

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

Capitol Extension
1500 N. Congress Avenue
Austin, Texas

July 31, 2008
9:30 a.m.

MEMBERS:

C. KENT CONINE, Chair
LESLIE BINGHAM ESCARENO
TOM CARDENAS
SONNY FLORES
DR. JUAN MUNOZ
GLORIA RAY

STAFF:

MICHAEL GERBER, Executive Director

A G E N D A

	<u>PAGE</u>
CALL TO ORDER, ROLL CALL	3
CERTIFICATION OF QUORUM	3
PUBLIC COMMENT	3
CONSENT AGENDA	
ITEM 1: Approval of the following items presented in the Board materials:	
<i>Legal Division</i>	49
<i>Community Affairs</i>	
ACTION ITEMS	
Item 2: Department Appeals	54
Item 3: Disaster Recovery Items	91
Item 4: Multifamily Division - Housing Tax Credit Program Items	98
Item 5: Multifamily Division	152
Item 6: HOME Division Items	154
EXECUTIVE SESSION	101
OPEN SESSION (RESUMED)	103
REPORT ITEMS	
1. 2008 Low Income Home Energy Assistance Program State Plan	183
ADJOURN	184

P R O C E E D I N G S

MR. CONINE: Good morning. Here we are again.
Welcome to the July 31 Board meeting of the Texas
Department of Housing and Community Affairs.

First thing I'll do is call the roll, make sure
everybody's here. Leslie Bingham?

MS. BINGHAM ESCARENO: Here.

MR. CONINE: Tomas Cardenas?

MR. CARDENAS: Here.

MR. CONINE: Kent Conine is here.

Juan Munoz?

DR. MUNOZ: Here.

MR. CONINE: Gloria Ray?

MS. RAY: Here.

MR. CONINE: Sonny Flores?

MR. FLORES: Here.

MR. CONINE: Everybody's here. That's good.
We've got a quorum.

First thing we do is have public comment for
those of you that want to address the Board on topics that
may concern you.

I'd like to remind everybody of a couple of
things. One, we have witness affirmation forms that need
to be filled out if you want to participate, and I have a

stack who have indicated they want to make public comment now at the beginning of the meeting; and then I have another stack that will be -- make public comment during the particular agenda items.

Please indicate on the witness affirmation form which one you'd like to speak at. Also, I'd like to remind the crowd that we do have a new public comment policy in place: I'll try to catch these as we go through, but essentially you get three minutes, and unless someone donates some time to you in that particular case, if you get some donated time from someone you get five minutes.

No more than three people can speak for a particular item, and no more than three people can speak against a particular item.

And we'll try to limit public comment that way; if any of you have signed up to speak who have more than three people then I would encourage you to try to huddle up and figure out who's going to speak and who's not going to speak, as we go through this.

So unless we have anything else, we'll get started. First public comment I have is from Ken Martin.

MR. MARTIN: Good morning. I was going to speak at Item 1(b).

MR. CONINE: On the agenda item. I see that now, sorry about that. Stella Rodriguez?

MS. RODRIGUEZ: Good morning, Mr. Chairman, members of the Committee --

MR. CONINE: Good morning.

MS. RODRIGUEZ: -- Mr. Gerber. My name is Stella Rodriguez, I'm with the Texas Association of Community Action Agencies. I believe I checked Item 1(a) on the agenda on my witness affirmation, it's the one -- the second "(a)" under the Community Affairs.

It is my understanding that the staff will be making a recommendation in reference to the CSBG Administrative Funds to reallocate those out to the Community Action Network. And that \$1.2 million of that is going to go back out to the subrecipients, and we certainly applaud the staff for making that recommendation.

The Agencies are very much in need of the funds, with gas prices and the outreach that they have to do out on the local level, this is a much-needed resource. It originally was \$1.5-, and we understand \$300,000 of that is going to go to South Texas Community Action agencies for the disaster relief with Hurricane Dolly. Again, we applaud the staff.

A much-needed resource; we do encourage the funds, though, the \$300,000 that is going to go out to the agencies, if that is done, as quickly as possible because if the funds are not made available within a couple of weeks, the need will have been met -- could be met through other resources.

If the \$300,000 that is going to -- coming out of the \$1.5 million that was originally available, is not completely spent by the agencies, we would recommend that that go back out to the CSBG recipients, using the same formula that exists.

Again we want to reiterate that the funds need to get out; the \$1.2- to the subrecipients, as well as the \$300,000 that's going to go out to the Community Action agencies in South Texas.

I understand that another \$200- is coming out of the VTAE Program and we do support that as well. So again, we commend the staff for making the recommendation.

We know there's a great need in South Texas from the disaster of Hurricane Dolly, and we look forward to working with you as we move along. Thank you very much.

MR. CONINE: Great. Any questions for the witness?

(No response.)

MR. CONINE: Thank you. Matt Hull.

MR. HULL: Hi. Thank you, Mr. Chairman. My name's Matt Hull, I'm the Executive Director with Habitat for Humanity of Texas. I just wanted to comment very briefly on the 2009 Housing Trust Fund funding plan.

First of all, I just want to thank the Board for proposing a roughly \$100,000 capacity building program for Bootstrap. As you know, many of the Habitats across the State use the Bootstrap Program to help extremely low income families enter into home ownership through sweat equity.

I did want to point out one thing about the 2009 funding plan before the Board, and that is, at the same time you're also proposing \$750,000 for Multifamily Rental, which we think that's fine. However, what we want to point out is that, there's already \$1.8 million in the Housing Trust Fund from 2008, for Multifamily Rental, that hasn't been expended yet.

I understand that this money will have the restriction on the use partnering with tax credits removed, and that in the next Board meeting the \$1.8 million will have that restriction removed as well. We think that's fine. What we would like to see is that -- have a Board recommendation back the staff to where if the

money hasn't been drawn down or committed within five or six months after the note that goes out, that it be re-programmed back for single-family money.

But there's no reason to have \$1.8 million available in the trust fund that hasn't been committed or expended, and that if that continues to go on, it's going to be hard to get additional revenue into the Housing Trust Fund through the legislative process.

So that's all I really wanted to say -- oh, in addition, that \$750,000 that you're approving today for Multifamily Rental is roughly the same amount that the Home Ownership Super NOFA was oversubscribed in the last round.

So there is additional need for home ownership out there, we hope that the money can be used for multifamily rental, I mean, sincerely we want that money to be spent; however, we would just like some type of a plan in place to let that money be quickly used for home ownership in case it's not being used for rental.

So I'll take any questions, if not, thank you so much.

MR. CONINE: Any questions of the witness?

(No response.)

MR. GERBER: Mr. Chairman, I would just add, I

think Mr. Hull's made a great point, and there's a real challenge now to the multifamily rural rental community to expend those funds in a timely way. The rules for that will be coming out shortly, and they can now be married up with tax credits under what will be -- what's being proposed to the Board today, and once approved, will be able to be partnered with tax credits.

So we're really looking forward to those funds being used to get some housing built, in that -- in rural Texas.

MR. HULL: Thank you.

MR. CONINE: Thank you. Bill Fisher?

MR. FISHER: Good morning, Board members. Bill Fisher, I'm with Odyssey Residential. Appreciate you giving me some time this morning. I have two quick issues to address.

The first is the new allocation from Congress and the President of additional credits for 2008 and 2009, and how those uses are going to take place here. I think you're going to get a staff recommendation here in September, and I wanted to at least plant a couple of seeds.

\$130 a barrel oil, \$4 gas, \$0.80 cent tax credit pricing and significant disintermediation in the

capital markets. We didn't have any of that information when we applied in '07. And as these '08 credits become available, I certainly want the Board to consider the tremendous impact that those things have had on those of us who received '07 allocations.

We have tremendous increase in our construction costs, the amount of equity that -- from the allocation that you gave us is down substantially. And there are gaps in these funding allocations that will need to be addressed.

In addition, the 10 percent test time has come and gone, so those of us with '07 allocations, and most if not all persons in this room have '07 allocations, have expended at least 10 percent of their development budget already, including the acquisition of their site.

