were how do you define who gets points, who can file and what are the number of points. I mean, all those are certainly issues that are open to question.

MR. SALINAS: I think what they are asking for is just something very reasonable, and something that we can go ahead and put it out for discussion for the next 30 days. I see nothing wrong with it.

MR. HAMBY: Well, I guess the problem I have

with it, Mayor, is that I can put it out there for discussion. And then at the end of the day I cannot sign off on it to send it to the Governor's Office.

MR. SALINAS: Then let Beth Anderson sign off on it.

MR. HAMBY: She can't. I am required to under the law.

MS. ANDERSON: I won't violate statute.

MR. SALINAS: I agree with you, Beth. I know that. But I am just saying that --

MR. CONINE: Are we talking about the number of points?

MR. SALINAS: The number of points. Yes.

MR. HAMBY: We are talking about not having neighborhood organizations, where there are no neighborhood organizations, increasing the point structure for those.

MR. SALINAS: Twelve points.

MR. CONINE: Seven is as many as we can go.

MR. HAMBY: That is below the line. That would be a separate issue. Not changing the second priority, the QCP points if you will, would be an underneath, I assume, something along the lines of demonstration of community support outside neighborhood organizations.

And so you would end up, people who are in the Rotary Club, and I think this concept is, people who are community leaders, neighborhood organizations, I guess, not inside, who don't include the boundaries, but nearby neighborhood associations, I believe is the concept that you are going with.

That would be a definition of who gets included and who gets excluded. I have absolutely no problems with those going in. It becomes a workable question as to how you do those points. It is the above the line. And the second one that I have trouble with. I am having trouble with the lower.

MR. SALINAS: It is like that deal that Representative Mendez came this morning about. The people that give it was the Housing Authority. That was the people that host it to begin with.

It was the same Housing Authority that killed it. And I understand the Hidalgo County Housing Authority. So we are dealing with housing authorities and what happens to the private sector?

MR. HAMBY: Well, we are going to get a --

MR. SALINAS: People that do not have the money that they get from HUD. I just want it to be a little bit more competitive for the private sector and the housing

authorities or the nonprofits, and the people.

MR. HAMBY: Well, they are two separate issues, Mayor. One of them is the question about who is included in the definition of neighborhood organization, up in the QCP points.

And that is a different question than how do you go beyond, if you are, by their own admission, saying there are no neighborhood organizations, how do you get points for that. We have gone to a neutral standpoint.

And then we have gone down to the second question, we are talking about is, below the statutory issues in 6710, that we then below that line, create another category that shows, that demonstrates community support, that is not impacted by the QCP. So you are talking about, if you can go to seven, and then you would have to figure out the point structure, how you did that.

I mean, if it is one point a letter. If it is -- I mean, you are talking about, but you could get up to 19 points which would bring them five points within the --

MR. SALINAS: If they have an association. You wouldn't have to have an association for that. It would be apart and separate from the neighborhood association.

If you don't have a neighborhood association, you would get your twelve points under the QCP points, and then below the line, you could have up to seven points, which would in the aggregate bring you up to 19 points.

Which would get you obviously, only five points away from the 24 points the statute I believe has said you can receive. Does that answer everybody's question.

MR. CONINE: Yes. I have got another tough question for you. Is there any other things on either Ms. McIver's written comments or Granger McDonald's verbal comments that you believe would have to be inserted in the QAP today to skirt the materiality test?

MR. HAMBY: I haven't looked at them all.

MR. CONINE: You know, we get to this point every year. And I get tired of the merry-go-round of not being able to change something two months from now, because it has got to go back around the merry-go-round.

MR. HAMBY: I think Ms. Paulsen is right. She has brought up the community --

MR. SALINAS: Just get something of what they said in the QAP, that maybe you can work in the next 30 days.

MR. HAMBY: The differentiation that I think, in the exurban and the communities that don't exceed

100,000, that discussion would probably have to have some inclusion to bring it in, in the draft comments. Just to make it clear, to put everybody on notice that we were going to consider them a distinct --

MR. CONINE: Can we get a transcript of all the comments and attach it to the QAP, saying this may be something. Rather than changing it in the body, is there a way to do it, you know, as an exhibit or something like that?

MR. HAMBY: Maybe. The exhibit problem. I can't think of any way that you could do it, without having -- we would have to do the modification, because it is published in Texas Register.

But they are going on Friday, so it is not inconceivable that we could drop those in, if that is the direction that you are asking for. Then they could go into the text already.

MR. CONINE: I am not the guy that has got to be comfortable. You are the guy that has got to be comfortable.

MR. HAMBY: Well, I am comfortable, as long as you, if you are giving us that direction, that we can get those into the rules, because it has to go by Friday.

MR. CONINE: We can make our motion to include

all these comments.

MR. HAMBY: I think that was the only one that really caught my eye, or it didn't catch my eye. It caught Brooke's eye. But that would be the question.

MR. CONINE: You can talk about it later on.

MR. HAMBY: That is on notice, then.

MR. CONINE: I have got one more question for Ms. McIver. This is the hardball of the week, right here.

MS. McIVER: Yes.

MR. CONINE: On the income level of tenants, when you submit your application, you generally put those 30 percent as the actual rental income for underwriting purposes --

MS. McIVER: That is right.

MR. CONINE: -- into your income pro forma, so that you can get the wonderful points that come along with that.

MS. McIVER: Right.

MR. CONINE: Yet in reality what happens, if you move a Section 8 tenant in there, you are not receiving those 30 percent rents, you are receiving higher rents than that, for the most part.

MS. McIVER: Right.

MR. CONINE: And I think that staff and the

other folks that have looked at this viewpoint-wise, that if you are going to underwrite the property and the debt levels appropriate with 30 percent rents, then you ought to have 30 percent folks in there paying 30 percent rents instead of Section 8 folks qualifying to meet the 30 percent test, paying market rents, let's say. How do you get around that dichotomy?

MS. McIVER: And I will say that I actually have submitted applications that were approved in underwriting with 30 percent units that I have project based vouchers on, and actually used the voucher rents in my underwriting. But that is out of the norm, because generally, you are going to be using TBRA vouchers or vouchers from the local housing authority.

MR. CONINE: Did we buy off on that, by the way?

MS. McIVER: Yes.

MR. CONINE: Okay. All right.

MS. McIVER: Texas City was underwritten that way, because it was project based long term vouchers. Yes. So we represented that those units were going to have these rents. But of course, as you know, the individual can't pay more than that 30 percent.

MR. CONINE: The global intent here is to get

30 percent folks in there paying 30 percent rent.

MS. McIVER: Right. But I think the problem, because I understand what you are saying with the 30 percent, because a lot, probably a vast majority, if I were to guess, applications are structured with the 10 percent of 30, and the remainder at 60, or some market rate units to get 22 points.

But there is another category by which you can get 22 points. And that is if you have 80 percent of your units at 50 percent. So it is one thing if you are thinking of 100 units of saying, okay, in those ten units, you have got to charge, say \$320 for those rents, and you can't use vouchers in those, but you can use them on the other 90, unless you get to 91, 92 and 93, and then come and ask us for a waiver.

But it is a lot different if you pick that test of 80 percent of your units at 50 percent, because then, you are discounting the use of vouchers in anything other than the other 20 percent of those units, because the way that is worded, it says, whatever you are proposing for your low income set-aside.

And so I think everybody is thinking in terms of oh, that 10 percent of 30. But another category right next to it, for the same points is that 80 percent of 50.

And I think that is going to have some real serious Fair Housing issues as well as just monitoring issues. But I am not a compliance person.

MS. ANDERSON: Is Sarah Anderson here?

MR. CONINE: She is standing back in the back.

MS. ANDERSON: Oh, is she? Okay. She is our final witness on this topic.

MR. FLORES: Madam Chair, could I ask a question on the other side of the table has quoted the whole conversation.

Diana, going through this neighborhood organizations here, if there is no organization available, you have to then get into a letter writing war. And you have plus points, and you have minus points.

MS. McIVER: Right.

MR. FLORES: And so if we have the situation we had this morning with two different developments, where you had an equal number on both sides, you wind up with zero, obviously.

MS. McIVER: Exactly.

MR. FLORES: If you have community support, you wind up with whatever it is. Seven or eight. I never did figure out what the numbers were.

MS. McIVER: Right.

MR. FLORES: So that is what happens. But if you have a hard-fought war, you wind up with a net of zero.

MS. McIVER: Exactly. The worse case would be zero. But what you could do is say, and remember they have to be bona fide neighborhood organizations, civic organizations. It can't just be Diana and Granger's Ex-President club.

MR. FLORES: How do you identify them? You never did say how to identify that for me.

MS. McIVER: We, a couple of years ago, well, when these points first came out. It has probably been four years ago, some of us were very creative in areas where we didn't have neighborhood organizations. And we went out and did just that. We went out and we got organizations.

And we could prove that they had programs that they offered, or like chamber of commerce. You can prove that they are a real organization, and not the developer.

MR. FLORES: What about longevity? Could I start one in three days?

MS. McIVER: No.

MR. SALINAS: No. We don't want to do that.

MR. FLORES: How long is that --

MS. McIVER: And I think that maybe, right. And maybe it is that it has to have been present for two years. Or, I wouldn't agree in that case for a letter writing campaign of the December 1 deadline, which is the date they used for the neighborhood organization.

But maybe it has to have served the community that it is in for at least two years. And you have to prove that. And that would get away from some of your bogus.

MR. FLORES: It is a great concept, but you have no details. It sounds like to me that -- is that correct?

MS. McIVER: Actually, I think we have quite a few details left over from whatever the first year was of this program, because that is the group that we are trying to qualify.

MR. FLORES: You have gone through this exercise before.

MS. McIVER: We have been through this exercise before. Yes.

MR. FLORES: All right. Second question, Madam Chair and to a member of our staff who is the expert in this particular section. I don't know if it is Tom or somebody else. Who would that be?

MS. ANDERSON: What is the question?

MR. FLORES: The question has to do, where is concentration addressed in this concept. Not in Diana's concept, but in this section.

MS. McIVER: In the whole QAP?

MR. FLORES: Yes.

MS. JOYCE: Jen Joyce, and I am manager of multifamily. I am going through the whole QAP in my mind, and I hopefully will address all of them. There is two new sections that specifically address concentration, and that Mr. McDonald was referring to earlier as well. It is under 49.6 G and H. And that is on page 22.

Sorry, 16. And that is where we were talking about earlier, that in certain census tracts, where there are a high number of tax credit units per household, certain census tracts, you would be ineligible to build in, according to this new language, and unless you have specific permission from the city. And then going a little further than that, under H, it is actually taking away the incentive for the 130 percent boost in eligible basis for applications involving new construction that are proposing to build where it is 40 percent tax credit units per household.

In addition to that, you have several different

parts of statute which are -- that cover the two times per capita. If you are in an area that has more than two times per capita tax credit units, then you would have to have city permission in order to build there. There is the one-mile one-year violation, the one-mile, three-year violation.

And then you also have certain scoring criterion that we have had that don't apply to 4 percent bond applications, because they don't use scoring. But under I, there is several different items in there that kind of give incentives to have less saturated areas. Affordable Housing Needs Score, things like that. Am I missing any, that you can think of? Sorry.

We have as also an incentive, so if you were to, we have a new scoring item, for instance. This time it is purely for rehab and reconstruction. What is the word? Gearing away from new construction, especially in the saturated areas.

MR. FLORES: Thank you. I made copious notes and I may call you back for some more details.

MR. CONINE: Jen?

MS. JOYCE: Yes.

MR. CONINE: Ms. McIver just mentioned we have the 10 percent at 30, the same point score as the 50; what

was it? -- 80 percent at 50.

MS. JOYCE: Correct.

MR. CONINE: And it seems like to me, just from listening to that, that though the dig-deep-for-the-30-percent guys ought to get more points than those who leave them out. She just pointed out, at least in my mind, a flaw in the system. How many points do we award?

MS. JOYCE: Sure. I am on page 41 of 68 of the draft. It is under I3. It is income level of tenants in the development. And actually, you get 22 points if either you are going to do 80 percent of your development at 50 percent or 10 percent of your development at 30 percent. So it is equal points.

MR. CONINE: Right.

MS. JOYCE: And then you can do 20 points for having 60 percent at 50, and then 18 for 40 percent at 50. Or a combination of 50 and 30. So if you would like us to, we can definitely rearrange those. It has been this way for the last four years.

MR. CONINE: If we want to bifurcate those? Yes. We should probably bifurcate those and put different point values on them, at least, in my mind.

MS. JOYCE: Whatever the Board desires in that regard. I think that in previous years, these points were

adjusted, mainly because 30 percent households are harder to serve than the 50 percent.

MR. CONINE: Why don't we do this? In the QAP that goes out, Counselor, list both, instead of an or, list both of them with the same point values now, but then later on, as we get comments, and they come back, we can put different point values on them, which doesn't hopefully affect the materiality decision of the General Counsel.

MS. JOYCE: So right now, it reads, A, B, C and D, each being separate on its own. So A, 3A is 22 points for 80 at 50.

MR. CONINE: Yes.

MS. JOYCE: B is the 10 percent at 30.

MR. CONINE: Right.

MS. JOYCE: And then C and D going down.

MR. CONINE: Right.

MS. JOYCE: You would like to see this changed how?

MR. CONINE: I want to separate the "or the ten at 30, or the 80 at 50." I want to separate those two into individual points, that would be the same amount of points currently, because that is what it is.

MS. JOYCE: I think it is separated out that

way. I am at the bottom of page 41, on that draft. And interestingly, it looks this way. It happens to be the same points. You are right. It probably should read as one line. But it is separated out, just from past previous comments changing it.

MR. CONINE: Right. From what I am hearing, we can do it, anyway.

MS. JOYCE: So and yes. I think that Mr. Hamby said we could change those points later.

MR. CONINE: Thank you. Ms. McIver can I ask you one more question, related to this issue?

MS. JOYCE: May I throw one thing in really quickly? I am sorry.

MR. CONINE: Sure.

MS. JOYCE: As it relates to the Section 8 portions. This discussion, I just want to make sure that this would in no way mean that an applicant wouldn't have to adhere to the Section 8 policy. You can't refuse a Section 8 tenant. You know, all of those different things.

MR. CONINE: Yes. Okay.

MS. JOYCE: And so I just want to make sure that --

MR. CONINE: Yes. I got that. Has it been

your experience to ever have a 30 percent tenant in one of your projects that is not Section 8?

MS. McIVER: Yes.

MR. CONINE: Okay. That is all I need to know, then.

MS. McIVER: Okay. It is a cheap rent. And I will tell you right now, it does not cover any debt service on that unit.

MS. ANDERSON: Sarah Anderson.

MS. S. ANDERSON: I am right here. We'll definitely try and keep this short. My name is Sarah Anderson, with Anderson Consulting. And I would like to first go over the 14th scoring item, exurban. And I am happy to see that the exurban points were kept in.

But I would like to see, we had an issue in Region 7 where what has happened is, the point of exurban was to bring deals to areas that traditionally were not getting them. In the Austin area, the same two cities over and over again were getting the exurban deals, and we were having -- specifically, I think Pflugerville and Georgetown you have seen.

And what I would like to see is something in the scoring that would say that you can only get the seven points for exurban if there has not been a tax credit deal

within the last two or three years. Something that keeps people moving to different exurban areas, rather than going back over and over again.

I gave some comments to staff on this, and I am not really married to the number of years, nor am I married to whether or not you want to separate it and say that they have to be, no matter what type of deal, or if you are talking every two years. You can do a senior and a general, but just something that prevents oversaturation in some markets.

I love seeing some of the rehab and reconstruction language in there. I think there are two small changes that might make it easier on our part to be able to do this. The first one has to do with the definition of reconstruction. Right now, what it says is that if you go in and you buy something that is 50 units, you tear it down, you can only replace it with 50 units. That may or may not be cost effective to do.

If I have got something that is low density and I -- it is functionally obsolete, I tear it down. It may only be cost effective for me to come back in and put in twice the units, three times the number of units. So I would like to be able to see that if you can tear it down that you are not stuck at the same number of units that

you started out with.

MR. CONINE: Excuse me for interrupting, but I thought it said that number or less.

MS. S. ANDERSON: You can go less, but you can't go more.

MR. CONINE: Right.

MS. S. ANDERSON: Right. So I would like to be able to. If I tear down 50 units, I would like to be able to build 100. I would like that still to be considered reconstruction, because you are doing what the intent is to get rid of functionally obsolete units and put in new units.

MR. CONINE: I think our -- just to counterpoint with you for just a minute, our viewpoint was that we didn't want to create an issue where the state looked like it was cramming down to a local city that they should have more density on that piece of dirt.

MS. S. ANDERSON: Right. We all have existing --

MR. CONINE: What?

MS. S. ANDERSON: Won't you have existing zoning requirements and density requirements that are already in place?