For us, working with the Brownsville Housing Authority, and the La Jolla Housing Authority, we've expended over \$6 million, in acquiring our sites, rehab, development, and funds for developing those rural and urban areas in the Valley, which of course has just been affected by Dolly.

There was a lot of discussion yesterday about, "Gee, we should have -- it's a hard decision of whether we should, like, look at the projects we already funded

versus new projects," and I would hope the Board would understand that the obligation would really run to the '07 projects you already funded.

We had none of that information about costs, or credit pricing at the time we applied; our projects were underwritten; with the new bill we have substantial additional basis for the credits. So, if you would underwrite for the additional credits that would be necessary to fill any gaps, I think that's probably the case for every applicant.

I would certainly ask you all to give first consideration to those as you did when we had the Katrina cost increases.

The second issue, which is a little closer to home, has to do with Rural Region 11. And Region 11, I came before you two months ago for a waiver on a two-day-late environmental assessment, and said, "Look. Just leave me on the list, it's the La Jolla Housing Authority, we're going to be under-subscribed, we're going to get additional credits, and the Valley needs the housing."

That is exactly what's turned out; the region was substantially under-subscribed, both on an overall basis as well as even taking into consideration the previous credits you allocated to '04 and '05

transactions.

Of course in the interim we've had Hurricane Dolly, we've had substantial disruption in the housing down there, we've got families out of their homes, and what I would ask the Board to do in light of that is to for good cause, reconsider that issue. The areas under-subscribed, it's now a federal disaster relief area; there really wasn't any impact. We have a single mother, HUB provider, we try and use for our ESA; she turned her market study or her ESA in two days late because of a family medical issue --

MR. CONINE: We need to ask you to wrap it up, please, sir.

MR. FISHER: -- probably having to do with [inaudible]. We would ask that you do that. The other thing I'd ask is for the -- Ms. Bingham, if she has a minute to comment for the other Board members on what's happening in our region, given the impact of the hurricane. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you. Okay, the next group of witness affirmation forms I have indicate that they are for a particular project, and I have one, two, three,

four, five of those. I'm going to read off the names, and if you could figure out how we're going to approach this:

Diane Smith, Lorraine Robles, I believe, Ryan Wilson, Vicky Lane, and Evelyn King.

If you could tell us your name, and if anybody's donating time to you.

MR. WILSON: Thank you, Chairman and Board. At your suggestion, we huddled up before, so I think we got a decent order, here. Only three of us will speak --

MR. CONINE: What's your name, please.

MR. WILSON: -- Ryan Wilson.

MR. CONINE: Okay. Is anybody donating time to you?

MR. WILSON: No.

MR. CONINE: Okay. Go ahead.

MR. WILSON: Again, I want to thank you for your time this morning. Again, my name is Ryan Wilson, and we're here before you to respectfully request that you consider our request for a forward commitment of tax credits for Sutton Homes, Project Number 08190, located in San Antonio.

I know our time is short, so let me just -- I wanted to highlight three main reasons why we feel the forward commitment is warranted. Number one is the

desperate need. People toss that word around a lot, but in our case it's serious and it's desperate.

There are some folks here that will talk to you that know a lot more about the living condition than I do, but that's the first and foremost reason why we think our forward commitment is warranted.

Number two is the situation in San Antonio. I'm sure most of you know that the BRAC realignment is going to bring us 11,000 new jobs to Fort Sam Houston and the area. Sutton Homes is literally located across the street from Fort Sam. We want to take Sutton Homes from a problem to an opportunity to create a new living environment and a safe living environment and a clean living environment for those that are coming into our town.

And number three, finally, is our support. We've received overwhelming support from the community and from our elected officials: Representative McClendon, Representative Menendez, Senator Van de Putte, as well as our local councilwoman, all have overwhelmingly supported our development, which I think speaks volumes for the need that they all see to redevelop and revitalize Sutton Homes.

So really we're here to ask for your help. We

need your help today, to turn what is now a problem into a safe, beautiful, mixed-income housing community that our near East Side, and all of San Antonio can be proud of.

We are way overdue on fixing the problems at Sutton Homes, we need to prepare now for the new jobs not only coming in, but the lack of affordable housing in the area currently, and the overwhelming support that we've received from the community speaks volumes for what we're trying to do.

So I thank you guys for your time this morning; I want to turn it over to some of the other folks here today, but I urge you to support and consider our request for a forward commitment. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MS. ROBLES: Good morning --

MR. CONINE: Good morning.

MS. ROBLES: -- I'm Lorraine Robles and I'm representing the Board of Directors and staff of San Antonio Housing Authority, and we are currently the owners of Sutton Homes. And I am here today to speak to the problems that are occurring at Sutton Homes, and I know that there are problems everywhere.

But just to give you an idea of what we're

desperately in need of, and what we're fighting for is that, SAHA has a commitment to our residents to provide safe, decent and sanitary housing, and every day at Sutton Homes it has become more and more difficult to do that.

Our daily repairs are no longer just regular maintenance; they are short-term Band-aids, because our infrastructure, our utilities, our foundations, drainage problems in the area have become such that it is economically impossible for us to just rehab the development.

We are proposing to demolish the entire property and start anew, and build a Class A development for our residents. We have met with the residents for the last few years, and every time I come to them, you know, they're saying, "We're doing this again," and I tell them, you know, "We're not going to give up, we're going to keep trying until it gets done," because we know the conditions that they're living in.

You know, everyone should have plants in their house, but it shouldn't be growing through the cracks in the walls from the outside. You know, everybody enjoys the rain but you should be able to seek shelter in your own home and not have to worry about it coming through the bedroom ceiling.

We are talking about a development that is over 50 years old and in desperate, dire need of repair. So much so that we've had to close some of the buildings; they are uninhabitable. We were just talking to some residents this morning, they were talking about a unit in their building that everyone moves in, and shortly after they move out within a month's time. It's because we can no longer provide housing in that unit, it is in such disrepair.

And the repairs, again, are beyond rehabilitation. It is going to take us demolishing the entire development in order for us to provide safe, decent and sanitary housing for these residents. The residents, while they love their home and know that this would mean to have to leave for a little while, they are truly committed to their community, and so is the Housing Authority; they've approved our application, the submission of our application for 9 percent tax credits; they've also committed to using federal housing dollars to -- towards this endeavor.

They have made Sutton Homes a top priority. It is in that desperate need of help. Again, I speak on behalf of the board and the staff; we have residents that are in the audience today and we have one that will speak

right after me, who can attest to the conditions that they're living in.

And again, this is not just everyday repairs that we're looking at; we're looking at emergency repairs now, because we have gas lines -- we've got electrical problems, we've got sewer problems, we've got water problems; we have drainage problems, foundation problems.

Again, we're having to shut down buildings and move people to other places because of the dire need.

And I just ask that you consider, or that you would please approve a forward for our 9 percent tax credit for this project. Thank you.

MR. CONINE: Thank you. Any questions of the witness?

MR. GERBER: One. Ms. Robles, is this part of SAHA's -- SAHA made an application for Hope VI this year --

MS. ROBLES: Yes.

MR. GERBER: -- is this part of that development.

MS. ROBLES: Yes, it is. We --

MR. GERBER: Okay.

MS. ROBLES: -- have submitted three Hope VI applications for this development. And as you know,

they're highly coveted and highly --

MR. GERBER: Right. But this is part of this year's?

MS. ROBLES: Yes, sir.

MR. GERBER: Thank you.

MS. ROBLES: Thank you.

MS. SMITH: Good morning, Chairman and everyone.

MR. CONINE: Good morning.

MS. SMITH: This is my first time to speak in front of a crowd, I'll make it short -- I've never been here.

MR. CONINE: And your name, please?

MS. SMITH: Yes, my name is Diane A. Smith, and I live in Sutton Homes over 25 years, and my mother lived there ten years before I did. And it was a very happy place to be, I've raised four children while living in Sutton Homes; my son has become a master sergeant in the Army, and he just retired last year after 20 years, after leaving Guam, he made it back safely, thank the Lord.