MR. CONINE: Well, assuming the 50 units

already met that existing zoning. Again, we didn't want to create that potential.

MS. S. ANDERSON: Sure.

MR. CONINE: It creates a neighborhood battle, is what it does, because any time you go from 50 to 100, they are going to come in and argue that you are going to get more cars and traffic and school and everything else.

MS. S. ANDERSON: Well maybe then, something in the language that it would adhere to the local zoning, appropriate zoning. I know I haven't used three minutes, have I?

MR. CONINE: Yes. I burned up some of it.

MS. S. ANDERSON: In addition, I think with what you are going to see, and again, we are trying to get rid of, I think, some older functionally obsolete units. I would like to have some consideration of the 1.2 million limitation per deal. I understand that the 9 percent limitation. I think it makes sense.

But going in, and purchasing something that is over ten years old, doing 30,000, \$35,000 in rehab on it, you are not going to be able to get access to the full amount of 4 percent credits that you might have been eligible for. And so I would like to see something that would say that the 9 percent side would be capped at 1.2

million. But in the event that you are eligible for 4 percent over that 1.2 million, that you be allowed to get access to that. There was a small change in the deficiency time.

And I thought Diana was going to talk about this. Anyway. For the three-day deficiency, it was five days on the initial deficiency, and it has been put down to three. I would like to see it go back to five. Three days is really short amount of time to be able to get sometimes get these things back into the Agency.

On the QCP, I obviously, I agree with what Diana brought up. And I also would like to talk about the development costs per square foot. Again, this will be I think the third year that I would have asked again that interior spaces not be considered, or the costs not be considered when you are doing your cost per square foot.

If you are doing something that has high rise interior hallways, the construction costs from that go into your cost per square foot, but what you are using is your figure for net rentable. You are not using that. So you are having an extremely high cost, but you are not getting the square footage that you are allowed to divide it by.

And I think that is probably it. And I think

Diana probably covered everything else. Any questions?

MR. BOGANY: I don't have one, Sarah. I have one of the staff, though.

MS. ANDERSON: Any questions for Ms. Anderson? Thank you. Mr. Barry Kahn.

MR. CONINE: Nobody gave him any more time, did they?

MS. ANDERSON: Well, he was a late arrival up here to this forum.

MR. KAHN: And I don't want much time. I just want to clarify something on what Granger said, and what I understood you, Mr. Conine, to say. This goes to page 41, Item 3. New language where you can't take vouchers. If any of the units are set-aside at these various income levels.

First of all, I would rather get rid of the new language. In the alternative, I would rather see something like, unless the rents were capped at the respective AMGI level, then you couldn't use the Section 8 vouchers.

And the reason for that is, it was mentioned that you can get 22 points for 80 percent or more of the units being at 50 percent level. So you could, in effect, if somebody did 100 percent of the units at 50 percent,

you would be saying they couldn't take any Section 8 vouchers, which would clearly create various problems.

What I heard Mr. Conine say is, that there is a desire that people don't get more than the 30 or 50 percent rents. Yet these are set-aside, or people are getting points at these particular levels. And I just wanted to clarify that, that I think if you added some language capping the rents at the respective AMGI level, then the language may work.

MR. CONINE: It would, but I am surprised you offered that up. We'll give it consideration.

MR. KAHN: No, I mean, if the language is going to stay in. As I said, I would prefer that it come out.

MR. CONINE: Okay. I got you.

MS. ANDERSON: Mr. Bogany.

MR. BOGANY: Question of the staff. And I don't really care who answers it.

Is there any way to give more points to an area that has not had a tax credit in a while, or never had one, that we could include that in the point structures at any point, in there to be able to do that?

MS. JOYCE: Actually, I believe that we already have it as a scoring item under 13. And I can check through as we are going along. But certainly --

MR. BOGANY: Is it page 13?

MS. JOYCE: I am sorry. I am turning to what used to be 13. So page 45 of 68. And it is under development location. And I thought that we had it under there. Okay. The top of page 46.

MR. BOGANY: Okay.

MS. JOYCE: It says, "The development is located on a census tract on which there are no other existing developments supported by housing tax credits, and applicants must provide the evidence." And we actually give the applicant some information in that regard.

And I in no way have read this, but I know that Steve Schottman had mentioned that possibly in the regional allocation formula too, that that could be something that could pull in. I am sorry, the Affordable Housing Needs Score. So certainly, if you wanted to increase these points below the nine, add it as a separate item, it's out there.

MR. BOGANY: Well, I think when we were trying to spread them out, and especially I know last year we did one in New Braunfels that had never been able to get one, because it was so close in that area to San Antonio and they just couldn't get one. And I am thinking that it is

not only New Braunfels, but there are other areas around this state that are close enough that has never had a tax credit.

I don't know of anyone that has ever been in Galveston and had a tax credit, since I have been on the Board. So I am just looking, if there is a way that we can shift some points that way.

MS. JOYCE: I think that under the suggestion just made by Ms. Anderson, currently under exurban developments, which is, I am on page 46. It is the new number 15.

She was suggesting that you add that language there. And if you don't take it out of what I was just reading from, then you would kind of get credit twice if you were in an exurban area that also didn't have those tax credits in the census tract.

MR. BOGANY: Okay. Well, is there anything wrong with getting that twice like that?

MS. JOYCE: Kevin, you can correct me if I am wrong, but there are several that are kind of like that, that they are a little bit different. So as long as you have the same concept, sometimes you can score points different ways. Community revitalization plan. We have several different point-scoring items that you could

qualify for having a community revitalization plan.

MR. BOGANY: All right. Well, I guess my question, Jen --

MS. JOYCE: Do you agree? I was just making sure that you agree that we can --

MR. HAMBY: The challenge becomes if you collectively add them. If you had one event, if you would, you could not have that one event collectively add up to more than the top nine.

MR. BOGANY: Okay.

MR. HAMBY: And so you would end up with a cumulative problem.

MR. BOGANY: Okay.

MR. HAMBY: And so that would be where you couldn't say, if you did rehab, you were suddenly getting 100 points on the whole deal.

MR. BOGANY: So how do we correct that problem, based on the current structure that we are in? How do we correct that problem, because that seems to be a problem.

MS. JOYCE: I think that we might need to speak offline on it. I don't know if -- the point total right now, if you were to go with Ms. Anderson's suggestion would be seven plus four, so eleven, which would be higher

than the eight points that you can kind of max out at.

I think that Mr. Hamby would need to make a determination as to whether or not being an exurban development is separate from the development locations. If you think that would indeed violate it, then you would probably lower the extra points that you would like to add for exurban. So they would get seven points for instance, being an exurban development, with an additional blank points if they are looking in an area that has no existing units in the census tract with tax credits.

MS. BOSTON: Another alternative would be that you could remove it from development location, not add the language proposed by Ms. Anderson, and just add a new category for seven points that would be for an area that hasn't had any tax credits.

MR. BOGANY: So could we put that in the queue and get it?

MS. JOYCE: I hadn't even thought of that. Yes. You could strike the current language, increase the points to seven.

MR. BOGANY: Okay.

MS. JOYCE: And you would make it, its own category.

MS. ANDERSON: And it would be somewhere that

hadn't had one, regardless of whether or not it was exurban.

MS. JOYCE: Right. So it would go from four to the new point value that you would have with being a separate item.

MR. SALINAS: Can we add that to the QAP?

MS. JOYCE: If you like.

MR. BOGANY: The other question, in the Gulf, Rita area, the Beaumont-Jefferson area, those areas, is there anything in the QAP that addresses that? Because you know, we have sort of rules in there. We are trying to replace housing and help rebuild houses.

Is there anything in the QAP that may address those particular areas, in being able to help them get more housing? I noticed I read something about Go Rita in here. But I am more speaking of Beaumont, Jefferson, Orange, those areas; Jasper and all through there.

MS. JOYCE: I was going to address cost per square foot and --

MR. HAMBY: Actually, Mr. Bogany, I believe that would be more addressed in the RAF, because it is actually going to cap the amount of percentage that they get, as opposed to the rules that are in place.

MR. BOGANY: Okay.

MS. ANDERSON: And we just did a big slug of forwards in those areas, too, to try to accelerate. You know, that comes out of next year's allocation.

MR. BOGANY: Okay.

MS. JOYCE: And in those regions, they do have a higher threshold right now. It is currently drafted in cost per square foot.

MR. BOGANY: Okay. So everything has been upped so it can --

MS. JOYCE: Not specifically for those particular zones, but if they are in the tier -- is it one or two? -- they have an increased amount, yes.

MR. BOGANY: Okay. Thank you. I don't have any more questions. I appreciate it.

MR. CONINE: Jen Joyce, Ms. Anderson mentioned looking at the 1.2 million cap on ac rehab stuff, which then begs the question for me, looking at trying to figure out when the 1.2 cap was put in and all the cost increases that we are incurring out there, and should we take a hard look at that. Has staff had a chance to discuss that in both the 9 percents and the ac rehab 4 percent area?

MS. JOYCE: Do you guys want to make any comments on it as it relates to the 4 percent deals?

MR. CONINE: Here comes the statute guy,

telling me I can't --

MS. JOYCE: Well, I --

MS. S. ANDERSON: It's been changed --

MS. JOYCE: I think we increased it two years ago to the 1.2. And certainly it has been since '04 at 1.2.

MR. HAMBY: And it is in the rules, so it can be discussed at any point at this time, if somebody wants to follow up on your comment and say it should be increased, including what Ms. Anderson just said. That it is certainly a point that people are on notice that it could be moved up or down. And so the Board can do whatever it wants to, when it sees public comment next time.

MS. JOYCE: I just wanted to add, too, that this would only relate to 9 percent applications, because the 1.2 applies to the ceiling. So it would be -- we are talking about the acquisition portion, I assume, for the 4 percent.

MR. CONINE: And she also mentioned cost per square foot restrictions on high rise. I know we have an exemption for elderly. But on high rise, do we have a carve-out for that in here, or not?

MS. JOYCE: We didn't clarify it at the 1.2.

No, we don't. And actually, we had talked about putting that in, and it becomes very difficult to draft language.

And so we had asked for any kind of specific language in that open forum.

I think it might need a definition suggested for net rentable area, or possibly adding in specific language of how you would want to address that. It becomes hard to separate out. The 1.2 does apply to 9 percent and 4 percent.

What were you saying, Tom?

MR. GOURIS: Add it to the elderly definition --

MS. JOYCE: Okay. Tom's suggestion would be, under the cost per square foot for selection, to add where there is an elderly exception, so they get a bit of a higher cost increase, cost per square foot amount if it is elderly. You would add in there that we could specifically allow elevators and common -- what was the exact language.

We don't have a definition on high rise. But we could just say, high rises with elevators and interiors.

MR. CONINE: What if we don't want to do an elderly. It wouldn't be family, but it would just be

open. Family would not gravitate toward there, but it would take care of the building type, which I think is the issue, not the age.

MS. JOYCE: We can certainly separate, come up with some draft language or just go with that direction, I think. And also put it in the draft, if you would like.

MR. CONINE: Move approval of the QAP as amended.

MR. BOGANY: Second.

MR. CONINE: With all these amendments.

MS. ANDERSON: I want a list of the amendments. I may want to add a topic. So what is staff's understanding? Let's come back to order.

MR. CONINE: Okay.

MS. ANDERSON: Thank you. Let's hear staff's belief on what has been amended.

MS. JOYCE: I have under selection under I2, Ms. McIver suggested language only in changing it from eight to seven points, which is the QCP section, And so it would be, not -- she is commenting on I2, but it is actually going to get moved to probably ten or eleven. It is below the nine. So that is going to renumber everything.

Under Mr. McDonald suggested the 100,000

population limitation so that 41.6G, on page 22. Under G, he would like to add that this would only be applicable to areas that exceed 100,000 population or we can easily say urban/exurban.

MS. ANDERSON: I am sorry. What page?

MS. JOYCE: I went to the wrong page. Sorry.
16.

MS. ANDERSON: Okay. Thank you.

MS. JOYCE: So under G. And he didn't make comment on H in that regard. Let's see, you didn't make any decision on the urban/exurban points that Ms. Anderson pointed out, which was to either do its own item.

Right now we have, it is no currently existing units. So you would like us to strike the current language, and redraft it in a different section, and increase it to seven.

MS. ANDERSON: Seven points for anyone that doesn't have it without respect to which pot it is in.

MS. JOYCE: Okay.

MS. ANDERSON: Mr. McDonald's amendment on the predevelopment loan things, meaning TDHCA predevelopment loans. Add that to the list.

MS. JOYCE: Correct. And we have the cost per square foot, adding that language conceptually, being that

regardless of family or elderly, we would allow -- we would basically redefine the common space and whether or not it would pull an NRA for the point scoring item.

MS. ANDERSON: Correct. So that is the thing about the corridors, air conditioning and heat.

MR. SALINAS: I thought the area where no neighborhood associations is --

MS. ANDERSON: She did that.

MR. CONINE: She got that.

MR. SALINAS: You got that? Okay.

MS. JOYCE: Let's see. I am not including the items that would strike new language. So it is keeping in suggested new language for comment. I don't remember seeing any others.

MS. BOSTON: [inaudible].

MS. JOYCE: The 1.2 discussion would still be outstanding.

Kevin, did you say that we could increase that in comment?

MR. CONINE: We can change that.

MS. JOYCE: Change it. So we don't need to change the 1.2 because that can go up for comment and be increased.

MR. FLORES: Jen, what about the Section 8

vouchers? I never did quite figure out what the final outcome was that. We had about three or four different comments.

MS. JOYCE: I think that is up to the Board's discretion on how you would like to handle it. I heard a cap fee, rents, no matter what. That was Barry Kahn's suggestion. I heard take it out.

MR. FLORES: I heard it was against the law.

MS. JOYCE: Pardon?

MR. FLORES: I heard it was against the law to turn anyone down.

MS. JOYCE: Meaning take out the new language. I am sorry.

MR. FLORES: No. I am trying to figure out. Do we say anything at all about accepting or not accepting Section 8 vouchers?

MS. JOYCE: We do. It is a separate requirement. It is in both the QAP and --

MR. FLORES: And it stays as it is?

MS. JOYCE: Pardon me?

MR. FLORES: It stays as it is?

MS. JOYCE: Correct. That never changes. They have to accept them based on the Department's policy.

MR. FLORES: Okay. The reason I am confused,

it was mentioned about four or five times by different people in different ways, and I didn't know exactly what you finally came up with.

MS. ANDERSON: Maybe that argues for leaving it as is in the draft, and let's get some comment from all these points of view, and then we can sort it out.

MR. FLORES: Yes. I have got you.

MS. ANDERSON: I have -- is that the end of the amendments that we know of?

MR. CONINE: Yes.

MS. ANDERSON: Okay. I have an amendment that hasn't been discussed, that I would offer to the Board to put in the draft, which is the right of first refusal points. I want those to apply to for-profit and not just nonprofit organizations. We can sort that out, and Kevin, Mike and Brooke.

I have had e-mail traffic on this. I have not had an answer to my last request. And so let's put it in the draft, and obviously, we are not going to do anything that violates statute, but I would like to get the broader community involved in the discussion about why a tenant organization you know, in the state statute that talks about, that we are supposed to provide incentives to reward applicants who agree to provide a qualified

nonprofit or a tenant organization the right of first refusal.

I don't understand what prohibits a for-profit from operating a tenant organization right of first refusal. And I think that Section is being misinterpreted here. The federal requirement. So we will force the issue, if the Board will.

MR. SALINAS: I will agree with you, Madam Chair.

MS. ANDERSON: Thank you. So does everybody understand the motion as amended?

MR. FLORES: I so move.

MR. GONZALEZ: Second.

MS. ANDERSON: So any other discussion?

(No response.)

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. I want to welcome for the first time to the Texas Department of Housing and Community Affairs board meeting our new

housing policy advisor from Governor Perry's office, Amanda Arriaga. Welcome. If you would stand so that we could welcome you.

(Applause.)

MS. ANDERSON: You picked an amazing meeting to come in. It had to be your maiden meeting and you walked into all these interesting discussions we have annually as part of our rulemaking process. So we all look forward to meeting you and working with you.

Mr. Gerber, we are ready to move on.

MR. GERBER: Agenda Item 5I is the Department's multifamily bond rules. Staff is recommending approval of draft bond rules for public comment. Initial comment has already been gathered, as noted during the discussion on the QAP.

Changes to the draft rules include added language that make the 2007 multifamily housing revenue bond rules consistent with the other Multifamily Program rules. Staff added language to mirror the 2007 QAP and rules that explains that the 2007 QAP, once approved by the Board may have changes that would affect the housing tax credit applications that coincide with the bond program.

And the QAP would take precedence over the 2007

bond rules, where applicable. Again, staff is recommending approval of the bond rules for public comment.

MR. BOGANY: So moved.

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.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. GERBER: Item 5J is the draft Housing Trust Fund rules. Staff is recommending approval of these draft Housing Trust Fund rules for public comment. Initial comment has already been gathered as noted on the QAP discussion.