He has a wife, two girls, and they come to visit me on the weekends, and they love coming to the apartment to see me. And it used to be where they would keep the grass trimmed and cut, and it would be nice, and

make everyone feel as if they were buying a home instead of just renting.

And they could ride their bicycles on the sidewalk and feel safe. Also, at the park now, the children had a nice, air-conditioned gym, and all the games, the basketball court, and where the family could go and have barbeques, and everything like that, and have a nice time.

But right now it needs to be kept up. There used to be a church bus that would pick the children up and take them to other activities, swimming, but they don't hardly any more. And one thing I still like, we used to have security guards that would ride by, and at least would make the children go in at a certain time into the apartments, and go into the house.

And about the maintenance men, they used to come out after one day; I have put in a maintenance order the last six months. Because my kitchen sink is leaking, I have to put a five-gallon bucket underneath it to catch the water and wash the dishes. They cannot repair it anymore because they said it's been fixed so many times it's just worn out. It just won't work.

But I believe Sutton Homes could still be a great place to raise your children and to grow up. And --

because they will work with you, I have actually in the future when I was younger, but it needs a major overhaul; it needs to be remodeled to be more appealing, also to the tourists and the people who are always driving up and down 35 North, coming to Austin, and also visitors who are trying to find the AT&T Center where the Spurs are.

So they have to pass by Sutton Homes on the highway. So the Sutton Homes Apartments needs to be remodeled and brought up to the future, right now, so it would be so much better for everyone concerned.

And you can raise a loving family; I raised four children. I have a daughter who's a licensed physical therapist, one who's an R.N., one's an L.V.N., and my son, also. And I think it just needs to be remodeled and torn down, because there's nothing like -- the house is shifting, the doors won't hardly close, and the tile's coming off the bathroom walls, and everything else.

So basically it needs help. It needs a big [indicating].

MR. CONINE: Thank you, Ms. Smith.

MS. SMITH: All right.

MR. CONINE: Any other -- any questions of the witness?

(No response.)

MR. CONINE: Thank you very much.

MS. SMITH: You're welcome.

MR. CONINE: Okay, Frank Fernandez?

MR. FERNANDEZ: Good morning, Board members.

My name is Frank Fernandez and I am the Executive Director for Community Partnership for the Homeless. I am here today to testify briefly regarding Application Number 08271, Manor Road SRO, and to urge you again to consider our application for a forward commitment. And I promise this will be the last time you'll see me for a little bit, at least.

Rather than have another group of speakers talk about the merits of our project as we've had over the last few meetings, I need someone to offer -- to respect your time, a brief concluding argument of sorts, and I did have some donated time.

As discussed during past meetings, the need for supportive housing in Austin is savagely acute. The testimony of our past and current residents clearly chronicled how important this type of housing is to extremely low-income men and women, and for those who have struggled with homelessness.

The proposed project is not an "undesirable"

facility. Rather it is a desperately needed housing alternative for working low-income folks who are struggling to make ends meet; for those who are trying to reclaim their lives from hopelessness.

Our residents and those who are also served by supporting housing projects are not "the other." They are the older woman who bags your groceries at HEB, the security guard who waves you in at the office building, the Iraqi vet who is overcoming severe PTSD. They are, in short, us.

This project poses a unique opportunity for you, the Board to seriously consider. Not only is it urgently needed, it is extremely difficult to do. There were only three to four supportive housing applications in this round of nearly 200 applications, for a reason.

These deals are very capital-intensive, and require securing a myriad of soft money funding sources for capital, for operations and for services.

They are rare projects that do not come around regularly, or in great numbers, especially relative to the need for them. As such, when they do come along, it behooves us as a state to take a hard long look at them.

The Board's central challenge from my perspective when assessing the merits of our project

relate to neighborhood opposition. Some of the neighbors have testified in the past and will testify again today, I think, in opposition to our project.

In the packet before you, we've tried to clarify some of the distortions of fact, some intentional, some not, about our points I've made about our project.

We have made good faith efforts to engage the neighbors and address their legitimate concerns. However, I'm concerned that this battling over what was said or not, what is fact or not, makes it very difficult for you, given how many applications you're looking at, to properly assess the relative merits of community engagement and support.

What I would humbly request of you, as State Representative Menendez highlighted a few meetings back, is to exercise your discretion, to balance NIMBY concerns with the greater common good and need.

In this instance, because there's a re-zoning that's needed for the project, because of the valid petition filed by our opponents, our Mayor and City Council will have to overwhelmingly support our project with a six to one or seven to zero vote in favor.

This is no small feat. Bluntly speaking, we face an uphill battle. However, if we are able to secure

that favorable vote, this speaks directly to the political and broader community support the project has.

We will have passed a higher rule of community engagement that many tax credit projects do not have to overcome. And if we don't get a favorable vote, the project doesn't move forward.

As such, I would request that you evaluate the project on the merits, based on the competitiveness of our application, the acute need for supportive housing, the rarity of these types of projects, and the difficulty in getting them done, and the broader, systemic social benefits of this type of project which I highlighted in my testimony last week, and which is also included in here.

The community support question, one way or the other, will be decided at the -- and addressed at the local level. I urge you to make a statement and support our project, and thereby support those most vulnerable among us who don't have a voice, and who often don't have a safe, affordable place to live. Thank you.

MR. CONINE: Thank you. Any questions of the witness?

(No response.)

MR. CONINE: I have one, myself, Mr. Fernandez. I seem to recall that the Austin City Council was going

to deal with the zoning issue on the 30th?

MR. FERNANDEZ: They -- it got postponed --

MR. CONINE: Till when?

MR. FERNANDEZ: -- they're going to be doing --
till August 7th.

MR. CONINE: August 7th. Thank you very much.

Okay, once again I have more than three signed up to speak against this particular issue. So I'll read of the names, Gary Garcia, Haywood Lowe [phonetic], Steve Dentzler, Ernest Boardman and Greg Nall. That group can decide which three of you want to speak to the Board, and if any time's getting donated by the others.

(Pause.)

MR. CONINE: Anybody got a quarter?

(Laughter.)

MR. CONINE: Flip a coin.

(Pause.)

MR. CONINE: Please indicate who you are.

MR. NALL: Good morning. I'm against this
project --

MR. CONINE: Please indicate who you are.

MR. NALL: I'm sorry. My name is Greg Nall --

MR. CONINE: Okay, Greg. Thank you.

MR. NALL: -- I live at 6204 Arnold Drive; I'm

about three blocks from this project that's going to be built.

MR. CONINE: Okay.

MR. NALL: I hope to stop it. I'd like to speak for the clients that are going to be housed here. I'm a vet, and I'm a recovering alcoholic. I have lived in places like this. Not this big, and that's one of the reasons that I'm here.

It's too big of a project. You need a smaller housing, more family unit, it's in the wrong place, and let me explain.

We have drugs and prostitution in our neighborhood. I have been to City Council, Austin City Council, five years ago, discussing drugs and prostitution in my neighborhood; it still goes on.

This is not a good place to put people who are trying to get their life back together. The high-crime area that comes with drugs and prostitution -- read APD, Austin Police Department has statistics that show it's one of the worst areas in the City.

This is not a place where you want to have somebody who's trying to get straight, where all he has to do is walk out on the street and buy some. And from prior knowledge, he probably doesn't even have to walk out on

the street; he could just walk out to the parking lot.

This is what I know: it took me a long time to get sober, and I've -- and that was 1990, but it took a long time; it's a hard disease. You don't want to put these people here.

Transportation is inadequate; there's only one bus line. When I first got to Austin in 1996, I worked at UT; it's an hour and a half trip to UT; it's 24 minutes by car; by bus it's an hour and a half.

There's no real jobs in the neighborhood. There's retail and all that but there's nothing that you're going to be able to get up and go move out, buy a house, get on with your life, get married and have kids. Those are in other places. Any real employment I've ever found, I've always had to go on the other side of MoPac.

There's no trade schools in the area. The closest, Austin Community College, is, there's one that's right close to here; there's one down on Riverside that's south of the River, and then there's another one that's up at Northridge. Which all require several bus changes if you're going to be a student and you don't have any transportation.

So the location is bad, the size of the project is bad. Thank you for your time.

MR. CONINE: Any questions?

(No response.)

MR. CONINE: If not, I guess we're good. Who's next?

MR. GARCIA: Good morning. My name is Gary Garcia. I'm a business owner and a resident of Windsor Park community and neighborhood. I'm asking you to consider voting against the SRO on Manor Road from the point of view of a business owner, a little bit less as a resident.

There are some serious issues going on in Windsor Park, and the neighborhoods around that particular area. But there are also some real positive things; there have been new businesses opening, new residents moving in, home values increasing, folks really taking care of their yards and fixing things up, and the potential of that neighborhood is huge; there's a real chance for a positive growth in that which will benefit both the City and the neighborhood itself.

A project like this one, just through the sheer media that the fact that we're speaking today, through the newspaper, television and radio that's been on, it's not really seen as a positive for the neighborhood, for current residents and also potential residents, deciding

whether they should move in or not.

To see this kind of debate going on, I think would raise some concern in and of itself; and a project like this can really be the catalyst to start another downward trend for this neighborhood that went through -- that we went through from the '80s all the way till, I would say, the last three or four years, and I've been there since 1982; I've seen it. I was a high school kid there and then went through college and stayed there, and I've seen it go downhill and, again, slowly but surely start to go uphill.

So I'm asking you all to consider the impact that voting for this project will have on the positive momentum in this neighborhood, and I hope that you all oppose. Thank you.

MR. CONINE: Any questions of the witness?

DR. MUNOZ: Yes. I have a question.

MR. CONINE: Question?

DR. MUNOZ: Can I ask two questions --

MR. CONINE: Yes, sir.

DR. MUNOZ: -- number one, you said you're a business owner. What line of work?

MR. GARCIA: I own a restaurant, Tres Amigos restaurant.

DR. MUNOZ: Okay. Here's my question: You described the positive growth and potential of the neighborhood --

MR. GARCIA: Yes, sir.

DR. MUNOZ: -- but the speaker prior to you talked about the absence of buses, no trade programs, and the absence of, you know, what I would perceive to be growth potential. So I mean, there seemed to be some contradiction in the characterization --

MR. GARCIA: No, and I'd gone through at the beginning of my comments that there are some serious issues. But there is also the beginnings of some things that can go in a positive way. It's not a --

DR. MUNOZ: None of which these residents can potentially contribute to?

MR. GARCIA: Well, sure, potentially, yes, sir. They can. They could also potentially contribute to some very, very negative behaviors within the neighborhood, and frankly based on the circumstances, I think that is certainly a possibility.

Okay? Did you have --

MR. CONINE: Any other questions?

DR. MUNOZ: No.

MR. GARCIA: Oh, just one. Okay, very good.

Thank you.

MR. CONINE: Thank you.

MR. LOWE: Good morning, Board. My name is Haywood Lowe. I'm a resident of Windsor Park. My address is 5510 Coventry Lane on Manor Road, it's right in the area where they're -- this housing is going up.

I have an aunt that lives two blocks up from me; she's 85 years old. And she lives in a cul-de-sac, and it's going to back up right into this area.

She's 85 years old; my uncle passed away ten years ago. She still lives in the area and she's still a vital lady, walking the neighborhood; getting up every morning and walking.

Now, she's developed a little Alzheimer's. So she can't walk like she used to, but toward the end of that, was the beginning of her Alzheimer's, she couldn't walk the neighborhood anymore.

The reason why -- I've been living there since '87. In my neighborhood, on my street alone, there's six houses that was there and people lived in and was buying them. All of a sudden they started moving away. It wasn't because of White flight or anything like that. It was flight because of the activity in the neighborhood; people moving out of the neighborhood, people who kept up

their houses, people who kept up their yards, people who did things as part of a community, moved out because of things going on in their neighborhood.

You couldn't go to the convenience store without being panhandled; I couldn't -- my aunt cannot walk the neighborhood anymore for her exercise because she was afraid. Okay? This was because we already have four apartment complexes in our neighborhood on Manor Road or in that area; one down on 51st, one on Manor Road -- two on Manor Road, and then a whole bunch of condos -- not condos but duplexes behind this very -- right behind, or in front of this very area where they want to build this.

Nothing but crimes and drugs and prostitution goes on back there. It's like hid away from the area.

Now, you can always come to our neighborhood and look at the neighborhood and say, "Oh, this is a pretty nice neighborhood to move to." And in fact, a preacher, my pastor visited my home and said, "This is a nice neighborhood, I would like to live here."

And I asked him, I said, "We need to get some support in our neighborhood because they want to build a homeless thing." He said, "Really?" I said, "Yes," He said, "Man, I was looking on trying to buy a house over there. If that's going to happen, I don't want to buy

over there."

That's exactly what's going on with that property. I had a gentleman stay up the street from me two doors up, buying the house; they looked on the Internet service and saw where there was rapists, alcoholics, drug abusers and child abusers living in our neighborhood.

What did they do? Sold the house, and not even sell it, they rented it and moved out to Del Valle. Another couple did the same thing on another street.

Right now we have so much housing going on where this can -- you know, people moving in and out because they're homeless that it's caused an effect on our neighborhoods, and I would that you never -- please don't approve this right now.

The City of Austin already got an apartment coming -- going up there, the old Mueller Airport; they already got that going up. That's for the low-income people. We don't also need this here also. I appreciate your concern on this, thank you.

MR. CONINE: Any other questions of the -- any question of the witness?

(No response.)

MR. CONINE: Thank you, sir.

MR. LOWE: Thank you.

MR. CONINE: I'm going to butcher this one up. Thuy Hoang? My apologies.

MR. HOANG: No problem, that was pretty close. It's a -- my name is Thuy Huang, I represent --
(Laughter.)

MR. HOANG: -- pretty close.

MR. CONINE: And I got plenty of sleep last night.

MR. HOANG: Don't worry about it.

I represent Retirement Housing Foundation, and we're a nonprofit; we have numerous properties throughout the United States and I'm here respectfully requesting a 2009 forward commitment for Darson Marie Terrace, Project Number 08269 in the amount of \$571,824.

Darson Marie Terrace was the second-highest-scoring application submitted in the Region 9, San Antonio area; we already have an existing site next to -- an existing Section 8-202 facility next to the proposed site, and the construction should be completed this month, and we would like to propose this additional site next to it.

Due to the large number -- due to the large amount of 2008 forward commitments, there were only enough credits to fund one 2008 urban project; there is a

shortfall of approximately \$300,000 to fund this project.

We enjoy the support of our Representative Menendez in our request for a forward commitment, and a letter was also submitted by Representative Menendez to Michael Gerber this morning.

I'd like to thank you for your consideration.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: And once again I apologize for butchering your name.

MR. HOANG: No problem.

MR. CONINE: Ron Eaton?

MR. EATON: Good morning, Board.

MR. CONINE: Good morning

MR. EATON: I am Ron Eaton. I reside at 301 South Magnolia Street in Palestine, Texas. My wife and I are owners and operators of the Bower's Mansion Bed & Breakfast, and the Bower's Mansion Antique Store.

We came to Palestine in 2000 after seeing the Bower's Mansion listed in the *Country Living* magazine for sale. It was touted as one of the only remaining homesteads left in Texas; it included a huge Victorian home, servants' quarters, carriage house, greenhouse, smokehouse, and a woodshed, all original.

In fact, that's what brought us to Palestine. Actually I think that the prayer and the feeling that that's where God wanted us to be, is what really took us there.

My place is listed in the National Register of Homes, and it's probably the most complete and original Victorian home in the South Side Historic District of Palestine. This house is what people who come to Palestine think of as Palestine. Every tour bus that comes through stops in front of my house and lets people take pictures.

So it's incomprehensible to me to think that the leadership of Palestine would compromise this area by wanting to build a non-conforming apartment building immediately behind the mansion. It's also incomprehensible that we weren't even informed about this project even though the Main Street director lives directly across the street from me.