Changes to the draft rules include added language that makes the 2007 Housing Trust Fund rules consistent with the other Multifamily Program rules. Additional minor modifications are made to align the proposed rules with either federal or state statutory

language. Again, staff is recommending approval of the draft HTF rules for public comment.

MR. BOGANY: So moved.

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.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. GERBER: Agenda Item 5K is the portfolio management and compliance rules. The compliance rules, specifically. PMC and the Department are proposing the repeal of Sections 1.11, 1.13 and 1.14.

Those sections covered the annual report, monitoring the Fair Housing and the Department's rules regarding Section 8 applicants. Those topics are being incorporated into various sections of Chapter 60, so that all compliance information will be found in one place.

Other notable amendments include the Department-proposed rules for monitoring housing tax

credit properties that have completed the initial 15-year compliance period. The proposed rules relax some of the more administrative and technical requirements, however, the Compliance Division will continue to monitor for the key affordability requirements, income eligibility restricted rents and habitability.

The scoring methodology for uniform physical condition standards can be found in Section 60.13. In March of 2005, the physical inspections of the housing tax credit properties was outsourced to a company with expertise in HUD's UPCS protocol. This section of the rules outlines the Department's methodology for evaluating the level of compliance. Staff recommends approval of these draft rules for public comment.

MR. CONINE: So moved.

MR. BOGANY: 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.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. That was the end of the rules. We are going to take about a ten-minute break, and then we will come back and reconvene. Thank you.

(Off the record.)

MS. ANDERSON: We are ready for Agenda Item 6. However, with the Board's concurrence, I would like us to take Agenda Item 10A out of order, due to the distance that people here for that item have traveled, and the flight schedule associated with that.

And Item 10A is presentation, discussion and possible approval of Portfolio Management and Compliance items, HOME amendments for three contracts.

So, Mr. Gerber, if we could proceed with that, please?

MR. GERBER: Madam Chair and board members. Item 10A deals with HOME amendments. The 2006 HOME rules in Texas state that modifications and/or amendments that increase the dollar amount by more than 25 percent of the original award, or \$50,000, whichever is greater, or significantly decreases the benefits to be received by the Department in the estimation of the Executive Director will be presented to the Board for approval.

Three HOME amendment requests are being

presented to the Board today. Ms. Trevino will be here in just a second to make that presentation. Let's start with the City of Socorro, which is contract 542052. The City of Socorro previously requested an amendment to extend the contract end date.

The contract start date was October 1, 2003. The first amendment was executed on August 8, 2005, extending the end date of the contract for twelve months, from September 30, 2005 until September 30 of 2006. The first amendment also increases income level for 13 households from the 30 percent area median family income limit to the 80 percent AMFI limit to allow the City to assist households that would otherwise not qualify for assistance.

The City is requesting a second amendment to further extend the end date of their contract from September 30, 2006, to March 30, 2007. The City states that a six-month extension is necessary due to unpredictable situations causing delays in program administration.

With the assistance of El Paso's Collaborative for Community and Economic Development, the City has assisted 27 households, has two additional closings pending, and has 38 households pending qualification for

assistance. In addition, recent floods in El Paso County, primarily in the city limits, have caused significant devastation.

The City states that loss of this funding would further devastate the City and negatively impact the families awaiting approval for assistance, because of current policy, staff has denied the amendment request.

If the Board chooses to approve the amendment, the contract end date would be extended from September 30, 2006, to June 30, 2007. Approval of this amendment would require the City to provide the Department with a monthly contract progress report in a form prescribed by the Department.

MR. BOGANY: So moved.

MR. SALINAS: Second.

MS. ANDERSON: Hold on just a second. We have public comment on this item, should these witnesses want to testify. Delia Chavez and Trini Lopez yielded time.

MR. LOPEZ: [inaudible]. I was saying that my name is Trini Lopez. Thank you for letting them here before you all, and thank you for taking care of this Item 10. Since me being elected official and Mayor of the City of Socorro in May, I have been very active and proactive in getting people into this, so we can comply with the

rules and regulations you all are applying.

And I just would say, thank you very much. And I will let Delia talk about it. Thanks. Thank you very much. Goodbye.

MS. CHAVEZ: Thank you, Mayor. Good afternoon. My name is Delia Chavez. I am a former city administrator for the City of Socorro and the current Executive Director for the El Paso Collaborative for Community and Economic Development.

The Mayor put together some packets, and I think they have been handed over to you. The purple packets. And I just wanted to call to your attention to Exhibit A. And it talks a little bit about the activity of the project.

And as you can see, there has been quite a bit of progress. And there are some that are pending draws or that are pending closing and very few that are in process.

So we are requesting a six-month extension so that we can finish the ones that are in process, which is approximately about eight. And of course, the ones that are closing, it is just a matter of closing.

And we anticipate that we are going to be closing those by September 30 of 2006. With a six-month extension, we will be able to complete the contract and

provide down payment assistance for low-income families to complete the 41 that was the total amount that was applied for.

MR. FLORES: Ms. Chavez.

MS. CHAVEZ: Yes, sir.

MR. FLORES: What is the translation of Socorro?

MS. CHAVEZ: Socorro means help.

MR. FLORES: So I guess that is what you are asking for?

MS. CHAVEZ: It is requesting quite a bit, sir.

MR. FLORES: I call the question.

MS. ANDERSON: I just have a question because the writeup in front of the Board talks about an additional 38 households pending qualification for assistance. And your exhibit says that you have got things, you know, there are only five more in process.

So what are you asking? You are asking for an extension for March 30, 2007 to assist the families that are listed on that?

MS. CHAVEZ: This is to assist the families that are listed, that are still pending, so that we can complete the 41. What is on the waiting list, which is Exhibit B, that is the number of people that are -- not

all are going to get assistance.

But that is the waiting list. Some of them are in various stages of completion. For example, we have already provided them with financial literacy, home ownership counseling. They have been prequalified. But out of these 23, is where we are going to pick the ones that are still left to complete the project.

MS. ANDERSON: Okay. And you won't complete that by March 30 of 2007.

MS. CHAVEZ: Yes, ma'am.

MS. ANDERSON: Okay. Thank you. Jake Brisbin, Jr.

MR. HAMBY: Mr. Flores, did you withdraw your motion to call the question?

MR. FLORES: I withdraw it.

MR. HAMBY: Okay. Thank you.

MR. BRISBIN: I certainly didn't want to prolong your stay here, Madam Chair, members of the Committee. I just wanted to comment that from the Council of Governments position, we have watched the City of Socorro struggle with this project.

And we know that a change of administrations has made it very difficult for them to pick up some lost ground. We will be in consultation with El Paso

Collaborative. We will help them finish this. And we will give you our word that it will be done on March 30.

MS. ANDERSON: That is the end of public comment. 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.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. GERBER: Madam Chair, the second item is dealing with an amendment to the City of Cotulla, contract 1000020. The City of Cotulla previously requested an amendment to extend the contract end date. The contract start date was December 1, 2003.

The first amendment was executed on December 29, 2005, extending the end date of the contract for six months, from November 30, 2005, to May 31, 2006. The City is requesting a second amendment to extend the end date of their contract from May 31, 2006, to November 30, 2006.

The City states that a six-month extension is necessary to complete construction of the homes that are

currently under construction. The homes of ten households to be assisted have been demolished, and are in various stages of completion from demolition to Sheetrock, because of current policy, staff has denied the amendment request.

If the Board chooses to approve an amendment, the contract end date would be extended from May 31, 2006, until November 30, 2006. We would request that approval of this amendment require the City to provide the Department with a monthly contract progress report in a form prescribed by the Department.

MR. BOGANY: So moved.

MR. GONZALEZ: Second.

MS. ANDERSON: I have public comment on this item also, should the witnesses decide to make comment. Nick Almanza from Senator Zaffirini's office.

MR. ALMANZA: Madam Chair, members of the Board. Good afternoon. My name is Nicholas Almanza. I am public information aide for Senator Judith Zaffirini. I am here speaking on her behalf. Unfortunately, Senator Zaffirini could not be here today.

Senator Zaffirini supports enthusiastically the request from both the City of Cotulla and La Salle County, which will be the next item on your agenda, to amend their HOME program contracts. Within your board books, you will

find copies of letters that Senator Zaffirini wrote to the Texas Department of Housing and Community Affairs Executive Director Michael Gerber, supporting and requesting that the requested amendments to the HOME program contracts be looked upon favorably, for both the City of Cotulla and La Salle County.

Senator Zaffirini would like to echo those requests that she sent; her letters that were dated earlier, in August 4 and 11, respectively, for the City of Cotulla and La Salle County. I thank you for having this meeting and for all your work here today, and yield for any questions.

MS. ANDERSON: Thank you.

MR. ALMANZA: Thank you.

MS. ANDERSON: Celina Overbo from Representative King's office.

MS. OVERBO: Good afternoon, Madam Chair and board members. My name is Celina Overbo, and I am with State Representative Tracy King's office.

First of all, Representative King asked that I express his regrets that he wasn't able to be here, due to a scheduling conflict in the district. Secondly, he requests the Board's favorable consideration for an extension of the HOME program for the City of Cotulla and

the County of La Salle. He further hopes that the Board will keep in mind that regardless of how we arrived to this final appeal, it is crucial to remember that the hardworking families in this rural district who are displaced until the completion of these homes.

With that in mind, once again, Representative King respectfully requests the Board's favorable consideration for an extension of the HOME program for the City of Cotulla and the County of La Salle. Thank you for your time.

MS. ANDERSON: Thank you. Mayor Gonzalez.

MR. A. GONZALEZ: Madam Chair, Mr. Gerber and board members, my name is Abel Gonzalez. I am the Mayor of the City of Cotulla. And I am employed by the Texas Department of Criminal Justice.

You have a letter before you that I would like to read for the record. It says, "Dear board members, we request that the Texas Department of Housing and Community Affairs take action to extend the HOME contract 1000020 for the City of Cotulla."

The City was working with a consultant, Robert Chavira on this grant. Mr. Chavira was contacted repeatedly regarding the program, progress of our HOME program. Additionally, the City Council discussed this

issue on multiple occasions.

During a meeting with Mr. Chavira, myself, the Mayor Pro Tem, Mr. Arche, and the City Administrator Richard Hernandez, Mr. Chavira said that the City had 60 days until the contract expiration in which to finish construction. We requested that Mr. Chavira get something in writing. They were never forthcoming. After repeated and further discussions with Mr. Chavira, we accepted a letter of resignation from him on June 15, 2006.

At the same time, work on the homes stopped. We requested an extension to our HOME contract, so that we could rebuild the homes and complete the project. This request was denied, despite the fact that their homes are down. And we currently have ten families out of their houses.

We have some concerns that our request was denied, due to the fact that Mr. Chavira is no longer working with us. The original contractor, Jasmine Construction has since assured our attorney that they can finish the four homes that are substantially complete in a reasonable amount of time. And we cannot find a different contractor willing to complete the warranty for these four homes, due to issues that may arise from the original general contractor's work.

The City has rebid work on the remaining six homes. These homes are all demolished, but foundations are not poured yet. The contractors who attended the prebid conference all have good references and understand the financial limitations of the program.

We are confident that given the opportunity, we will be able to finish these homes in a timely manner, and do whatever it takes for us to complete these homes. Thank you.

MR. SALINAS: Mayor, let me ask you, Mayor. Did the Development Council -- I guess going to help you?

MR. A. GONZALEZ: Yes, sir. We are trying to get all the help we can, so we can finish these homes. And the families have been out of their homes for over a year already.

MR. SALINAS: Martinez, with the Development Council calls me and says that he was personally guaranteeing the help of the Development Council to help you.

MR. A. GONZALEZ: Yes, sir.

MR. SALINAS: And to the Board, he was very upset at the grant writer who was this guy, Chavira. I want the name to always be in the minds of the people that work for the Department of Community Affairs, because he

left these people hanging and did not finish the job.

So we need to be very careful with these grant writers, I guess. And be sure that we help these people get their job done to relocate those people that need their homes so bad. And the Development Council has made a guarantee that they will be able to help them.

MR. A. GONZALEZ: Thank you.

MS. ANDERSON: Mayor Gonzalez. I have a question. The writeup we have indicates that you are requesting an extension until November 30, 2006, which is about 90 days away.

And then your letter indicates that you have got six houses where you have not poured foundations. Do you really think you can finish six houses where you have not poured foundations in 90 days?

MR. SALINAS: No, I think she needs a little bit more time than that.

MR. A. GONZALEZ: Maybe so. We think that we probably can. But if we could get more time, it would help us a lot more.

MR. SALINAS: I think that by March of 2007 would be the best.

MS. ANDERSON: So you are offering an amendment to the motion?

MR. SALINAS: I want to offer an amendment to the motion that we do it to March of 2007 to stay on the safe side.

MS. ANDERSON: Okay. March 31 of 2007.

MR. SALINAS: March 31, 2007.

MS. ANDERSON: Okay.

MR. GONZALEZ: Second the motion.

MS. ANDERSON: Okay. Thank you, Mr. Mayor. We have got a motion and we have got an amendment. And I have more public comment. City Alderman Arche.

MR. ARCHE: Madam Chair and board members, my name is Lytle Arche. And I am a retired DPS captain, but now I am coming before you all today as Mayor Pro Tem of the City of Cotulla, asking that you do grant us this extension, that we may be able to finish out and help these families that are out of their homes.

I came on the Council in May of 2005, and we found out that there hadn't been any work done on these houses. And we tried to get it, and we got the first extension. And after we got the first extension, then we found out that it wasn't taken care of then.

But during that whole period of time, we were working. The Council was working on trying to get them completed, get the contractors and all to do the work.

And it just dragged out too long.

But we have, we feel like we have got the solution to the problem now, that if we can get a chance to rebid, to go ahead and get more time to put these people back in their homes, because they are out of their homes. And in the process of May of 2005, we obtained a new City Manager that has knowledge of HOME programs.

And so we feel that with the extension, that we will be able to get the people back into their homes.

Thank you.

MS. ANDERSON: Thank you, sir. Mr. Robert Chavira.

MR. SALINAS: Is he the guy that left?

MR. CHAVIRA: Good afternoon, Madam Chair. Members of the Board. My name is Robert Chavira, as a consultant. I will admit that the words that I had planned to say were a little bit different from what I have to say now. The Mayor of Cotulla paints a picture on his words.

Obviously, my side of the story is a little bit different. I didn't abandon the City of Cotulla. In fact, it was going to be the opposite. They had set an agenda with an action item to terminate my contract. Instead of going through the motions and standing before

the Board in public, and having them say whatever needed to be said prior to my termination, I decided to resign. And that is the fact.

But regardless of that, I did want to appear before the Board and voice my support for the City of Cotulla's request for an extension, because ultimately, these families who have been out of their homes for a long time do need a home to reside in. And without the extension, they will not be able to do that.

Ma'am, if I may, I am working with La Salle County, which is the next item. And if I could just share a few words. And I will keep it very short.

I am still employed with La Salle County. The City of Cotulla is the county seat of La Salle County, and I do intend to stay on with La Salle County and see this contract through.

The county has two contracts, a total of \$1 million, for a total of 20 homes to be constructed. And as of today, 14 of those have been completed. The request for an extension is to complete the remaining six.

If the Board does extend that contract, five of those six homes will be completed within three weeks. The last home will be completed anywhere between 60 to 90 days. That last home is still in the -- well, we have

completed the foundation, so obviously, we need to get some framing and other work to be done on that one. But once again, we are looking at six out of a total of 20 homes that have been completed to date.

Obviously, there was some issues regarding this particular project. The main issue, and I believe it was addressed in your letter, is we are talking about a town that is very small, and has limited general contractors. And it did take a considerable amount of time to locate those. And those contractors are still in place.

They still have contracts to complete the work.

And once again, if this request for extension is approved, those contractors will do that, and there will not be a need to locate any additional contractors.

MR. SALINAS: Let me ask you a question. Did you get paid for Cotulla?

MR. CHAVIRA: I have been paid for some work that had been done on the first four homes, but that is it. There is still a considerable amount of money that is in a receivable state that I have not requested.

MR. SALINAS: Okay.

MS. ANDERSON: Any other questions? Thank you, sir. Rachel Hernandez.

VOICE: She has gone.

MS. ANDERSON: Thank you. That is the end of public comment on this item. We have an amendment on the extension, on the motion to extend them to March 31 of 2007. So let's vote on the amendment. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The amendment carries. Now vote on the main motion to grant the extension. All in favor of the motion, say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. I just want to make sure that staff -- we get repeatedly into very difficult situations when we -- when local communities demolish homes long before they have readiness to proceed on construction of the homes.

And I expect the staff to work with local grantees and the consultants and all parties involved in these things so we don't push people out of their homes and demolish homes until we are ready to proceed with construction. I mean, Mr. Hamby?