Regardless of who said what or about whom, we know who's in control of this project and that's Jesus Christ. We dedicated this bed and breakfast to him, and we're trying to make it known that this is His; so far, so good.

It's difficult to believe that anyone would

like to come here if a noisy apartment complex, more traffic and police calls was what they'd see when they got there. I believe that whatever God wants to do about the apartment complex will be done; we don't have the final say in things even though we've got to think we do.

I'm in mighty opposition to the apartment complex. I feel that the City was really trying to have the old downtown renovated, hence the name, Historic Lofts of Palestine, and the developer couldn't find enough places downtown to make his project pay. So this is when the South Side Historic District was initiated.

Please do not allow the apartment complex to be funded by tax credits. You do control that. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you very much. Councilman Wilbert Austin?

COUNCILMAN AUSTIN: Good morning.

MR. CONINE: Good morning.

COUNCILMAN AUSTIN: My name is Wilbert Austin, Councilman and Member, Waco, Texas District 1. I'm here to ask that you all would take under consideration overlying the Costa Esmeralda to be built there in the City of Waco; the number is TDHCA Case Number 08280.

We want -- was trying to get the president of the Oakwood Neighborhood Association to be here today but her sister is very sick and she could not be here today. It's so important that we have adequate shelter for the people that live all over the City of -- the McLennan County or any city, and we have so many dilapidated houses there in South Waco where the elderly people are suffering, and that we see that it would be a great opportunity to have housing there for them.

I stated before and I state again that there's a clinic right across the street for it, Providence Hospital Clinic there; there's a new library that Mr. Duncans [phonetic] has donated to the City, there, and it would be right in front. It's so important for us to have that. We ask that you would do this.

Note that the City of Waco is supporting it; the County Judge of McLennan County is supporting it. NRP Group and the Texas Housing Foundation has committed \$150,000 in local funds, and from what I understand they are the only developer in Region 8 that receive OCP support.

It's very important to the people of Waco that you all take this under consideration, and we hope that you -- I've been here on every one of the hearings in

support of this, and it's very good when you have the county, the city and the people of the community wanting it.

Some people don't want some things somewhere but we want it in Waco, and we certainly hope that you all take this under consideration.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you, Councilman.

COUNCILMAN AUSTIN: Thank you.

MR. CONINE: Appreciate it.

(Sound of electronic timer.)

MR. CONINE: I guess my time's up. Cynthia Bast.

MS. BAST: Good morning, I'm Cynthia Bast of Locke, Lord. I'm here at the suggestion of Mr. Gouris and Mr. Hamby, requesting that the Board place an item on the agenda for the September 4th Board meeting. And it specifically relates to a property called San Gabriel Village, which received an allocation of tax credits in 2005.

The issue here is that in 2005 and 2006, after we had Hurricane Katrina and Hurricane Rita, we saw construction costs increase substantially. And so this

Board established a policy to allow projects impacted by that increasing construction costs to receive additional tax credits as a forward commitment.

What is happening with this particular project is that it is not being able to receive the benefit of those additional tax credits, despite significant increases in its construction costs, because of a very unique circumstance; and here's what happened:

When this application was submitted, the construction budget was approximately \$4.8 million. I can tell you that the final construction costs for this project were approximately \$5.8 million. So clearly there was an increase; it was about a 21 percent increase in the construction costs.

But when it became apparent that there was going to be a problem with construction costs after the hurricanes, this developer was proactive. And what he did is, he said, "Let me try to reconfigure my site to be able to fit within the tax credit allocation that I have received."

So he submitted an amendment request to do that. And the amendment request was approved. At the time you submit an amendment request, there is a re-underwriting; so a new underwriting was done, and said,

"Yes, we see this, and these construction costs we expect will be about \$5.6 million."

And so the amendment was approved by this Board, and then after that amendment was approved, the Board approved the policy to allow the additional tax credits for the construction costs increase.

And what that policy said was, "We're going to allow these additional tax credits, assuming a 14 percent increase in construction costs."

But it is based upon the last underwriting report. So because this project submit was trying to be proactive and address this concern, submitted an amendment request before the policy was passed, it therefore had an underwriting report at \$5.6 million.

So now with the \$5.8 million actual construction cost, it's not being able to receive the full benefit of that policy which was intended to help these projects.

So in conclusion, we do have a project with a 21.7 percent cost overrun, due to direct construction costs. We want this project to be able to take advantage of this policy, and we would like this Board to consider this for this particular project at the next Board meeting.

MR. GERBER: Mr. Chairman, Staff is aware of this issue, and we would similarly recommend that if the Board so wish, that it be included on the September 4th agenda.

MR. FLORES: Mr. Gerber?

MR. GERBER: Yes.

MR. FLORES: Is this project 08059?

MR. GERBER: No, sir. This is --

MR. FLORES: What's the project number?

MR. GERBER: 05 --

MS. BAST: 05195.

MR. GERBER: -- it's a 2005 deal.

MR. FLORES: Okay, I've got three people talking at the same time --

MS. BAST: I'm sorry --

MR. FLORES: -- could I get that again?

MS. BAST: -- 05195, sir.

MR. FLORES: Thank you.

(Pause.)

MR. CONINE: That's on the binding allocation.

MR. FLORES: Wait a minute, now I got four answers so far.

(Laughter.)

MR. GERBER: Mr. Gouris, why don't you come

forward, and --

MR. FLORES: Explain that; we got '05 and '08 numbers --

MR. GOURIS: Tom Gouris, Senior Program Director for the Department. The application actually has two numbers. Because it got a binding --

MR. FLORES: Really help us out there, you know, giving it two numbers --

(Laughter.)

MR. GOURIS: -- yes. Because it got that binding agreement to provide funds in the future, it also received that '08 number. So it's the same -- that's in your list as an '08 transaction.

MR. FLORES: And the project on the agenda today is?

MR. GOURIS: It's not on today's agenda; it's in the -- it's on that list, because --

MR. FLORES: It's on the list [inaudible].

MR. GOURIS: -- it has a previous binding --

MR. FLORES: It's a binding agreement.

MR. GOURIS: Yes, sir.

MR. FLORES: And what she's talking about is an additional tax credit that would have to come up at the next Board meeting after being duly noticed.

MR. GOURIS: The tax credit amount has already been allocated for this transaction, what they're asking now is that it be finally provided in the 8609, which is something of a discussion that we would have in the next meeting.

MR. FLORES: We would discuss in the -- yes.
Thank you.

MR. CONINE: We'll take a -- put it on the agenda, we'll take a look at it and examine the merits of the case.

VOICE: Thank you, Mr. Chairman.

MR. CONINE: Steve Carriker.

MR. CARRIKER: Good morning, Mr. Chairman, members of the Board. My name is Steve Carriker and I'm the Executive Director of the Texas Association of Community Development Corporations.

We're here today simply to speak in support of the staff's excellent recommendation to you on the utilization of the Housing Trust Fund.

As you know, the Housing Trust Fund is practically the only significant money where the State itself puts into housing, and the Legislature this last session saw fit to increase that money over previous years.

We have had indications that the Legislature is very concerned about the housing situation in Texas, and sees the Housing Trust Fund as a place that they might possibly consider adding additional appropriations to next year.

And we think the recommendations the staff has made to you are excellent recommendations in terms of moving forward and showing real production and real value to the Legislature from the Housing Trust Fund.

I would just add that the Housing Trust Fund statutes creating it give you great flexibility as a Board in utilizing these funds. And that's very important. There are some rapid changes apparently going on in Washington, with the new Federal Housing Trust Fund; we don't know all of the things that will come out of that.

But it's almost certain that there will be new notices of funding availability for various federal programs; there will be resources available that have not been available in the past, and one of the ways in which states take advantage of those new resources is to be flexible with their resources that they may match them with, and may leverage those federal dollars.

The Housing Trust Fund is of course the very best place to get leveraging money for some of those

federal programs, as well as private dollars that become available from time to time from foundations.