MR. HAMBY: Madam Chair, we have received that comment previously, and it is in all of our new contracts going forward, that anyone who is getting near within 90 days of their termination date cannot begin that process of tearing down the home. That will be on ones going forward from this point, however.

So we have heard it. We just have to catch up to the process. So these are all the ones that have been in the past two years. But you should not see any from 2006 forward.

MR. FLORES: Mr. Hamby, may I ask you a question. Do we require that they make a legal contract between the contractor and the City on these HOME contracts?

MR. HAMBY: We do have language in there about dealing with subcontractors. And one of the other things that we have added into their contracts, 2006 and forward, is that we have the right to audit any contractual relationship between parties that they have a subcontract. And that language is required to be in their subcontract language as well.

MR. FLORES: It sounds like they had a contract problem. And obviously, trying to solve the problem here, not trying to go after somebody, but I do want to, if

indeed we wanted to, we could go after some of these contractors that take advantage of some of these situations.

MR. HAMBY: We couldn't previously, because we would not have had privity with the underlying subcontractor. And now we have the right to reach out and touch the contractor. They will also have, Mr. Mayor, in the future, anybody who has a subcontract, as we develop the debarment list, those are already going into the subcontract.

So if there is an issue where someone has not performed as they said they would, they could be subject to debarment, depending on when that policy is firmed up.

But that is going into all the 2006 contracts as well, so we will have sort of a double mechanism for review.

MR. FLORES: That type of abuse ought to have consequences, is all I am looking for, and we ought to at least have that option.

MR. HAMBY: And that is what we are trying to do with the 2006 and forward contracts.

MR. FLORES: Looks like you got the point. Great. Thank you.

MR. GERBER: And I would just add, Mr. Flores, that the enforcement rules along with the OCI rules will

hopefully be coming before the Board at the October board meeting at which the Department process will be part of that.

MR. CONINE: More rules.

MS. ANDERSON: We have a third one, Mr. Gerber.

MR. GERBER: The third is La Salle County. La Salle County's HOME contract 1000028. La Salle County previously requested an amendment to extend the contract end date. The contract start date was December 1, 2003.

The first amendment was executed on December 29, 2005, and extended the end date of the contract for five months, from November 30, 2005, to August 30, 2006. The City is now requesting a second amendment to extend the end date of their contract from April 30, 2006, to November 30, 2006.

The City states that a seven-month extension is necessary to allow the City to complete construction of the homes currently under construction. The homes of ten households to be assisted have been demolished, and the homes are in various stages of completion from demolition to -- under stages of completion. Because of current policy, staff has denied the amendment request.

If the Board chooses to approve the amendment, the contract date would be extended from April 30, 2006,

to November 30, 2006. Staff would again request that if there is approval of this amendment, that the County be required to provide the Department with a monthly contract progress report in the form prescribed by the Department.

MR. BOGANY: I'd like to make a motion.

MR. FLORES: Before you do that, Shad, could I ask you to extend that date of the contract by 90 days?

MR. BOGANY: Yes. I am going to include that.

MR. FLORES: If what he said was correct, they only have a slab. They have 90 days to get in a house. They don't have leeway. So please consider that.

MR. BOGANY: I would like to make a motion that we approve the extension, and extend it to March 31, 2007.

MR. FLORES: Second.

MS. ANDERSON: Mr. Domingo Martinez and Mr. Joel Rodriguez, you yielded time to Mr. Chavira. Do you wish to make comment?

MR. RODRIGUEZ: I wish to make comment at this point. Good afternoon, board members. My name is Joel Rodriguez. I am the county judge of La Salle County. Thank you for being here. We have worked with Martinez. I am on that board of Middle Rio as well. And we have brought in as resources Johnny Reese also to assist us in this project.

We would like to make a correction in what was just read. We are asking for an extension on six homes. Five that are roughly 95 percent complete now, and the other one is a slab that is going to need a little bit more time. These people have been out for quite a bit. We have been proactive.

And I would like to say that in this case, what has happened, that this contractor had several other contracts with TDHCA including Crystal City and the City of Encinal. And it kind of, our nature back home is that we are friendly people. And I kind of think that we were taken advantage of, because we open our doors to almost anybody. That is the way we are.

And the priority by this contractor was to put us last. We were the ones that complained the least. And we got put on the back burner. And then he did not have the capital to be able to fund this project. We also have a labor problem. We are 90 miles south of San Antonio, 70 miles north.

And they come into Cotulla, there is no homes to rent for their contractors. There is no place for them to stay. And I believe this is evidenced by TDHCA credits you just gave us for development about a year ago to Madison Point, because we need housing.

So it is a bunch of factors that have fallen in that has caused these delays. It is just not one person; but it is multiple, and including on parts of the county.

And we are elected officials and what happens is that you have different levels of education in elected officials. Many times people run that aren't qualified, and they try to hold out. And it becomes a political process.

The Commissioner's Court cannot remove these people; it has to be done through the district attorney or the county attorney. And it is a judicial, not a political process. And we have had some key people that are not going to be in office any more, not to hinder the county; they decided not to run, because of the delays of this project. And that was very big of them.

And I am asking that you consider this extension to allow us to get these people in their homes.

We have worked very hard out of the county. We have incurred quite a bit of expenses. The county itself, to make them be at ease.

And these aren't expenses that we charge to TDHCA. These are expenses the county has incurred.

MS. ANDERSON: I have a question for you. The five that aren't 95 percent complete, when were they

demolished? How long have the families been out of their homes?

MR. RODRIGUEZ: No. The five that were -- they were listed in the extension, I think, being a different percentage -- 60, 40. And they were demolished before the end of the contract.

What we are running into, that the contractors are doing, they get these contracts and they wanted to demolish all these homes. And please excuse me; it is kind of like a dog that I had that would pee on his food so nobody else would eat it. That is exactly what happens.

They get them all started, and no other contractors are going to want to come and start work on that contract once it begins.

MS. ANDERSON: Right.

MR. RODRIGUEZ: So you know, they go and tear them all, and get started. And no one else is going to want to step on them, because it affects the warranty and costs. Once they get their teeth in it, they are not going to let go.

MS. ANDERSON: Right. Everybody is trapped.

MR. RODRIGUEZ: Yes.

MR. SALINAS: Do they have bonds, do you know?

MR. RODRIGUEZ: That is one of the things that I had asked Mr. Chavira, did they have bonds? And he had explained to me they didn't have bonds; they did want bonds. But these contracts apparently were between the homeowner and the contractor.

MR. SALINAS: You can't do that. It has got to be the county who is applying for these funds. She has got to be responsible. Mr. Chavira also has some responsibility.

MR. RODRIGUEZ: Right.

MR. SALINAS: When Deloro Bartias [phonetic] called me, he said, Everybody walked out on us, including Mr. Chavira. And the thing is that it is very -- for us, it is very hard, because we go out and give out an 18-month contract.

I tell you one thing. I can build six houses in 18 months. But you get bonds from the people that are going to build your houses, especially if you are a governmental entity. That applies over to Cotulla also. And then you go ahead and --

MS. ANDERSON: But not if you don't start them until 17 months into the contract.

MR. RODRIGUEZ: And that is one of the things I asked. And we have several agenda items that we go back

into Commissioner's Court minutes. Commissioner Martinez is here.

And since I have been County Judge, we have had over 100 meetings, usually once a week on several different topics. And we wear several different hats. And you are familiar with that. So we haven't stood inactive.

And my understanding, some of the money was delayed because our audit wasn't done. And when I say our audit wasn't done, we have a treasurer that ran for office, and she couldn't pick up the office. She didn't run. But our audit was delayed. And I believe the policy does state that we can start the work, but we are not going to get reimbursed until that audit is complied with.

MS. ANDERSON: Mr. Mayor, the Department has convened a task force on the HOME program and we would love to have you participate in that process. And I think it would be good for staff as part of that task force to reach out with some sort of survey instrument to all these county judges and mayors that have been part of our -- and let's see what they think the most pressing issues are that need to be re-engineered, and the way we operate this program to alleviate some of the pains that we are hearing about from the Mayor. We appreciate your testimony.

MR. RODRIGUEZ: Thank you.

MS. ANDERSON: Mr. Martinez.

MR. MARTINEZ: Yes, ma'am. Madam Chair and board members, thank you for allowing me to speak. And I am just asking for your support for this extension that we greatly need for these people.

Like the Judge was saying they have been out of their homes for a while and they really need their homes back. And I would appreciate that extension from you all. Thank you.

MS. ANDERSON: Thank you, sir. Any other discussion?

(No response.)

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

Item 6, several items for the Board's consideration from the Division of Policy and Public Affairs, the first being the draft State of Texas Low-income Housing Plan and annual report. Mr. Gerber.

MR. GERBER: Item 6A is the presentation, discussion and possible approval of the 2007 State of Texas Low-income Housing Plan and annual report. This document offers a comprehensive reference on statewide housing needs, housing resources, and strategies for funding allocations.

It reviews TDHCA's housing programs, current and future policies, resource allocation plans to meet state housing needs, and reports on 2006 performance during the preceding fiscal year, September 1, 2005, through August 31, 2006. The document for consideration again is entitled. the 2007 State of Texas Low-income Housing Plan and annual report.

The plan will be made available for public comment from September 13, 2006, through October 12, 2006.

Comment will be accepted in writing directly to TDHCA or at 13 consolidated hearings to be held across the state.

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.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. GERBER: Madam Chair and board members, Item 6B is the consolidated plan per federal statute. TDHCA, along with the Office of Rural Community Affairs and the Department of State Health Services are preparing the 2007 State of Texas Consolidated Plan, one-year action plan to submit for public comment. The plan reports on the intended use of funds received by the State of Texas from HUD for program year 2007, which begins on February 1, 2007, and ends on January 31, 2008.

The plan covers the State's administration of the community development block grant program, the emergency shelter grants program, the home investment partnerships program, and the housing opportunities for persons with AIDS program. The plan also illustrates the State's strategies in addressing the priority needs and specific goals and objectives identified in the 2005 through 2009 State of Texas Consolidated Plan.

This draft will also be made available for public comment from September 13, through October 12, 2006. Comment will be accepted in writing directly to the

Department, or at 13 consolidated hearings to be held across the state. Your action request document contains changes from the 2006 document and staff is seeking approval from the Board for this draft to go out for public comment.

MR. CONINE: Move for approval.

MR. BOGANY: 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.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. GERBER: Board members, Agenda Item 6C concerns the regional allocation formula Section 2306.111, subsection D of the Texas Government Code requires the Department to use a regional allocation formula to allocate its HOME, Housing Trust Fund, and housing tax credit funding. This regional allocation formula is intended to objectively measure the affordable housing need and available resources in 13 states service regions

used for planning purposes.

The regional allocation formula also allocates funding to rural and urban/exurban areas within each region. TDHCA, in order to be responsive to changing needs in each community revises this formula annually to reflect updated demographic and resource data, to respond to public comment and to better assess regional housing needs and available resources.

Like other documents, this draft will also be made available for public comment at the 13 hearings to be held across the state. And your action request is to enable this document to go out for public comment.

MR. CONINE: Move for approval.

MR. BOGANY: 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.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. GERBER: Agenda Item 6D is the Affordable

Housing Needs Score. The Affordable Housing Needs Score is used to evaluate HOME, housing tax credit and Housing Trust Fund applications. The formula is submitted annually for public comment and the final methodology and resulting score are published on the TDHCA website.

The Department hopes that through the needs score, applicants are encouraged to request funding to serve communities that have a high level of need. Like the other documents, this draft will be made available for public comment upon approval of the Board.

MR. CONINE: Move for approval.

MR. BOGANY: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote.

MR. CONINE: Free pass, Schottman.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Item 7.

MR. GERBER: Item 7 is the Department's legislative appropriation request. And Bill Dally, our Deputy Executive Director for Administration will present that.

MR. DALLY: Good afternoon. If you will look behind Item 7, you will find our legislative appropriation request. First of all, we had to start this process. We began about two weeks ago. And the document that you have is about a week old.

So we have made progress up through last night on these sets of numbers and I do want to update just a high level summary on that. But we were requested to have a 10 percent cut in our general revenue request, and that amount ended up being \$906,551. That reduces us from about \$9.4 million in general revenue to about 8.5, going into the '08-'09.

Now it is also one of the things that we do, is we will make a request for a restoration of that 10 percent. We have two exceptional items that are a restoration of that 10 percent. The first one being to ask for \$344,000 or \$688,000 in total to do our market studies across the state, because we have been limited in our resources, and that is why we only were able to do Houston, and I think we are considering doing San Antonio.

But a lot of comment that we have gotten is that we need to have a more comprehensive feel on that, on that in particular. And there are studies, that broad legislation allowed it. And that was two or three years ago, for all kinds of studies, insofar as the impact of affordable housing on those markets and stuff.

The second one would be \$109,000 for two years, \$218,000 for a continuum of care. And that is where we are going to provide some resources. And I think we are still in internal discussions as to whether we will do it in-house or put that out in an RFP.

But our intent is to provide the technical assistance out to the counties that are not necessarily within PJs and have the resources to help address their homeless issues. And we were successful and did a continuum of care out of some resources that we had. But those resources will not be available in the coming years.

And so that is why we are putting this request forward to continue that effort. And we are able to leverage maybe up to \$14 million in federal funds from HUD for that purpose.

The third exceptional item, and this would be the one that would put us over the base that we had in the previous biennium is a request for \$5 million for each

year to add to our weatherization program. And what we do with those funds, is that allows us to leverage under weatherization programs that we already have, under Department of Energy and LIHEAP, we have had some limitations on how far those funds would go.

And many of the houses that needed a lot more work than those limits allowed, we had to walk away from.

So with this amount of funds, we would be able to do more homes in that particular area. Also within this request is we have our capital budget.

And I kind of wanted to discuss those two items with you. We had quite a menu of projects this last one.

And we are working in our second year to complete community affairs. We did put in the Section 8. We are still finishing up that particular project, and our Peoplesoft. But in the coming biennium, it will be limited to a manufactured housing systems upgrade.

They have sort of been waiting in line as we moved through other areas in the Department. So this will be an upgrade office on the some of the Legacy software that they have been on, and that is \$175,000 each year for a total of 350-.

And then there is a normal growth that is part of our upgrade of our laptops and our hardware and our

servers. We will also be moving up on some of our operating systems to get back up to supported versions.

And then we are making some minor revisions to our riders. And I know that if you look at your package, that first rider was a bit confusing. But what we are trying to do there, is if you look on that second page, we are asking that a key measure be added in for single-family HOME funds. That was not part of our structure.

And at this time, if there are any questions on the package that you have, or I will sum up on some of the final numbers that we have this week. And I will just add to this. This is the process. With your approval today, we will submit this thing, get it printed and done tomorrow.

And then this begins a discussion this fall with hearings. We will have a hearing with the Governor's Budget Office and Senate Finance on October 3 is already scheduled. We haven't heard anything on the House.

So that will begin a discussion this fall. They will come up. The LBB will do a recommendation in January for the Legislature to consider, and then we will go through May and come up with what the Legislature finally recommends.

MR. CONINE: In the interest of our staff, have

we made any progress or any funds within this biennium budget to help out our office situation a little bit? I mean I know everybody is crammed in there.

Have we made any progress on that effort? I don't know if there need to be any monies in here for that, or not.

MR. DALLY: Mr. Conine, it is a very limited amount at this point. We are in a situation now that we are a tenant in a state office building. A lot of that part of the budget, or some of those needs sort of need to be addressed through Texas Building and Procurement. But we have put funds in there to do some adjustments in the overall space that we have.

On the larger question of really having some more space in total, that is a discussion that I think we will have to have with TBPC and the state leadership. I know we have invited leaders to come over and see our space, so that they can get first hand and see our situation. But we do have some challenges in our space, and we do have some funds, but it is rather limited.

MR. GERBER: Some of those leaders are more shocked by the space than others. We are having discussions with TBPC about trying to acquire a little additional space, perhaps deconcentrate if you will. But

in all likelihood this is a trend that the state is moving all state offices in the direction of what is happening in our offices. And it is difficult.

We are trying to mitigate some of the uncomfortableness and the density. And we are going to work through a process, through a committee is going to advise management. And through our facilities personnel, give us some guidance on what would make things better for them.

But there are some critical things. We knew we had to have. And we are going to be working with, we are working with TBPC to address those things. But we don't anticipate a lot of additional space or a major reconfiguration, so that is not -- those large dollars are not there.

MR. CONINE: Just a little home improvement money would be great. I just wanted to make sure you had it.

MR. DALLY: On other item to bring to your attention is that we are requesting that the pay grade or the pay level for the Executive Director, it is now at a Group 3. We are asking that that be moved up so that he will have a window of being able to raise salary.

MR. CONINE: Especially after we docked him 17

grand this morning. Move for approval.

MR. GONZALEZ: Second.

MR. DALLY: Let me just read for the record. I'll just read the bottom line here for you, because the packets that you have is a week old. In 2008, that total now is \$149,632,904. And then in 2009, it is \$149,854,161.