We would simply urge that you do adopt the staff's excellent recommendations, and that you consider in the future keeping the Housing Trust Fund flexible so that you can quickly -- you and the staff can quickly react to opportunities that may avail themselves in the future, in the area of leveraging more dollars into housing in Texas.

Thanks very much; be glad to address any questions.

MR. CONINE: Thank you. Any questions for the witness?

(No response.)

MR. CARRIKER: Thank you.

MR. CONINE: Appreciate those kind words.

Barry Palmer.

MR. PALMER: My name is Barry Palmer, and I'm with the Coats, Rose law firm. And I wanted to talk to the Board for a minute this morning about one issue in the 2009 QAP that you'll be considering next month.

And that is, to look at the circumstances that we find ourselves in for the 2007 credit allocations that were awarded last year. At this time last year when the

credits were awarded, equity prices were at 96 to 98 cents. Then in January this year, credit prices started dropping substantially and they haven't stopped dropping; and anyone who didn't close their deal by December '07, now finds themselves with a dramatic decrease in the amount of equity for their project.

At the same time, construction costs have increased substantially; interest rates have gone up. The lending and investment community has tightened their underwriting standards such that they're requiring us to underwrite properties with higher expense levels.

So there are an unprecedented number, in my experience, of 2007 allocations that have not closed at this point, as we get ready to allocate the 2008 deals. Many of them, their tax credit investors have re-traded the credit price on several times; many of them, the tax credit investor has just left and has gotten out of the market.

I would say more than half of our deals have lost their tax credit investors at least once. So what do we do about that? Now, I know that you're going to be considering at the September meeting what to do with the additional credits that have been allocated to you, and that's one thing that I hope that you'll consider.

But there are going to be a lot of demands for those additional credits, a lot of considerations that you're going to have to look at, and in a number of cases, that may not be enough to help all of the '07 deals.

So what I'm urging is that the Board consider a more flexible policy towards amendments to tax credit applications for the 2007 deals than we've had in the past.

In the past, the Board has, in their QAP a fairly strict amendment policy, that doesn't allow many changes at all from what was put into the tax credit application.

And I'm suggesting that perhaps the Board allow additional flexibility to allow developers with 2007 allocations to find ways to make their deals work, making some changes perhaps; perhaps going to fewer buildings than what was in the original design.

Perhaps cutting the unit size on some units, but still make the project substantially the same project but with some changes that would allow them to be financially feasible.

Thank you for your consideration.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you. I have three letters, Board members, that will want to be read into the record, I'm not going to read them into the record but I'm going to tell you who they're from, and what the gist of them is.

One from José Menendez, advocating a forward commitment for the Sutton Homes project, 08190. One from State Representative Norma Chavez on -- supportive of a project in El Paso, Desert Villas, Number 08183. And one from Commissioner Todd Staples, supporting the Historic Lofts of Palestine project, Number 08085.

Those will be submitted for the record officially. I don't think I have any other witness affirmation forms for the public comment period. All the rest of them are going to be dealt with at the specific agenda item.

And at this point I think we'll take a ten-minute break and we'll come back in ten minutes. Thanks.

(Whereupon, a recess was taken.)

MR. CONINE: Will everybody have a seat, please.

(Pause.)

MR. CONINE: That's one way to drive everybody crazy. For your planning purposes, please note that the

Board will probably do an executive session at the lunch break for, you know, approximately an hour, 45 minutes, something like that, so I want to make sure everyone is aware of that; again for planning purposes.

We'll move on to the Consent Agenda. On our agenda, Item 1(a) under the Legal Division and 1(a) and (b) under the Community Affairs Division --

MR. GERBER: Mr. Chairman --

MR. CONINE: -- yes, sir.

MR. GERBER: -- if I could ask that we pull Item 1, the -- Item (a) under the Community Affairs Division off this agenda or if I could just have a moment to just explain what we're doing there.

We are going to make a change from what appears in your Board Book, as Ms. Rodriguez from the Community Action Agency Association referenced. There was originally intended, and what's in your Board Book, is \$1.5 -- there's \$1.8 million of --

MR. CONINE: Whoa, whoa. Why don't we --

MR. GERBER: -- I'm sorry --

MR. CONINE: -- deal with the rest of the Consent Agenda, and then you can explain --

MR. GERBER: Okay.

MR. CONINE: -- your -- the reason for pulling.

They're pulling Item 1(a). Any other movement on the Consent Agenda?

(No response.)

MR. CONINE: I would entertain a motion --

VOICE: 1(a) of Community Affairs.

MR. CONINE: -- 1(a) of Community Affairs has got pulled, so we're voting on -- we need a motion on 1(a) for Legal Division, and 1(b).

MR. FLORES: So move.

MR. CONINE: All right, there's a motion by Mr. Flores --

MR. CARDENAS: Second.

MR. CONINE: -- and second by Mr. Cardenas. I do have a public -- a witness affirmation form for Item 1(b), and that is Ken Martin.

MR. MARTIN: Thank you. My name is Ken Martin. I'm the Executive Director of the Texas Homeless Center. I just wanted to take this opportunity to thank you --

(Laughter.)

MR. MARTIN: Now can you hear me? Thank you. I want to take this opportunity to thank the Board and the staff at TDHCA for this opportunity to continue our long relationship with TDHCA, on ending homelessness in Texas.

We've been working with TDHCA for about 20

years now to try to end this terrible problem, and TDHCA of course is our biggest partner in this, and I just wanted to tell you a few things about the Balance of State Continuum of Care Process.

And it covers about 190 counties, and 19 entitlement cities that have not been successful in funding under the -- HUD's Continuum of Care program. We hope that this year is the winner for us and that we're able to get fully funded under this. We've been partially funded in the past, and we want to get fully funded this year.

There's about 12,000 homeless people covered by this -- the Continuum of Care, Balance of State Continuum of Care, and we want to provide housing, and supportive services, through this grant for those folks.

We know that supportive housing works; we know that it's safe, we know that it improves communities, and so we want to go in and help end homelessness and improve Texas communities, especially in the rural areas.

I really don't want to take up much of your time, so if you have any questions I'll be glad to answer them.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Thank you very much. Appreciate that. Any other discussion on the motion?

(No response.)

MS. CRAWFORD: Seeing none, all those in favor of the motion, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries. Now back to 1(a) under the Community Affairs Division, Mr. Gerber.

MR. GERBER: Mr. Chairman and Board members, I would just add as Mr. Martin is walking away, we have a great relationship with the Texas Homeless Network. They do an awful lot of work to support the Texas Interagency Council on the Homeless, of which TDHCA is the lead agency, and we're very pleased that they are going to be working to develop that continuum of care application to draw down funds from the federal Department of Housing and Urban Development.

For Item 1(b) if you'll turn to the table that is on --

MR. CONINE: Excuse me. Could we close that back door, please. Make sure somebody keeps that closed? Thank you.

MR. GERBER: If you'll turn to the table that's on page 3, for, under "Unexpended Administrative Funds," you'll see a total of \$1.8 million that's available. That was -- those are administrative dollars that the Department did not use because of efficiencies that we found in our process.

What we're proposing to do is, instead of giving \$1.5 million to the subrecipient network, make that instead \$1.2 million, and instead of \$300,000 for a NOFA for volunteer income tax assistance, which is to expand the use of the earned income tax credit, among community action agencies and the people that they serve, we're going to change that from \$300,000 to \$100,000.

With the \$500,000 balance, we're proposing to make that amount available to the community action agencies that are serving South Texas, dealing particularly with assistance to person who live in the colonias.

These will be emergency dollars available only to those community action agencies, and we will ask that they expend those dollars fully within a period of between 120 and 180 days.

That's the change, and we would ask the Board's concurrence.

MR. CONINE: Okay. Staff would recommend a change, based on Mr. Gerber's report. Is there any discussion, or a motion.

MS. BINGHAM ESCARENO: Move to approve.

MR. CONINE: Motion by Ms. Bingham.

MS. RAY: Second.

MR. CONINE: I hear a second by Ms. Ray. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: all opposed?

(No response.)

THE CLERK: Motion carries.