MR. CONINE: Move for approval as amended.

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.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. GERBER: Mr. Conine, before we move to the next item, I just want to, if I didn't say that.

Incorporated into this budget, however, are additional dollars to ensure that our staff gets paid competitive wages and that we retain the strongest possible staff. There is also additional monies in there, reflecting our

commitment to increased staff development to make sure that our staff is aware of emerging trends, and continues to be as great as they are.

MR. CONINE: How about board development. Is there any money in there for that?

MR. GERBER: Agenda Item 8A.

MR. CONINE: Probably not going to say who needs it and who doesn't.

MR. GONZALEZ: Don't touch that one.

MR. GERBER: No, sir. Staff is requesting approval of the 2006 single-family home investment partnership program award recommendations in the amount of \$24,031,280. In accordance with the HOME program rules and with TDHCA Board approval, a biennial funding competition was conducted for the 2006-2007 application cycle.

A total of 183 applications were received, requesting over \$47 million in funding. Five applications were disqualified, and 35 applications did not meet scoring threshold. Awards are being recommended today for program year 2006 funds.

Program year 2007 funding is anticipated to be received from HUD in spring 2007. At that time, additional funding recommendations based on score will be

made to the TDHCA Board from the application list presented today. Again, the staff is requesting the Board approve 91 applications for 2006 project funds totaling \$24,031,280 and \$961,251 in administrative funds.

MR. BOGANY: So moved.

MR. SALINAS: Second.

MS. ANDERSON: Discussion? I have a question for staff on this. Good afternoon, Eric.

MR. PIKE: Good afternoon.

MS. ANDERSON: Thank you for your oversight of the HOME program. My question is, after month after month of having this string of extensions and so forth, are any of the proposed awards to be made today, do those grantees all have satisfactory performance on their prior awards? Are we awarding more loan funds today to anyone that still has, I will call it stale outstanding HOME contracts?

MR. PIKE: Eric Pike, single-family director. That is a very good question. To my knowledge, the answer is no. We took great strides working with our fellow co-workers in the Portfolio Management and Compliance Division.

We do send these applications through a developer evaluation system to look to see if there is any outstanding issues that any of the other departments have.

We must receive clearance from those departments before these recommendations are put forward.

Also, we have scoring criteria now that penalizes an applicant if they have poor performance. And it is very difficult to be recommended for funding if an applicant does have that poor performance.

MR. FLORES: Eric.

MR. PIKE: I would like to -- yes, sir.

MR. FLORES: Go ahead. Finish.

MR. PIKE: I was just going to say that I wanted to mention just two things. I am not sure how familiar the Board members are with this item. We are asking for a waiver as part of the staff recommendation. I will be happy to discuss that with you if you would like for me to.

But I wanted to make you aware that that was part of the recommendation that is being made, as well as a small amount of deobligated funds to make this award today. And I just wanted to make you all aware of that. Yes, sir.

MR. FLORES: I am sure the maker of the motion needs to know what that waiver is, by the way, when you get through with my question. 183 applications have to be a terrific amount of work. How much time did it take the

staff to go through all of this?

MR. PIKE: You want to include the nights spent thinking about it, and working at home.

MR. FLORES: No. Just at the office.

MR. PIKE: It takes considerable time. If my memory serves me correctly -- and my staff may have to correct me -- I believe we received applications in late April: April 28. And so we have been living with these applications since that period of time.

So May, June, July. Primarily three months of reviewing them and doing the research that we have to do in order to ensure that everybody has proper compliance.

MR. FLORES: We get a lot of billion-dollar requests in other programs, but it is amazing how much I hear about the HOME funds and how important it is to all these small communities. So you do a great job. Thank you.

MR. PIKE: Thank you, sir.

MR. BOGANY: Eric, I have a question.

MR. PIKE: Yes.

MR. BOGANY: What is the waiver?

MR. PIKE: Okay. We had several regions that had balanced partial projects that we couldn't fully fund. And in some regions of the state, we had excess funds.

So what we are asking the Board's approval is that those excess funds be able to be used in those regions where we had projects that would have been partially funded otherwise, so that they can be fully funded.

MR. BOGANY: Okay.

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.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. PIKE: Thank you. And I would just also like to thank my staff for all of their hard work on this successful cycle. Thank you.

MR. GERBER: Madam Chair, Agenda Item 9A, housing tax credit appeals. This item is the presentation, discussion and possible decision for the appeals of the termination of the underwriting issues on the 2006 housing tax credit applications that were timely filed.

The applicants' individual appeals are

discussed in the writeups that are in front of each item.
Individually?

MS. ANDERSON: Yes. We have to go.

MR. GERBER: Parkway Ranch, 060027 in Houston files an appeal based upon the 1.2 million with addition of credits. Ms. Joyce, Mr. Hamby, Tom.

MR. CONINE: Guru Gouris.

MR. GOURIS: Tom Gouris, Director of Real Estate Analysis. This is fairly easy from my end, because it is the question. The appeal is with regard to the underwriting and the \$1.2 million limit.

We obviously filed the \$1.2 million limit rule. And so our appeal response, that we filed our rule. I think they would like us not to follow the rule. And they need to speak to that issue.

MS. ANDERSON: Thank you.

MR. CONINE: Is this a 9 percent deal? Is that what it is?

MR. GOURIS: Yes, sir.

MR. CONINE: An '06 9 percent deal?

MR. GOURIS: Yes, sir.

MS. ANDERSON: Barry Kahn.

MS. BAST: Madam Chair, Mr. Kahn had to leave to take his daughter to college, so you are stuck with me.

Cynthia Bast of Locke, Liddell and Sapp. The first thing that I would like to explain is that this agenda item relates directly to Agenda Item 9C.

And so you may want to -- whatever you decide on 9C is your result for Parkway Ranch on 9A. So what you may want to do is either go to 9C and get to that result, or just say 9A is going to, whatever you decide in 9A is going to apply to 9C, because what we did is, we actually indicated to staff that this was an appeal, at least for all of the clients that we serve that have a \$1.2 million cap issue.

It just so happens that Parkway is on the agenda, but we have correspondence that indicates that we were wanting to address this for a variety of folks. So at your pleasure, I am happy to address Parkway specifically, or whatever you would like to do, but I just wanted to make that point.

MS. ANDERSON: I would like to thank you. I think perhaps we need to ask our General Counsel how we got an agenda with this order, if the other might be the more proper way to deal with it.

MS. BAST: Certainly.

MR. HAMBY: The issue became that the presentation, discussion and possible action on housing

tax credit appeals that were timely filed, I don't believe that all of those are related to this \$1.2 million. This is the only one, so it is kind of a misnomer in this particular one.

MS. ANDERSON: Let's defer the item. Defer this item then, and take the others, and then we'll come down and go through C and then we will come back.

MR. HAMBY: It will answer itself with C. Yes.

MS. ANDERSON: Thank you. Greenfair Park.

MR. GOURIS: Something to note about this Greenfair Park. It is incorrectly numbered on the agenda, but it is properly numbered 060058.

Greenfair Park in Lubbock filed an appeal based on the threshold to change their unit mix from 100 percent public-housing units restricted to households earning 30 percent of area median income to 32 public-housing units with the remaining units being nonpublic-housing units restricted to families earning 40 to 50 percent of the area median income.

MS. ANDERSON: Do you have anything additional?

MR. GOURIS: Only that the reason for the appeal is that originally it was 100 percent public-housing unit transaction. It was not able to carry any debt, and that is why we were unable to make an

affirmative recommendation. They had proposed this alternative structure.

We did underwrite that, and had an alternative recommendation. But because it is changing the unit mix, it is something that we would need to get y'all's approval, because it wasn't what they applied for.

MR. BOGANY: So are you making a recommendation that we accept the restructure that you are suggesting?

MR. GOURIS: We are not making that recommendation. We are saying that if you choose to accept their request to restructure, then the structure would work. But we are not making the recommendation that you should necessarily do that, because that would mean that anyone could come back through and rewrite their unit mix.

MS. ANDERSON: Public comment. Quincy White.

MS. BAST: Thank you so much. Cynthia Bast of Locke, Liddell and Sapp representing the applicant. This is about Greenfair Park in Lubbock, which received a commitment of tax credits that were conditioned upon completion of the underwriting analysis.

The underwriters initially found that this project was financially infeasible. However, in response to a deficiency notice on this topic, the applicant as Mr.

Gouris indicated, has presented a solution that allows the project to be financially feasible without impacting any of the points that were scored by the application in the competitive process.

So as Tom indicated, we need your assistance to approve this change. By way of background on how we got here, this is a project of the Lubbock Housing Authority.

Greenfair Park is currently a public-housing property containing 120 units. However, it has fallen into such disrepair, that it is currently habitable by only about 28 percent.

HUD has notified the Housing Authority that they need to do something about this. That they need to fix this problem. And that they will in fact lose operating subsidy for this project next year if they don't fix the problem. So they have encouraged the Housing Authority to renovate it, and to that end, they have provided replacement housing factor funds to help finance the renovation.

If these funds are utilized, additional funds can be available to the Housing Authority. So in an attempt to leverage resources, the Housing Authority applied for tax credits for this renovation. It planned to demolish the existing dilapidated housing and replace

those 120 units with 120 units of new construction. So the Housing Authority consulted with HUD, its regulatory body, the body to which it goes for guidance, and asked whether this could be done.

Can we use these replacement housing factor funds with tax credits for public-housing property? And they were told yes. That has been done in other places. They were not told how incredibly complex combining the tax credit program with the various public-housing subsidies can be.

And so what they wanted to do was replace all 120 public-housing units as quickly as possible. Get those all replaced so that they have 120 brand spanking new public-housing units. This was their most desirable outcome because they could replace everything that they have lost and but they didn't have to do this by HUD requirements to use the replacement housing factor funds.

They didn't have to replace all the public-housing units. They were just being as aggressive as they could to get as many public housing on the ground to serve their residents.

The other thing is, that since the Housing Authority was planning on this being 100 percent public

housing, and they knew that would be serving the lowest of the low income, they figured that they would for tax credits purposes, just set their set-aside at 30 percent AMFI, because they said, well, they will all be a public housing. So we will just put it 100 percent at 30 percent.

Again, they didn't have to do this for tax credit application purposes, to score the points that they would have. And in fact, if they had selected a 60 percent set-aside for tax credit purposes, they still could have put public-housing tenants in those units potentially. But again, they were trying to serve the most possible residents in the best possible way.

So the initial underwriting report pointed out, and the Housing Authority understood then that the operating subsidy that is received from public housing cannot be used to pay debt service. So if you are not paying your debt service, you are not financially feasible.

And honestly, that is why many Housing Authority tax credit properties in the country are not 100 percent public housing. They are typically a mix, so that the units that are not public housing can support the debt service, because the units that are public housing cannot

support the debt service.

Thus with this revelation, TDHCA issued a deficiency notice to the applicant, asking for further information on how this project could be financially feasible with this potential plan. So the Housing Authority immediately consulted with tax counsel and accountants, and proposed two different solutions, one of which TDHCA staff has indicated could be acceptable if you approve it.

And again, as was summarized, the proposed solution is to reduce the number of public-housing units from 120 to 32. Then instead of having all those units set aside for people at 30 percent area median income, you would have 32 units at 30 percent, 34 units at 40 percent and 54 units at 50 percent.

Your staff has indicated that this structure would be financial feasible. And looking at it, we believe it presents a win-win. Instead of concentrating all the public-housing residents into one place, it allows them to disperse them.

Yet the Housing Authority will continue to serve people at very low incomes at 40 and 50 percent. And especially as you will hear from the Housing Authority Director, it allows the Housing Authority to retain its

most precious resource which is HUD funds.

Overall, this is probably a better property for the Housing Authority and for Lubbock. So the proposed response to TDHCA's deficiency notice works. Again, it does not impact the points that were scored by the application.

So we hope that you will approve this proposed change so that the Housing Authority can replace this Greenfair Park property with new units that better serve the citizens of Lubbock. Thank you.

MS. ANDERSON: Thank you. Mr. Quincy White.

MR. WHITE: Good afternoon. My name is Quincy White. I am the Assistant City Manager for the City of Lubbock, Texas. And currently I am the interim Executive Director of the Lubbock Housing Authority. I have also served in this capacity on a permanent basis from 1996 until the year 2000.

And briefly what I want to do is give you just a brief overview of the project that we are talking about replacing here. Being a Lubbock native, I grew up three blocks from this particular development that was built in the early '60s. As Cynthia has already said, and I just want to reemphasize this point, HUD has definitely given us some encouragement to replace this development.

That encouragement, in fact, I may strongly say they have given us encouragement to replace it, because they, the funds for subsidy, will go away for this development next year. And it puts us in a very difficult financial position if we lose those funds: 80 percent units in this development are currently uninhabitable.

As I said, the construction is in the early '60s. This development is built of cinder block. It is a two-story development. There is absolutely no insulation in the walls, no insulation in the ceilings. To try to repair this development would be substantially more expensive than tearing it down to the slab and rebuilding it.

We do have federal funds available. Replacement housing factor funds that will be available for this project. And the most significant advantage for us, in addition to getting rid of a terrible development and providing decent safe and sanitary housing to those individuals that need it, is the fact that we would then be allowed to leverage this development and apply for additional replacement housing funds to provide additional replacement housing for the community.

I just wanted to be here today to ask you to support this appeal, not only on behalf of the Lubbock

Housing Authority, but it is clearly a project that the City of Lubbock is strongly behind also. And so I would just ask for your support on this appeal today. Thank you.

MR. CONINE: Could I ask a brief question? You have 80 units that are down now, roughly, or are uninhabitable?

MR. WHITE: Yes.

MR. CONINE: So there is 20 public-housing units, 20 residents of public housing there now?

MR. WHITE: There is 31.

MR. CONINE: Thirty-one.

MR. WHITE: Yes.

MR. CONINE: And the proposed mix is to come back with 32. So you are not displacing anybody.

MR. WHITE: We will not displace any of the current residents. They will be able to stay there. Their kids will be allowed to stay in the same elementary school that they are currently in.

MR. CONINE: You have got to move them out while you build them.

MR. WHITE: We have got to move them out. But we plan to move them either with Section 8 certificates or to other public-housing developments that wouldn't

displace them from their school for the balance of the school year this year or next year.

MR. CONINE: Thank you.

MS. ANDERSON: Thank you. Mr. Hance.

MR. HANCE: Madam Chairman, Commissioners. My name is Kent Hance and I am here on behalf of Landmark Development, asking that you grant your support for our request. This project has the full support of the city and state officials in Lubbock. We have had -- you have gotten letters from them. This is probably the worst eyesore anywhere in Lubbock.

And there has been problems with crime, and everything like that. This was a new area as far as doing this type of leveraging for this type of project. And when we got into it, and found out that the problem was going to be on the underwriting, we looked at it. And we could make an adjustment. And we did make that adjustment.

And I think the staff pointed it out, that they would recommend that adjustment, or they could approve that adjustment. They didn't make a recommendation because, simply, they don't want to be out making recommendations and setting a precedent. And that is exactly what the rules call for. That is the discretion

of the Board. So we are here asking you to grant that discretion.

This is something that I think would be very good. We were going to be able to leverage this and accomplish something that would be very positive. One other thing I would say at the end, is that we didn't -- this didn't change any points. So it is not like we came in and then changed the points and therefore we would have a better chance. Thank you very much.

MR. BOGANY: Okay. I would like to ask Tom a quick question. Tom, we did not change any points. And it is not changing any points.

What would be your thought as far as against this sort of redoing it the way they are wanting to go it, restructuring it? Considering it doesn't change any points, and it achieves what we are trying to do as a mission.

MR. GOURIS: It is a precedent that other transactions can come through and change their unit mix up. And what we underwrite to and what they apply for then doesn't really mean anything. Those would be the concerns.

And you know, each deal is going to be taken on a case-by-case basis. But the concern would be that that

this would be considered some sort of precedent potentially.

MR. CONINE: But is the current proposal financially feasible, I guess is the question for you.

MR. SALINAS: Yes.

MR. GOURIS: The revisions that they have proposed? Yes.

MR. CONINE: Does it underwrite?

MR. GOURIS: Yes.

MR. SALINAS: And the tax credits are there?

MR. GOURIS: Yes. Then awarded subject to underwriting. And I think there is -- the credit amount would be -- it would be less than what they requested.

MR. SALINAS: So do we have to go to Item C, or can I make the motion to grant the appeal? We can make the motion. Okay. So I would go ahead and move to go ahead and grant them the appeal.

MR. CONINE: I will second it.

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.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. Mr. Conine do you want to make that?

MR. CONINE: Yes. I was just commenting to the chairman that at least in this case, we see a lot of these sorts of things when they come in after the fact. They have already built them, and they have got different bedrooms and baths and all that kind of stuff.

And staff makes recommendations that wouldn't have changed the points, so we might as well let them go.

And in fact, they have already built the place. Here, at least they came in ahead of the curve and got it done ahead of time, of which we are appreciative.

MS. ANDERSON: A much more honorable approach. Thank you.

MR. GERBER: Item number 060133, Canyon's Landing in Poteet filed an appeal based on the adjustment of the credit amount. Tom, do you want to expand on that?

MR. GOURIS: Their letter was basically with regards to the cap percentage going up. And they indicated that they didn't receive any additional credits because of that. Their transaction was gapped. And so they weren't able to recommend any additional credits.

They went on with some other issues in their letter that didn't really impact the ultimate decision. So I will save you all the discussion on that, if you want to read it. We have prepared a response in our appeal package. But the basic issue is that it was a gapped transaction and that doesn't change.

MR. CONINE: Is there any public comment?

MS. ANDERSON: No.

MR. CONINE: Move for staff recommendations.

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.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. GERBER: Item 060160, Pembroke Court in Nacogdoches filed an appeal based upon the recommended interest rate and the loan lien position for the HOME loan. Tom, anything to add to it?

MR. GOURIS: Yes. There has been a lot of

discussion about the lien position and we obviously when we have a million nine. And the first lien will have a \$400,000 lien.

And we made a recommendation that we should have a first lien, or have like, security, I guess, that we couldn't be foreclosed out of that lien position. They initially asked that our award be reduced back to zero percent interest rate from the 1 percent that we determined in underwriting. And in exchange for that, the first lien, their outside loan would go up a little bit, just to cover the difference.

That wasn't what was originally proposed. So we are not, we didn't recommend that change. But the most recent issue is the main issue. And I think they are here to speak on that.

MS. ANDERSON: One more time. I think that this is the last time, but it may be Ms. Bast.

MR. CONINE: How many witness affirmation forms did you fill out today?

MS. ANDERSON: Lots.

MS. BAST: Sorry. For Penny's benefit, Cynthia Bast of Locke, Liddell and Sapp.

MR. CONINE: Do you need a cash register? I can just carry it for you.

MS. ANDERSON: She is not billing clients concurrently for the same minutes, is she?

MR. CONINE: Look at that briefcase she brought.

MS. BAST: Okay. Here is our issue for Pembroke Court. They have received a commitment of tax credits and for TDHCA HOME funds. This is a first of its kind family affordable housing complex in Gatesville.

When the applicant applied for the tax credits and the HOME funds they suggested a financing structure that included a \$400,000 first lien loan from First Victoria National Bank, and a \$1.9 million second lien loan from HOME funds of TDHCA. When TDHCA provides HOME funds to layer with other funding, it is often traditional that TDHCA takes a second lien position.

When the underwriting report was prepared, staff expressed a concern that the principal value of TDHCA's loan would be almost five times that of the bank's loan, yet TDHCA would be in a second position. Definitely a legitimate concern.

The underwriting report suggested that either, one, TDHCA be placed in the first lien position or, two, TDHCA take a second lien position but have a subordination agreement with adequate rights to consent to any

foreclosure, so that the first lien lender could not wipe out the affordability restrictions with a foreclosure. Unfortunately, when the HOME commitment came out, it did not contain this alternative language that was in the underwriting report. It just said that TDHCA would get a first lien.

And that is a problem for us. I have personally spoken with the loan office at First Victoria National Bank, and he has said that that bank cannot and will not accept a second lien position. So the applicant can't fulfill the terms of the HOME commitment as it is presented.

But what the applicant can do is respond to alternative number two in your underwriting report, which is a first lien position for the bank, and a second lien position for TDHCA with adequate consent rights for TDHCA.

So I am trying to help resolve this problem. And what we have done, is we have drafted a proposed subordination agreement based on a Fannie Mae form that TDHCA has seen before.

We have inserted rights for TDHCA to consent to any foreclosure by the first lien lender, just as indicated in the underwriting report. We have given a draft of this subordination agreement to the bank, and to

TDHCA to see if we could come to some sort of mutually agreeable position. And I don't need to go through all the negotiations with you here.

The bottom line is, we don't have a definitive subordination agreement yet. But we have a bank that is willing to accept this. They are willing to take a first lien position, but allow TDHCA to consent to any foreclosure, provided that TDHCA can't withhold that consent indefinitely.

So I feel like we can get there, on something that would be mutually agreeable. If that is the case, then I need to ask you to please give staff an indication that a second lien position with consent rights as described in the underwriting report would be acceptable for this Pembroke Court HOME loan.

I will give you a second alternative if you don't like that one. If you think that TDHCA needs to be in a first lien position, then the alternative would be for TDHCA to provide the whole 2.3 million through the HOME program. Then it is first lien. We don't need First Victoria National Bank. And that structure would work as well.

Either alternative is acceptable to the applicant. But the staff needs your direction as to how

to proceed and resolve the issue, so that we can bring this affordable housing project to Gatesville. And I stand ready to assist in any manner that is necessary to get this done. Feel free to pepper me with questions.

MR. BOGANY: Tom, have we ever done this before?

MR. GOURIS: Be the first lien in a tax credit transaction? It is possible that we have. It is very extraordinarily rare.

MR. BOGANY: Okay. What about the second point that she had? Have we ever done that before?

MR. GOURIS: I am sorry. Take on the --

MR. BOGANY: She had two options. Option one and option two. So if we have never done option one, that we can think of. So what about option two?

MR. GOURIS: I am sorry. I answered option two, I think, first.

MR. BOGANY: Okay.

MR. GOURIS: That is, to take on the entire first lien for a tax credit transaction is extremely rare. Having the first lien in a transaction with another lender or shifting our lien position, or making a recommendation to shift our lien position. We have done that before.

It is not extraordinarily clear in policy anywhere today, that that is something that we would do. But it makes good common sense that if we are the predominant funder, that we should have the predominant lien position. And so that is our recommendation.

MR. CONINE: How did a 1.9 million HOME loan get approved to begin with?

MR. GOURIS: Subject to underwriting.

MS. ANDERSON: I think you are asking exactly the question that I am thinking that tells me that we have got something that we need to adjust in our 9 percent review process, because it is kind of way late now, when this wasn't underwritten at the time the awards were made, which is another problem.

MR. GOURIS: Yes, ma'am.

MS. ANDERSON: And we didn't flag it, because we are not -- when multifamily is going through their scoring and their threshold reviews, they are not focused on this issue.

MR. CONINE: I'd like to get a little clarity from staff, if I could, on how this got to this point. How did the HOME loan get approved by the left hand, and the tax credit deal get approved by the right hand. And the first lien second lien position not come bubble up to

the top? Was it for lack of underwriting?

MR. GOURIS: Yes. They both were approved in July, and they were both approved subject to completion of the underwriting.

MR. CONINE: So the tax credit applicant approved for the 9 percent round and the HOME loan simultaneously, which is a sizeable HOME loan. I mean, a 1.9 million is about as big as I have heard in a long time.

MS. ANDERSON: Huge.

MR. GOURIS: And from a feasibility standpoint, we were in a position to say yes, this deal is feasible. But because our first --

MR. CONINE: Well of course, it can be feasible if you have a 1.9 million at nothing, no interest, and forgivable and all that other kind of stuff.

MR. GOURIS: Right.

MR. SALINAS: But he can't come up with 300,000?

MR. GOURIS: He would have to speak to that.

MR. CONINE: I don't know how to fix it. I just don't know how we got here. I think Ms. Bast's second alternative is the best way to fix it, where if we increase our HOME loan, and take a first lien position,

because I am uncomfortable with a third-party financial institution having a very low first lien position and us being the lion's share behind, and you don't know whose brother-in-law is whose brother-in-law, and the next thing we know, we get wiped out.

So I am very uncomfortable with that position.

And I don't know how we got to this point, but I think the appropriate way for at least, for this board member to fix it, would be to take on an entire first lien position.

Do a blended rate on 400,000 of the HOME loan, charge them with whatever the bank was going to charge on the other 1.9 million and charge them with whatever we were going to charge them on the HOME loan so the financial feasibility is not impacted. But we certainly have protected that 1.9 much better than we are under this structure.

MR. GOURIS: I might just throw out that if we have a second that gives us the opportunity or the ability to prevent being foreclosed out of the transaction if we have a subordination agreement that could be agreeable, that would actually provide us a little more assistance on, if there was something that went bad down the road, because they would have vested interest in getting it

resolved as well.

MR. CONINE: Yes. But Tom, what you end up doing is just buying out the first anyway, and plus incurring a ton of legal costs in the process. You might as well just go ahead and do it now.

MR. GOURIS: It depends on what the subordination agreement were to say. If we could prevent a foreclosure from occurring.

MR. CONINE: By purchasing the note.

MR. GOURIS: Or not purchasing the note. Just by the fact that that is part of the subordination that we won't agree to this foreclosure, and we have given them a response that we won't do that.

MR. CONINE: Well, they are not going to put themselves in that position. Any bank is not going to put themselves in a position of not being able to foreclose.

MR. GOURIS: But that is sort of the criteria under which we --

MR. CONINE: They are going to give you an opportunity to buy them out, and that is going to be it. That is my gut feeling, anyway.

MR. BOGANY: And I am uncomfortable doing a project that they don't have the money to make it work. You know, I would rather use that tax credit money for

somebody else who can make it work.

MR. FLORES: So what if we deny the appeal? While we are on that, what happens then? There is a lot of squirming down there. Somebody has got to answer it now. What happens? Who is going to answer the question?

MR. GOURIS: If we were to deny the appeal, they would have to conform to us having a first lien. And they probably would be unable to do that, based on what they have said so far, that they would be unable to get a letter to do that.

MR. SALINAS: Why would we want the first lien? Why would we want to even deal with it, if that is the way we agree to do it?

MR. CONINE: Is Gatesville new construction or not?

MR. HAMBY: And I think to answer your question, Mr. Flores, about what happens if we deny the appeal, there is also a second part of this question that deals with the \$1.9 million in CHDO funds that Ms. Boston is going to address before we get to the next question.

MS. ANDERSON: But what is the appeal over? Was it over paying zero: they appeal to pay zero interest and not one? I mean, it is recommended, the HOME award of 1.9 is at 1 percent. So what are we appealing?

MR. GOURIS: The actual appeal, written appeal addressed the original zero percent loan being re-entered as a 1 percent loan. As the discussion continued on, they then recognized they got a determination notice that said that we would have a first lien. And they have kind of added to their concerns and their appeal is based on that issue.

MS. BOSTON: And I just wanted to address on one of the issues of the CHDO HOME funds. I know you all are aware of how conscious we are of trying to always get our CHDO funds obligated by certain points in the calendar. And this falls under an allocation that we are trying to make before September 1.

So we have -- I guess my only thought would be that if you end up taking an option where it is other than what was originally approved on the July 28 meeting for the HOME funds, that we potentially condition it on there being required to execute the commitment with us before the first, because I would like to see us be able to obligate and show HUD that we have committed our full CHDO amount for this year, and not potentially have us be delayed due to possible challenges getting the commitment executed.

MR. CONINE: Is there an issue in adding

400,000 more to it, from a source standpoint?

MS. BOSTON: No. We have money.

MR. CONINE: All right.

MS. ANDERSON: And then what happens if this thing went south, and -- I mean, I guess if the loan is at zero percent interest or 1 percent interest, but if we can't -- the thing goes south, is this one of these things where, because they are HOME funds, we are in a position where we are going to have to pay this back out of nonfederal funds?

MS. BOSTON: Yes.

MR. GOURIS: But you might note that there is a syndication in this transaction. There's \$5.9 million in syndication proceeds. And you know, if we were at the point of foreclosure, they most certainly would step up and protect their equity.

MS. ANDERSON: In the first how many years?

MR. GOURIS: In the first 15 years.

MS. ANDERSON: And the HOME loan, it is how many years?

MR. GOURIS: Thirty.

MS. ANDERSON: Will we still owe HUD the money in year 16 if the thing went south in year 16 and the syndicators are all gone?

MR. GOURIS: Yes. It probably would be pro rata.

MR. BOGANY: So can I ask Brooke and you a question. So you are saying that we are forced to approve this to save those CHDO funds?

MS. BOSTON: No. I am saying that if you -- I mean, we have already given them a certain amount. And if you move towards wanting to continue and give them more, I would just ask that we try and ensure that it is timely.

I am not trying to say that I think you should do it. I am just asking that, should you do it, that we make sure that we get it executed, so we can at least get credit for it this year, instead of like, five days after, we just miss it.

MR. BOGANY: Okay. If we don't approve it, then the tax credits goes back in the hopper for whoever is in that region. And the CHDO funds go back in the hopper.

MS. BOSTON: Correct.

MR. BOGANY: So we can use them for someone else, or some other --

MS. BOSTON: Correct.

MR. CONINE: But we wouldn't have met our yearly allocation of CHDO funds.

MS. BOSTON: We wouldn't have met their requirement, but the money is still ours to expend. We would lose the money entirely? Okay.

MR. FLORES: Brooke and fellow members of the Board, aren't we in a situation where if we approve this and give \$400,000 more, then we are essentially setting a precedent that you can come up before this Board for 90 percent and then ask for 10 percent later because we have painted you into a corner. Is this where we are at?

MS. ANDERSON: I think you make a good point. And I would ask as we are going to -- right now, as we're working the QAP and stuff, something needs to change in our operating procedures. Maybe it doesn't have to be in the rules, but the reason we are here today is because we didn't connect the dots as the application from January 1 on was pushing through the system.

And we didn't know until we got to underwriting that we had a big problem, that we are not going to be in a first lien position. So there is something wrong with the review process that makes that not get flagged somehow.

MS. BOSTON: Let me have Lucy explain for you all exactly how it works with CHDO funds at the end of the year.

MS. TREVINO: The 24-month commitment deadline for the HOME funds is August 31. So if those funds aren't committed by August 31 or by September 1, then we would be approximately \$800,000 short of meeting our requirement. And it has never happened, so I am not sure, but they could be subject to recapture by HUD. Lucy Trevino, manager or PMC.

MS. ANDERSON: I guess we ought to ask Ms. Bast if they think they can execute those documents before September 1, or by tomorrow.

MS. BAST: Ms. Anderson, I have in my briefcase a power-of-attorney for an authorized representative to sign. I spoke with Senator Danenfelzer prior to this meeting to indicate what we were going to be talking about, so he could be prepared, so we could have the paperwork and get it done. So I think we can make it all happen.

MR. FLORES: I move we deny the appeal.

MR. BOGANY: I second.

MR. FLORES: Call for the vote, Madam Chair.

MS. ANDERSON: Okay. Any discussion?

MR. CONINE: Well, I am inclined to vote against that motion, simply because I would like -- obviously the project scored well enough, given the merits

of the project itself in Gatesville, Texas, to get a tax credit award. It is just the financing structure that got faux pas'd.

And it sounds like it is more, almost as much our fault, as it is anybody else's, so I am going to move to try to fix it, and meet our CHDO obligation at the same time.

MS. ANDERSON: Any other discussion? The motion to deny the appeal is on the floor.

(No response.)

MS. ANDERSON: Hearing none, we are going to vote on the motion to deny the appeal. All in favor of the motion, please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(A chorus of noes.)

MR. FLORES: I think we had a standoff.

MR. CONINE: It does.

MS. ANDERSON: The motion fails.

MR. CONINE: That is correct. Counselor, get up to the microphone. Ms. Bast said they have got a Fannie Mae negotiated subordination agreement that can protect us. Have you looked at it?

MR. HAMBY: I have. And I don't -- the one

that I originally saw, I would not agree to, because it is not clear-cut that we have absolute authority to block any foreclosure. It has a reasonableness quotient to it.

And I believe that in conversations with Ms. Bast that she indicated that she thought they would drop the reasonableness quotient, because then one of the problems we have in all of these, is whenever you have language like, shall not be unreasonable withheld, then you start debating about what unreasonableness is.

And I think their fear, on the other side, from my conversation with Ms. Bast is that we don't perpetually delay it while we decide what to do. And so they have some concerns about that as well.

MR. CONINE: Well, don't you normally take care of that with notice and cure provisions?

MR. HAMBY: You do, except for you end up with the debate about what is reasonably -- what is not unreasonably withheld, which is actually in the language that we received in draft form.

MR. CONINE: Can you get there by Friday with a third-party banker and a lawyer?

MR. HAMBY: We'll certainly try to do what we can. But I mean our position, and I think this discussion, even though it is somewhat difficult, based on

the timeline, one of the questions that we have had perpetually with staff is, taking these second lien positions. As an attorney, I would always advise my client never to do it.

MR. SALINAS: Well, it is not right to take a second lien. It is no good. I mean, I don't care what you call it. If you have a second lien, you don't have anything.

MR. HAMBY: Well, and I think the staff has not really had that direction before. But I think it has been made clear by this board at this point that there are no second liens to be given. We need to work through something else, unless we have the kind of protections that we are talking about here.