MS. BINGHAM ESCARENO: Mr. Chairman, I would just like to take the opportunity to thank Staff for the consideration. I'm representing the Valley; Dolly did hit us hard. Our colonias are in low-lying areas that are greatly affected by lots of rainfall, so we appreciate the consideration.

MR. CONINE: Thank you, Ms. Bingham, and look forward to hearing positive reports from putting these dollars to work down in that area.

Okay, Item 2(a), Mr. Gerber.

MR. GERBER: Mr. Chairman and Board members, the first Board appeal, Buena Vida Senior Village has been withdrawn, so the second appeal and the only appeal that's been timely filed is Washington Hotel Lofts, and Tom Gouris, Director of Real Estate Analysis and our Senior Program Director is going to present that appeal. Tom?

MR. GOURIS: Good morning, Tom Gouris, Senior Program Director and Director of Real Estate Analysis.

You should have a packet that has underwriting appeals timely filed, and if you go to the second one, we'll be talking about the Washington Hotel Lofts, Project Number 08184.

Does everyone have that? I have some extra copies with --

(Simultaneous discussion.)

MR. GOURIS: This is a development that is an adaptive re-use of an historic building with 36 general use units in Greenville, Texas. Staff is recommending the full amount -- full requested amount of tax credits for this development. However, the applicant is appealing three of the eight conditions in the underwriting report.

Condition 1, the 50 percent income restrictions; Condition 3, a private letter ruling that

we're recommending be obtained from the IRS regarding the validity of the proposed pass-through lease structure as a method to claim historic tax credits without reducing the housing tax credit eligible basis. And Condition 4, the site plan that requires 36 parking units.

The applicant has indicated to us yesterday that they are withdrawing two of those three appeal issues, so we are left with Condition 3, the private letter ruling. The underwriter identified that the applicant had included an amount of historic credits attributed to the rehabilitation of the residential units in eligible basis instead of deducting those amounts, as generally required by Treasury Regulations.

They had provided to the Department a general legal memorandum from Powell Goldstein, LLP, opining that under a lease pass-through structure, the tax credit eligible basis is not removed from basis, provided that certain conditions with regard to the lease structure are met.

I'll let them explain what those structures are, but you can see what the lease structure looks like if you turn to the underwriting report, page 3 of the underwriting report you can see the dual lease structure, as far as the organization goes.

There's an organizational structure for the tax credits and there's a separate organizational structure for the historic credits in this pass-through lease structure.

Staff has previously accepted this opinion from Goldstein -- from Powell, Goldstein, as the -- as a reasonable approach to looking at this kind of project. It's been difficult for us to get further clarification from the IRS.

The current transaction, the applicants in the current transaction have done three other transactions like this in Texas in the past two years, and in those cases we accepted that legal memorandum.

Since over the course of the last year we've gotten a little bit more direction from not only the IRS directly, which I'll speak to in a minute, but from several conferences that we've attended that have reiterated that historic credits should come out of basis, period. That this lease pass-through project has not been tested or confirmed by the IRS.

So we contacted the IRS and the folks that are in charge of the historic tax credit, and they told us that they've been recommending to folks whenever they go to conferences that all requests for a private letter

ruling should be made on this unique structuring to try to avoid the -- removing the historic credits from basis.

And so we are requiring as a condition of our underwriting that that private letter ruling be obtained.

The applicant on appeal has indicated that this would be a prohibitive amount of money to get to private letter ruling; it costs upwards of \$60,000. However, the sum total of tax credits at risk with this developer in Texas for the three other transactions that have not received 8609s thus far, is over \$25 million. And so we think the risk to the State of Texas is greater because we haven't actually -- we've allocated but we haven't actually issued the 8609s.

If the IRS comes back a year from now or two years from now and says, "No," in fact, it firmly says, "No, these aren't eligible credit -- you have to take these out of basis," those transactions would be in serious trouble. Foreclosure would be likely; the ability for the Department to maintain that affordability would likely be gone, and therefore we think this is an appropriate and prudent requirement, to have the PLR as recommended by the IRS.

MR. CONINE: I've got one question before we have another witness affirmation. What is the -- either

the percentage difference or the gross amount credit difference between including it in basis and not including it in basis.

MR. GOURIS: In other words, if we just took the historic credit out of basis right now?

MR. CONINE: Yes.

MR. GOURIS: I can get you that number in a second, but I do know we did the analysis and the transaction would not be viable without keeping it in basis, without keeping those historic credit value in basis. So if we took the historic credit out of basis, the transaction would have more for a developer fee than they could repay in the time constraints that we allow. So we wouldn't be able --

MR. CONINE: Yes.

MR. GOURIS: -- it wouldn't be financially viable.

MR. CONINE: I understand all that. I still want to know what the --

MR. GOURIS: I will get that --

MR. CONINE: -- okay. Why don't we allow Cynthia Bast to come up and speak; probably address some of her comments, as well as give me a number, after she speaks.

MS. BAST: Thank you, Cynthia Bast of Locke Lord representing the applicant on this underwriting appeal.

Mr. Gouris indicated that this project, the Washington Hotel Lofts in Greenville has been recommended for a credit award. Now, the only question that we do have before you is whether this applicant will be required to go to the IRS and obtain a private letter ruling as to the use of this particular structure.

Given the historic nature of this building, and the receipt of historic tax credits along with low-income housing tax credits, the use of these two tools together is very commonplace.

But besides being commonplace, it is also very complex. And so the tax professionals in this industry have spent a lot of time developing this structure that they believe works, for allowing the maximum benefit of the low-income housing tax credits and the maximum benefit of the historic tax credits to be able to be used for the property.

We do recognize, as Mr. Gouris indicated, that the Tax Code does say that the amount of the historic credits should be removed from the eligible basis for purposes of calculating the low-income housing tax

credits. However --

(Pause.)

MS. BAST: -- *Affordable Housing Finance* magazine, or on websites for national historic preservation organizations that talk about these kinds of projects, most of them do refer to a sandwich lease.

The sandwich lease has been approved by major syndicators, by their tax counsel who issue legal opinions under very rigorous standards, and by the accountants who do the cost certifications for these transactions.

As Tom mentioned, seeking a private letter ruling is an expensive process; it could cost, and burden this property with approximately \$60,000 or so. It is also time-consuming; it could take up to six months. Getting a private letter ruling on this transaction could create a significant delay that could jeopardize the ability to place in service on time.

The real parties at risk here are the syndicator, who might lose the credits; the tax counsel to the syndicator, who would be giving this legal opinion, and subjecting itself to possible claims; and the guarantors, who would have to pay the tax credit investor back if this structure is not implemented properly and the tax credits are not received.

If these parties can get comfortable with a multimillion-dollar investment using this structure without a private letter ruling, then I believe it's reasonable for TDHCA to get comfortable with it as well.

But nonetheless, I recognize your desire to ensure full utilization of the credits and financial viability, so let me give you a quick proposal for a way that I think we can compromise on this.

The underwriting report does require that at carryover, we submit an updated letter from our syndicator proving up our equity investment. We will agree that in that letter, we will have a specific reference to the sandwich lease, indicating that the syndicator has reviewed the structure, the syndicator approves it, the syndicator has review it with its tax counsel; the tax counsel has approved it.

And with that assurance at carryover, I believe the Department should be able to get comfortable with this, without imposing the extraordinary burden of a private letter ruling that is both costly and time-consuming. Thank you.

MR. CONINE: Any questions for the witness?

(No response.)

MR. CONINE: I have a couple.

MS. BAST: Yes, sir.

MR. CONINE: My understanding is, this same developer has -- we've done two of these, two others of these with him but the 8609s haven't been issued?

MS. BAST: That is correct.

MR. CONINE: Have we done any homework on the sandwich lease structure relative to other states and other projects, using this sandwich lease structure, and 8609s being issued on those projects?

MS. BAST: Yes, sir. Mr. Hollis Fitch from Fitch Development Group is here and he could address that specifically, because this developer does work in multiple states; they work in the Carolinas, they work in Texas, they work in multiple places, and have used this structure in multiple places and I believe have received 8609s using this structure in other jurisdictions.