MR. CONINE: Yes. I will make a motion here. Just so we can get a decision made. That alternative one would be to keep the structure as is, with an appropriate intercreditor agreement, agreed to by TDHCA, prior to September 1.

MR. HAMBY: Can I clarify that that means that you do not want us to take any sort of position that would harm the -- the second lien position, if we took one, would be clear and unambiguous that we had approval rights of any foreclosure.

MR. CONINE: That is correct. And, alternative B, in the case of not being able to come to an agreement with a third-party bank to our satisfaction, would be to increase the HOME award by some \$400,000 so that we could then loan the entire \$2.3 million. And I would leave it in two tranches.

The \$400,000 at the applicable rate that was underwritten by Mr. Gouris, that the bank was going to offer them, and the same 1.9 million in a subordinate position, but then we are subordinating to ourselves, which makes it pretty easy to do. So you have got two options to do by Friday. That would be my motion.

MR. HAMBY: Before Friday. It should actually be signed by --

MR. CONINE: Before Friday. Whatever it is.

MR. HAMBY: Tomorrow, basically.

MR. CONINE: Yes.

MS. ANDERSON: Hearing no second, I second this. Now let's have discussion.

MR. FLORES: Well, let me -- I would just urge the same two people that were in the standoff last time to stand where you are, because you have got nothing all over again. You have got the second lien with essentially no rights.

You have got the guy with the 10 percent of the money calling all the shots. The second situation is untenable because you are then encouraging people to apply for 90 percent loans, but they will get the next extra 10 percent at a later date when they back you in a corner.

MR. CONINE: You know, my alternative to that, Sonny, or my answer to that would be, they submitted the application and we approved it.

MR. FLORES: Yes.

MR. CONINE: You know, in that form, with a \$400,000 first and a 1.9 million second, it is not the applicant's fault. It is our fault. And I am trying to correct a problem.

I am not encouraging any activity out there, because if we don't catch it the second and third time through, when the next guy that shows up with some scheme like this, shame on us. But this time is not their fault. It is our fault.

MR. FLORES: I can't see it that way.

MR. SALINAS: Who initiated the \$400,000 loan at the bank? Who went to talk to the banker?

MR. CONINE: The applicant.

MR. GOURIS: Yes. It has nothing to do with us.

MR. SALINAS: Exactly. So now, the banker is saying, I want first lien on it. And he can't have first lien, because we have the first lien.

MS. ANDERSON: Well, the first lien was probably applied in the application that has been in this Department, you know, down the street for months and months. And we've just got a glitch in our process where, you know, we just need to think of some way to sort of pass them through a screen. And I hear the sentiment about not wanting to encourage this kind of deal.

MR. SALINAS: Are they coming up with any kind of money themselves? Did they buy the land? Do they have anything in the project themselves?

MR. GOURIS: Well, they will have. I am sure they spent money on the application.

MR. SALINAS: Just the application. But how about on the project? How much money have they really spent out of their pocket in the project?

MR. GOURIS: We estimate that there is a small amount of deferred developer fee. And whether that -- it is about \$64,000.

MR. CONINE: How many credits are they getting?

MS. ANDERSON: About 645-.

MR. GOURIS: 645,247.

MR. CONINE: There will be \$6.5 million in equity, roughly.

MR. BOGANY: Tom, isn't everything subject to underwriting?

MR. GOURIS: It is.

MR. BOGANY: We approved it. We voted for it, to give them tax credits. But it is subject to underwriting. Am I correct?

MR. GOURIS: That is correct.

MR. BOGANY: And you said it wasn't a good deal.

MR. GOURIS: There is a kind of --

MR. BOGANY: Is that what you said?

MR. GOURIS: Yes, sir. There is a common sense issue here, and that common sense isn't just Tom Gouris' common sense. I would think it would be the applicant's common sense. too.

It would seem unreasonable to me to come to any entity and say, hey, I am going to borrow five times as much from you as I am from this other guy, but I want the other guy to have a first. While that is, you know, we should have hopefully in the future we will identify that quicker, that seems a little bit less than common sense to me.

MR. BOGANY: All right. But let's go to giving in the whole two mil, which is what Mr. Conine is suggesting: giving the 1.9 and keep the CHDO funds obligated. I don't, I just see it as being -- I just don't, I see it as two wrongs don't make a right.

And that is the way I am looking at this. I just think it is bad business to do that. What we are obligating to do. I don't think Mr. Conine would make that law.

MR. CONINE: Don't you think? Sign me up.

MS. ANDERSON: All right. Is there other discussion? We have a motion on the floor. It has been seconded.

MR. HAMBY: Actually, can I clarify who did second that? I am sorry. Mr. Conine's motion. Who was the second.

MR. SALINAS: I was.

MR. HAMBY: You were? I didn't hear you. I am sorry.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(A chorus of noes.)

MS. ANDERSON: The motion fails.

MR. CONINE: We have got two no actions.

MR. HAMBY: Two no actions means that it passes to the next agenda, and it will basically die, because the deadline will run.

MR. BOGANY: I would like staff to get some sort of idea that when we don't use all our CHDO funds, what happens in that case. Can we move it to another project.

MS. ANDERSON: It will be up to HUD. It won't be up to us.

MR. HAMBY: Madam Chair, can I clarify that?

MS. ANDERSON: Certainly.

MR. HAMBY: If the applicant chooses to do the deal as it was proposed in the original approval of July 28, and they accept the second lien and the \$400,000, or they somehow back out their \$400,000 to where they are paying it or whatever, then it can still move ahead. But the appeal is dead.

MS. ANDERSON: Okay. Legacy Senior Housing. Let's try to pick up the pace.

MR. GERBER: Medical Centers Legacy Senior Housing of Port Arthur filed an appeal based on the adjustment of the credit amounts. Similar to the gap

transaction that was sent earlier, they have come back and given us new income and new expense issues. And we had finished the underwriting and had gone through a lot of discussion with them.

And it was originally gapped. And when they realized that they missed out on some funds, they decided to restructure it to see if they could capture some of those funds.

MS. ANDERSON: No public comment.

MR. CONINE: Move staff recommendation.

MR. FLORES: 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.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. We have got it. Let's go to B first.

MR. GERBER: B, housing tax credit amendments. We will take the first three together. LBJ Garden Villas. Hunter's Glen Townhomes, and Sycamore Pointe

Townhomes.

A May 4, 2006, consistent recommendation of staff, the Board approved request to transfer the general partner interest of LBJ Garden Villas, and Sycamore Pointe Townhomes and denied a request to transfer the general partner interest of the third development, Hunter's Glen Townhomes. At the June 26, 2006, board meeting, the Board directed staff to bring these items for reconsideration in response to a request from Glen Lynch on behalf of the applicant.

The three requests referenced above are from three different ownership entities, but all requesting approval for transfer of their general partner interests to the same third-party community housing development organization, Operation Relief community development organization. Although the transfers were found to be acceptable under the Department's review of previous participation and financial position, two issues existed that prevented the Department's approval of the request.

First, the credit allocations of the combined developments exceeded the 1.8 million limit per applicant in a single year, that is required by the 2000 QAP. Second, the application of each development scored five points for the participation of a HUB as a majority

general partner, and the points would not be replaced under the current proposal.

Staff is recommending that the Board approve two of the transfers, LBJ Garden Villas and Sycamore Pointe Townhomes. And to deny the transfer of Hunter's Glen Townhomes, to avoid exceeding the credit limit cap of 1.8 million that is imposed by the 2000 QAP.

MS. ANDERSON: Mr. Glen Lynch.

(No response.)

MR. LYNCH: Madam Chair and Board, I am Glen Lynch, and I am here to speak in favor of actually approving the Hunter's Glen Townhomes. I thank you for bringing this back before. I would just like to bring to your attention that the two that is involved here, is the two that has to do with Hunter's Glen and LBJ, because they were both 2000 year awarded deals.

And what it is, is I have joint venture deal with ORCDC, one that got awarded about three years ago, Pegasus Villas high rise in Dallas, and got to know them.

And I was getting out of the business, and these were two people that actually had won awards, that I knew, as I was doing this, that I wanted to try to transfer some of my properties to a nonprofit with them receiving the developer fees and everything, in order to build them up

and really make them be able to operate on their own.

And when this came down, it wasn't approved, I initially sent a request to the TDHCA in October of last year to request an approval for the waiver of this prior, for the waiver prior to the approval. And actually, the State sent me back an e-mail and said that I didn't have to do that, because the new 2006 QAP actually authorized the transfer of those if they were five years old.

And so these deals have been five years. But that wasn't in the prior deal. And I think, if you really read what the staff said, there is a problem here, because in a situation where you had the 1998 and '99 and 2000 and 2001, before you get to 2006, the transfers, you have got first right of refusal requirement that a property be transferred to a nonprofit.

So if you come up 15 years from now, and you get ready to transfer your deal, you have a first right of refusal to sell it to a nonprofit, that answers the HUB question. In other words, there has already been a lot of prior approvals where the HUB points were not issued if it goes to a nonprofit, because you are actually meeting that requirement.

And then the other part of it is, if you end up with a situation where you could exceed those, you are

already authorizing it in the 2006 QAPs. But it just didn't in priority years. And I think that -- I am positive that actually, there is already probably been awards made on this, because these kind of awards used to be staff done. They were actually done by the Director, the Executive Director.

And I think that there has already been some that has already been like that, you know, where they might have exceeded that. For instance, like today, if you had one, if somebody here today, you had two 2006 awards, you wait five years from now and two of those developers or five of those developers get ready to give their properties to a nonprofit, it could be approved.

But we are saying that the years prior to that, that it couldn't be approved because there wasn't the same language in those QAPs. And I think that staff, even in the recommendations, they wrote that the reason for the limitation on the awards to start with was to make sure that one developer didn't end up with that.

And this doesn't have to do with the developer earning money. This has to do with transferring ownership down the road. I would be glad to answer any questions. We request your approval.

MR. CONINE: Could someone from staff clarify

the five-year e-mail?

MS. MEYER: Robbye Meyer, acting Director of Multifamily. No, I can't verify that e-mail. I can't really answer to what happened a while back.

MR. CONINE: Okay. There is not a provision in our current QAP that after five years, we can transfer these? What does it say?

MS. MEYER: One moment. In the QAP it says, as it relates to the credit cap for the described in 59.60 of this section, the credit cap will not be applied to the following circumstances; in cases where the general partner is being replaced, if the award of credits was made at least five years prior to the transfer request date.

MR. CONINE: Madam Chair, I would move for approval of the transfer of all three of them.

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.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. GERBER: Madam Chair, board members, Evergreen at Hulen Bend. The owner is requesting approval for six two-bedroom units that have studies, to be operated as three-bedroom units. The request states that the reason for the change is to correct an error in the application.

The real estate analysis staff verified at the time of underwriting, that the units would be operated as two-bedroom units. Staff is recommending denying the request.

MS. ANDERSON: Go ahead, Mr. Mehring.

MR. MEHRING: If I may approach with some enhancements here, just for a moment. Evergreen at Hulen. Good afternoon, Madam Chair and Board. I am Kent Mehring with MMA Financial.

And I represent the investor limited partner, special limited partner, on behalf of the partnership which owns Evergreen at Hulen Bend. I am going to spare the Board the detailed chronology and history here, with respect to the developer, et cetera. However, two significant events are worth noting.

In mid-2005, we removed the developer for cause

and since the removal, the investor limited partner has advanced over \$700,000 to keep the property viable. Hulen Bend is a superior elderly tax credit property in the market, and was constructed with additional 6 percent net rentable square feet. At issue here is that there are six 1,072-square-foot units that have been leased to three-bedroom, leased as three-bedroom units and not two plus study.

On behalf of the partnership, we respectfully request that the Board approve an amendment to allow six of the 237 two-bedroom units to remain three-bedroom units. Which unfortunately contrasts with the original underwriting of the two-bedrooms plus study.

In support of our request, the three-bedroom units, number one, meet the HUD definition of a three-bedroom unit. Two, the applicable 2002 QAP did not prohibit three-bedroom units. And three, there has been strong demand for this product, for this unit type in our market.

The economic impact to revenue loss if denied is one, tax credit loss for the period of non-compliance, which is something you assume, and two, the permanent loan conversion issues with respect to loss of revenue. The property operates very tight. And if the loan does not

convert by year-end 2006, the investor limited partner will lose approximately \$470,000 in tax credits, due to capital-stacking issues as a result of the recourse.

The additional revenue, albeit minimal is critical to the conversion to avoid this \$470,000 tax credit loss. And if the Board has any questions or comments?

MS. ANDERSON: Thank you. I have a question for Mr. Gouris. You may be seated, sir.

MR. MEHRING: Thank you.

MS. ANDERSON: Thank you. The underwriting on this deal was underwritten with these as two-bedroom units with two-bedroom rents.

MR. GOURIS: That is correct.

MS. ANDERSON: Thank you.

MR. GOURIS: It was represented in the application that way. That is why it was underwritten that way.

MS. ANDERSON: No, I -- my patience with do-overs does have some limit. Come on.

MR. BOGANY: Tom, I have one just very quick question. One quick question. Okay, if what he wants to do is be able to call these two-bedroom units with studies a three-bedroom --

MR. GOURIS: Yes.

MR. BOGANY: Okay.

MS. ANDERSON: And get three-bedroom rents.

MR. BOGANY: Okay. All right. And we are saying you shouldn't do that because you applied as a two-bedroom with a study?

MR. GOURIS: That is correct.

MR. BOGANY: But with the two-bedrooms with a study wasn't those rents higher than a plain two-bedroom that didn't have a study, or they were the same?

MR. CONINE: It wasn't tied to income; tie the square footage in.

MR. BOGANY: Okay. All right. I mean, to me, if you have a bedroom, you have got a closet, it is not a study. You can use it for whatever room you want to call it. If you want to call it a bedroom, it is a bedroom.

And in housing, in single-family, as long as you have got a closet in there, it could be a third bedroom. And there is a chance that people are renting those two-bedrooms with studies are using them as the three-bedroom versus them being a study.

And my thought process -- and I understand Beth's thought, because I get tired of it. It looks like you should have come in here straight up the way it should

be, anyway. You know, but I am thinking from the business side, do we want to lose a deal, a developer lose money. But if we continue to let remakes, we will continue to do it, because they will do it on purpose. And that is what bothers me.

MR. GOURIS: And there may be one other --

MS. ANDERSON: And I guess well, we are prohibited, but it wasn't very prominently mentioned in the QAP.

MR. GOURIS: I believe it didn't apply to the bond transactions in that year or something. That has been reconciled, so that we wouldn't do a three-bedroom senior transaction, or a senior transaction with three bedrooms.

MR. FLORES: Tom, and what is the consequence of denying the appeal.

MR. GOURIS: There are a couple of consequences, potentially. The six units may not be tax credit eligible at all, and that might be -- they may lose credits on that. That would be, if I remember right, about \$15,000 worth of credits.

But then they would be able to charge whatever rents in theory that they want. Except that there would be a LURA on them to say that they are just two-bedroom

rents. So there is the effective potential loss of the credit.

There is the potential loss of income. And then there is the issues that Mr. Mehring brought up, that he would do best to explain with regard to conversion and the issues of conversions of permanent that have to do with a lot of things, including this issue.

MR. FLORES: And the underwriting decision affected it at all? The underwriting?

MR. GOURIS: Well, we have re-looked at this, based on the information that we have. And from our analysis, if it came to us this way today, with those six units not being tax credit units, we believe that there would be enough cash flow for it to meet our feasibility test.

It would be extremely tight, and it does have a negative impact on the feasibility. But it is not a negative feasibility. You know, we think it would still be viable. It just is going to be less viable. If that makes sense. Does it?

MR. BOGANY: Yes. Thank you.

MS. ANDERSON: Be a leader.

MR. BOGANY: I move that we grant the appeal.

MR. CONINE: To go to the three-bedroom?

MR. BOGANY: Uh-huh.

MR. CONINE: I will second it.

MS. ANDERSON: Any other discussion?

(No response.)

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

(A chorus of ayes.)

MS. ANDERSON: All opposed, say no.

(A chorus of noes.)

MS. ANDERSON: The motion carries, I believe.

Mr. Mayor, did you vote aye?

MR. SALINAS: I really don't know anything
about it. I was outside.

MS. ANDERSON: The motion carries.

MR. SALINAS: I am sorry. I really am --

MR. CONINE: I need to go outside.

MS. ANDERSON: All right.

(Pause.)

MS. ANDERSON: Are there any things we can
defer on this agenda? It is 5:00.

MR. GERBER: There are a number of items, that
since we have things from that were going to go on
September that do need to go, we are looking at ways to
bundle some items to move very quickly.

MS. ANDERSON: Okay. So we can defer this to --

MR. GERBER: There is still one more item on the Haven. The applicant, Twin City Mission requests approval to eliminate the provision of the land use restrictive agreement that restricts 100 percent of the development to use as transitional housing for the homeless. Tom, anything to add?

(No response.)

MS. ANDERSON: Mr. Doug Weedon.

MR. WEEDON: Let me start off by saying two things. I will be brief as possible. I admire your stamina for sitting here all day. Madam Chair and board members, thank you for the opportunity to briefly address you regarding our request.

My name is Doug Weedon. I am the Executive Director of Twin City Mission and work for the programs of Twin City Mission. I am going to be talking to you from a different perspective today, you know, because we are not a builder. We are not a developer. We are a social service agency, and we provide direct services to people.

Let me give you a brief history. In the late 1990s, clients from a homeless shelter and our domestic

violence shelter had very little opportunity for housing in our community, because we are in a university-related town. So in order to help our clients be able to transition into a self-sufficiency mode, or to get out of the rote of being homeless, we came after and sought funding from you to do a tax credit program.

We built the Haven. To supplement services, we also applied to HUD and some other entities to get money for case manager, client assistance, educational, daycare, and a lot of things that we have provided to our clients.

A couple of years ago, there was a formation of a consortium in our area, because of the formation of the consortium, it disallows us to apply to you, TDHCA for TBRA funds, which has been the vital support of the Haven.

We have a HUD contract. And we have HUD money for rental assistance.

However, since we are a limited partner in the Haven, we cannot use that money in our own project. So with the elimination of the TBRA funds, and the inability to use the HUD funds, we are on a short course with our Haven.

We have successfully operated the Haven for six years, and there has been no problems up until now,

because of the elimination of the ability to get TBRA funds. So with that having been said, I just would ask that you consider our request to approve our request for the transition in the LURA.

MS. ANDERSON: Thank you, sir. Is Eric still here? I am very concerned about this, the reason being I am not inclined to let people out of their LURAs. This is why the social engineering in the QAP can lead to problems, when it is overdone, even though honorable intentions.

And I am very concerned about the consortium, that they are not working with this Twin City Mission. And you know, I don't know if we are giving them TBRA, if we are giving the consortium TBRA funds. From HUD. And this entity is eligible to apply for TBRA funds, Twin City Mission?

MS. MEYER: Robbye Meyer. Yes, they are. However, they don't have any vouchers at this time is what the problem is. Is what we have been able to verify.

So I mean, in the future, they may have vouchers that are available. Just at this time, they do not have vouchers available for them, and it comes straight from HUD.

MR. CONINE: I move we deny the request.

MR. FLORES: Second.

MS. ANDERSON: Discussion.

MR. FLORES: I don't like the idea of this bait-and-switch. We seem to see it over and over again. That is what we have got here.

I am sorry they are a social agency, because they are performing some good services to somebody. But you keep doing this, you keep encouraging it, is the way I see it. It is just like the free market. You see a deal, and I will bait and switch on you every day. So I am with you, Ken, on this one.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. You know, I will direct staff, and I have already done this once with senior staff. You know, I guess they get money directly from HUD. But I think we have some obligation, because this is a tax credit, and they promised us when we awarded the credits, that their Board would cover assets and all that kind of stuff.

So we extracted those commitments, and we

expect our tax credit applicant to live up to those commitments. But at the same time, if there is something we can be doing with the Brazos Valley COG to encourage them to help these folks, and we ought to be encouraging these folks to apply for TBRA funds when they have an opportunity to do that. 9C.

MR. GERBER: Item 9C relates to housing tax credit cost increases. Tom, do you want to walk us quickly through it?

MR. GOURIS: This is that, I don't know that we mentioned earlier, that \$1.2 million increase because of the applicable percentage. They are asking for -- they are actually asking for the increased deal of the 1.2, not all the way up to what they would have been eligible for. But this is referencing that entire \$500,000 that they would be eligible for.

The second part of that is asking for a waiver of the ten-day rule for issuing the commitment notices so that we can issue those timely, but the time -- this is a 30-day period so that we can get them out.

MR. CONINE: Any other comment on that.

MS. ANDERSON: Yes. Of course, there is public comment on it.

MS. BAST: If you'll just say yes, I will

leave.

MR. CONINE: If I say no, you will too.

MS. BAST: This is true. I am going to haunt you. Okay. Here is where we are.

MR. CONINE: Story of my life.

MS. BAST: As you know, this Board has decided to increase the applicable fraction being used for 2006 tax credit applications. Projects were originally underwritten with an applicable fraction, and there was a determination that that applicable fraction was too low, and needed to be increased.

As a result of that action by the Board, the staff re-underwrote the projects, and a number of them did receive additional tax credits. The problem that we bumped into was the rule in the QAP that no development can receive more than \$1.2 million worth of tax credits for its application, which is a rule.

Not a statutory requirement, which we previously discussed when we discussed the QAP and the Item 5 agenda item. So this is waivable by the Board and we do support a waiver by the Board. And what Tom alluded to, and I just want to be real clear about it.

We requested this item to be on the agenda, because we feel like a proportional increase for all

applicants is appropriate. I think when I made this request, there might have been some concern that if the 1.2 million were waived, that if a project had, for instance, enough eligible basis to support 1.3 million, that you would have to go all the way up to 1.3 million. That is not what I am asking.

What I am asking is you just get the same, because that would treat everybody disproportionately. The big guys would get more than the other ones. I want to treat everybody proportionally here. And what I am asking is that everybody gets the same bump.

So back to that example. If you have a deal that supports 1.3 of credits, you have that much eligible basis, you disregard all that extra eligible basis. You just take the eligible basis that applies to the 1.2 million and you apply the new applicable fraction to that.

Okay. So it is just a little bit of an incremental bump, and that is what we are asking for.

One of my clients did some numbers. I don't certify them by any means. But he thinks that for his particular transaction, Parkway, which is a 1.2 million. That that would be an increase of approximately 39,000. So we are not talking a huge increase.

So my request is, please waive the \$1.2 million

rule explicitly for this purpose, because, just because a property has \$1.2 million of tax credits doesn't mean that it is immune to the market conditions that drove this Board to use a different applicable fraction in the first place.

The applicants who have 1.2 million of tax credits have the exact same challenges as their peers. So treat everybody proportionally, in the same way please, and we appreciate your consideration. Thank you.

MS. ANDERSON: Mr. Gouris. With Ms. Bast's comments about not -- even if they had more than 1.2 in eligible basis, she is saying don't -- only consider the 1.2 million.

Does that alleviate concerns on Item 1 that are in the Board's write-up where they would disproportionately benefit -- those comments in the Board write-up that they would disproportionately benefit?

MR. GOURIS: There is some debate on whether it would. But I think it would significantly alleviate that disproportionality. It would be much more proportionate then.

As Ms. Bast said then, allowing four transactions to get a lot more in credit. And I think it is -- 39,560 is the max additional over the 1.2 million.

MR. CONINE: Have you reviewed the allocations?
How much exposure have we got here?

MR. GOURIS: I am sorry.

MR. CONINE: If you reviewed the allocations,
how much exposure do we have here?

MR. GOURIS: Jen has estimated it to be 91,000.

MR. CONINE: Total? That is three deals?

MS. JOYCE: Jen Joyce, interim manager of
Multifamily. A complete preliminary review, we have about
nine deals that are at 1.2. And the total increase that
this would cause is about \$91,000-ish in tax credits. And
given that we were under the ceiling in an amount that
isn't, the \$90,000, it would put us over.

And so that is why in your action item it says
that should you grant this so it would cause us to go
over, then we are asking for -- I am not looking at it, I
am sorry. But I believe it is out of the national pool,
should it come back in any return credits, possibly with a
2007 forward commitment.

MR. CONINE: Maybe one a little earlier that
didn't get approved, it might get it coming back.

MS. JOYCE: And actually, a very good point,
because we haven't applied the appeal granting and denial.
We haven't applied lots of different things. So again,

this is a rough estimate. In the case that you approve anything that would cause us to go over in the ceiling amount.

MR. CONINE: I make a motion to approve the waiver on a proportional basis as proposed by Ms. Bast with -- and let's see, take them out of '06 credits, because we have got time to do a forward of '07 later on, if we don't have enough of '06.

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.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

MR. FLORES: No.

MS. ANDERSON: The motion carries. Okay, so now, 9A. Do we need to take action on 9A?

MR. CONINE: Move approval of the --

MR. HAMBY: Before you do that, Mr. Conine, can I clarify that we are also doing the ten-day waiver as part of your motion. Correct.

MR. CONINE: Sure. I will protect staff on

that deal, absolutely. We'll amend the motion to include the ten-day waiver.

MR. GOURIS: Thank you, sir.

MR. GONZALEZ: Second.

MR. CONINE: And now we are back to --

MS. ANDERSON: So I don't, I don't even have to go back to Parkway.

MR. CONINE: We don't.

MS. ANDERSON: Okay. So we will just keep moving.

MR. GERBER: Item 9D. Lafayette Village and Baypointe. Lafayette Village and Baypointe are requesting a redetermination of housing tax credit due to the IRS designating Harris County as a difficult development area due to the disasters of September 2005. Staff is recommending the housing tax credit amount for Lafayette Village be \$1,074,454 and the housing tax credit amount for Baypointe be revised to be \$956,177,

MS. ANDERSON: I 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.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. GERBER: Item 9E -- Brooke, want to try to take this as a block? Item 9E, the housing tax credit awards with other issuers.

MS. BOSTON: And basically the staff recommendation is to approve Cypress Creek at Riverbend in the amount of \$592,434 in credits, Woodside Manor in the amount of \$646,769, Costa Mirada in the amount of \$885,339 in credits, and Village Creek in the amount of \$932,493. There is currently no opposition on any of these, and we are not the issuer.

MR. CONINE: Move approval.

MR. BOGANY: Second.

MS. BOSTON: I have one question, Brooke. One of these four is apparently wanting to talk about changing the amount of the tax credits. Can that be deferred? I mean, can we approve the deal, close the bonds and then change the credit amount?

MS. ANDERSON: One of you all can speak for about a minute on that topic. I mean, we have got to get

through this agenda. And I am assuming our friends at Costa Mirada do not need to speak?

VOICE: No.

MS. ANDERSON: Thank you. And I am assuming our friends at Cypress Creek don't need to speak?

VOICE: Yes, Madam Chair.

MS. ANDERSON: Thank you, sirs.

MR. TUREK: Madam Chair and Board, briefly. We are in disagreement as to what the cost of the property will be. And it is in variance with the vendor writing's guidelines.

And we are here before you saying that we are building up quite a few of these deals. We feel confident that are cost is there, this being a 4 percent deal. I would rather be able to rest on my cost there in the future.

MS. ANDERSON: What is the difference, sir, in between what you requested and what --

MR. TUREK: \$60,000 annually. It is about \$600,000. So it is a significant amount of money. And it is something that costs serve is going to prove it up for us at the end of the day. And this is money that would make this property, in our belief, more difficult to move forward with.

MS. ANDERSON: Thank you, sir.

Mr. Gouris, I have a question for you.

MR. GOURIS: Yes, ma'am.

MS. ANDERSON: I mean, I am very mindful of setting precedent of just front end loading additional credits on things when you have underwriting set up a certain way. Mr. Shaw, would you please be seated?

MR. TUREK: Mr. Turek.

MS. ANDERSON: I am sorry. Mr. Turek. Sorry. Talk to us about the differences in what they requested and what you underwrote.

MR. GOURIS: Their costs were considerably higher than ours, and we worked with them to the extent that we could, as we always do, to try to reconcile that. We weren't able to get to an agreement, and so we had to allocate determination based on -- recommend based on our costs.

They have the ability to come back at the end and you know, if they can prove those costs up, it is not that much harm either way to us. But our requirement is to not provide more than is necessary and this fulfills that requirement.

MS. ANDERSON: Okay.

MR. CONINE: Is there a motion on the floor?

MS. ANDERSON: To approve all four in a block. Okay. So there is a motion, and it has been seconded. Is there any other discussion?

(No response.)

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. GERBER: Madam Chair, Item 11, the presentation, discussion and possible approval of the final 2007 LIHEAP State Plan. This item has been out for public comment.

The Department received two comments during this period, both supporting changes the Department made to the current LIHEAP-funded program. We are seeking clearance from the Board to submit this to the Federal Department of Health and Human Services.

MR. CONINE: Move for approval.

MR. BOGANY: 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.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. GERBER: Item 12 is presentation, discussion and possible approval of OCI items. Brooke Boston, our Deputy Executive Director for Programs, is going to try to handle as much of that in a block as we can.

MS. BOSTON: The first item is approval of an award for a Colonia Self-Help award to Val Verde County. It will be a four-year contract. This is an award that we have -- they have already had a prior contract with us.

They have been operating the existing self-help center and they have drawn down all of their -- excuse me. They have requested final draws on all of their funds under their prior contract, and we are requesting approval for \$830,000.

MR. BOGANY: So moved.

MR. SALINAS: Second.

MS. ANDERSON: Discussion?

MR. CONINE: Del Rio.

MR. SALINAS: Yes.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. BOSTON: Okay.

MR. DELGADO: Madam Chair, can I say a few
words?

MS. ANDERSON: Very quickly, sir.

MR. DELGADO: I understand. I came here from
Del Rio.

MS. ANDERSON: Go ahead. Just go ahead. Okay.

MR. DELGADO: I am Alfredo Delgado, and I am
from Del Rio, representing Val Verde County. I had two
commissioners with me, Commissioners Ortiz and Musquiz.
They left because they have a Commissioners Court tonight
in Del Rio.

All I have got to say is thank you for the
support you have given the Colonia in Val Verde. The
Housing Authority is working to give the county -- we have
taken over that support. And we appreciate your support.

Again, we are doing quite a bit of work with that money. And we are working with USDA in trying to extend it more.

So out of 19 colonias, we are working with five. We are getting ready to establish a water district in one of them with the USDA. We are also planning a colonia subdivision and we got USDA for 142 units for migrants, so we'll be able to tap into some money. Again, thank you for your support, and we appreciate it.

MS. ANDERSON: Thank you, sir. That is good news to hear about the migrant housing.

MS. BOSTON: Item 12B is approval of a memorandum of understanding between TDHCA and ORCA regarding our management of the CDBG funds for the self-help centers. Again, this is a document that we have had in place with them and are updating it.

The Office of Rural Community Affairs has already approved the document. We have made two very minor technical revisions and it has now been approved by our counsel and we request --

MR. CONINE: Move for approval.

MR. GONZALEZ: Second.

MS. ANDERSON: Is there some staff discussion about potentially needing an agreement to define if ORCA

monitors these things, but we are still accountable, how do we get that worked out more clearly, contractually.

MS. BOSTON: Yes. We will be also working on a second document that will cover our monitoring responsibilities with some third party, whether that be ORCA or another entity.

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. BOSTON: And I'll lump C and D together. These are extensions on two different programs in the Office of Colonia Initiatives. Both are self-help center contracts, and are Bootstrap contracts.

For Starr County, we are requesting an extension to February 17, 2007. For Maverick County, we are requesting an extension through November 30 of 2006. For Cameron County, we are requesting an extension through August 31, 2007.

For La Gloria Development Corporation, which is Item D, we are requesting an extension through August 31, 2006. For Community Action Social Services and Education,

through February 28, 2007. And for CDC of Brownsville, through July 31, 2007.

MR. CONINE: Move approval.

MR. BOGANY: Second.

MS. ANDERSON: Discussion?

(No response.)

MS. ANDERSON: Hearing none, I assume we are ready to vote. Mr. Currie?

MR. CURRIE: I would just like to say we have all the candidates for the Bootstrap program, so I'd like to just add all the 28 spots to be approved --

MS. ANDERSON: You have got to come up here.

MR. CURRIE: I am Don Currie with the CDC of Brownsville. I know the recommendation was that instead of 32 slots, we would be down to 28 slots.

We have 11 candidates that are qualified to start the Bootstrap Program that would basically fill up all the 32 slots that are there. And I would just like that the motion would be that the contract be extended to all 32, and we'll get started on those. Thank you.

MS. ANDERSON: Thank you. And with all respect to Mr. Currie, this program has been active since July 30, 2003. And so we have got 28 identified, and I think we ought to stay with staff's recommendation just to do the

28.

MR. FLORES: So moved.

MR. GONZALEZ: Second.

MS. ANDERSON: We already had a motion on the floor. I will leave the motion on the floor the way it was, which was staff's recommendation. Any other discussion?

(No response.)

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. And Mr. Gerber has wisely decided he is not going to make a report.

MR. GERBER: I am quitting while I am behind.

MS. ANDERSON: So there is no other business to come before this board today, thank goodness, and we stand adjourned.

(Whereupon, at 5:30 p.m., the meeting was adjourned.)

C E R T I F I C A T E

MEETING OF: TDHCA Board of Trustees

LOCATION: Austin, Texas

DATE: August 30, 2006

I do hereby certify that the foregoing pages, numbers 1 through 369, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the Texas Department of Housing and Community Affairs.

(Transcriber) 09/11/2006
(Date)

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