MR. CONINE: How long has this technique kind of been around, so to speak?

MS. BAST: I believe it goes back probably at least ten years.

MR. CONINE: Okay. That's all the questions I have for the witness; any other questions for the witness?

(No response.)

MR. CONINE: Mr. Gouris, you want to come back?

MR. GOURIS: You threw me for a curve ball, you know --

MR. CONINE: Yes, I --

MR. GOURIS: -- you were, that -- I couldn't actually get into my -- to verify it but I think it's about 10 percent; but I can't verify that at the moment.

MR. CONINE: So it's a 90-10 risk, so the --

MR. GOURIS: It's --

MR. CONINE: -- credits that would potentially be disallowed are the last 10 percent or the first -- the last 10 percent of the credits, essentially.

MR. GOURIS: The last amount, I think is 10 percent --

MR. CONINE: In round numbers.

MR. GOURIS: -- yes.

MR. CONINE: Okay.

MR. GOURIS: I apologize; I wasn't expecting that question.

MR. CONINE: Have you done any research relative to this sandwich lease being used in other states and other 8609s, other states issuing 8609s relative to this?

MR. GOURIS: When I talked to the IRS, the IRS indicated that they had not seen 8609s issued on -- with

this structure; when I talked to the historic tax credit person, they said they had not, they'd been aware of this approach, but have not been comfortable with it, and have -- they were the ones that, you know, reiterated the suggestion that, you know, we need to get clarification.

You -- the industry needs to get clarification from us on this, that she did not believe that it was a viable way of doing it, and I felt like that was way enough information for me to recommend that we ask for the private letter ruling.

MR. CONINE: And what's our tax credit counsel telling you, if anything? Have you talked to him?

MR. GOURIS: I have not. I would imagine he would -- I can't --

MR. CONINE: Well, you can't imagine what he -- you better not say --

MR. GOURIS: Yes. You're right.

(Laughter.)

MR. GOURIS: Good point. This structure has -- from what I understand of it, the tools or the mechanisms that they're using are a code that exists that predates the tax credit code. But that this mechanism for doing the historic credit has only -- is only a relatively new innovation, because traditionally, historic credits have

been done with those historic credits coming out of basis.

It's real clear in any IRS presentations that are made that it comes out of basis. There's no exception to it. This structure I think has been around for maybe three or four, five years, and there's one particular practitioner who's very well known and very well-respected who has, you know, been promoting this methodology of getting both the historic credit and the entire eligible basis for the housing tax credit.

But as I said, as far as I could tell and as far as I could confirm with the IRS, it has not been tested by them to say that that's an acceptable method.

MR. CONINE: Okay. Any other questions of Mr. Gouris?

(No response.)

MR. CONINE: I mean, I -- from this Board member's perspective I think the risk is very small on the State side and I would, you know, it would seem to me like the modification Ms. Bast recommended, along with I think Staff doing some more homework relative to other states, because I'm not comfortable that we've done enough homework, really, with the other states yet.

It gets me a lot more comfortable with what they're asking to do. Mr. Hamby?

MR. HAMBY: Kevin Hamby, General Counsel. Mr. Conine, I'd remind you that, frequently, Texas is more in line with the IRS than other states are, and so therefore, the --

(Laughter.)

MR. HAMBY: -- proposal that Ms. Bast made, indicate -- the additional information would probably not give us any more assurance, because they're already taking the risk or else they'll drop out of the proposal; so they're saying that, "We accept this risk" doesn't really get us anywhere.

Our risk is the IRS getting upset with the State of Texas, not on this deal, but the overall program.

MR. CONINE: But the risk is, they disallow the 10 percent of the credits, not the whole 90 percent, not the whole 100 percent.

MR. HAMBY: But it's being out of compliance with the program.

VOICE: And it could be --

MR. CONINE: If they were to find that. You know, I think --

MR. HAMBY: We've already had conversations with them, that's what -- it's not a secret that we have a question about this deal.

MR. GOURIS: And again if the -- while the risk on the credit side is that small, perhaps, the fact that the transaction would no longer be financially viable might likely cause -- could cause a foreclosure, and if a foreclosure were to occur on this and the other three transactions, our LURA would be wiped out and we wouldn't just be losing that marginal amount of credit but we'd be losing the credit eligibility for those transactions entirely.

MR. CONINE: Again, to me that just flies in the face of, everybody else is doing it, quote, unquote, for the last ten years. And if you guys can't cite specific examples from states that are doing it, that have had 8609s issued and the applicant can, then in my mind we've got -- because I've seen tax attorneys out-beat the IRS a lot of times, on a lot of issues.

The IRS a lot of times doesn't know what's happening to it. So --

(Laughter.)

MR. GOURIS: I don't know that they have had 8609s issued, and they --

MR. CONINE: Well, we can find -- we can make our decision subject to that, can we not?

MR. GOURIS: Sure.

MR. HAMBY: I would also point out, Mr. Conine, if the concern is the \$60,000 on this particular deal, we do have other ways to ask for guidance. The IRS prefers to have a taxpayer private letter ruling, but we could actually expend the funds and ask for guidance from the IRS on how these programs work. That makes --

MR. CONINE: Well, what I don't want to do, Mr. Hamby, is I don't want to re-invent the wheel. And I think the wheel has been invented, here; I don't think this is the first time a state allocating agency has dealt with this issue.

MR. HAMBY: I would --

MR. CONINE: In fact, we've dealt with it --

MR. HAMBY: -- call to your attention a law firm in Dallas that issued an IRS opinion on what a good tax issue was, that has since been out of business because the IRS invalidated that opinion and shut down the firm.

MR. CONINE: Well, that happens occasionally --

MR. HAMBY: And hundreds of millions of dollars were lost in that transaction.

MR. CONINE: That's probably not relevant to this discussion, but that does happen occasionally.

MR. HAMBY: Well, it's an issue --

MR. CONINE: On the other hand --

MR. HAMBY: -- of an IRS opinion by a tax attorney.

MR. CONINE: Yes, Mr. Flores?

MR. FLORES: Mr. Chairman and Gouris, Tom Gouris, we have a timing issue here though, if we go into rulings and so on, it looks like, do we not? I mean --

MR. GOURIS: Well, our recommendation was that they would --

MR. FLORES: -- from something someone said.

MR. GOURIS: -- we talked to the IRS; we think it's a six-month process from their perspective. We gave them a year. And so we think that within the year, that they could achieve this private letter ruling timely.

MR. FLORES: Well, I disagree with my colleague, here, the Chairman of this Board, that, you know, we ought to be taking a risk on behalf of the developers, and I still think that we'd be sticking our neck out, and we ought to go ahead and deny the appeal, and go along with the staff on that basis. So, if anybody has any --

MR. CONINE: Any other --

(Simultaneous discussion.)

MR. CONINE: -- discussion?

(No response.)

MR. CONINE: I'd entertain a motion.

MR. FLORES: I move to deny the appeal.

MR. CONINE: Motion made by Mr. Flores. Is there a second?

(No response.)

MR. CONINE: Motion dies for lack of a second. Do we hear another motion?

MS. BINGHAM ESCARENO: Mr. Chair, I'd like to make a motion that we approve the appeal but with the condition that the party provide a valid example of where this has been used successfully?

MR. CONINE: Along with the 8609?

MS. BINGHAM ESCARENO: Yes, along with the 8609.

MR. CONINE: Okay. There's a motion by Ms. Bingham, is there --

MS. RAY: Second.

MR. CONINE: -- there's a second by Ms. Ray. Any further discussion?

MR. FLORES: Mr. Chairman, a little clarification here. Is there a timing specified for this proof? In other words, is it due in a year or a day or what?

MR. CONINE: Maker of the motion, can --

MS. BINGHAM ESCARENO: We'll look to staff recommendation on that.

MR. FLORES: Somebody give me a time. What's reasonable?

MR. GOURIS: My -- well, my presumption is, if it has been done, they would be able to get that proof pretty quickly, so I would say --

MR. FLORES: Within a day?

MR. GOURIS: -- at least -- well, at least by the time the commitment's done, so, you know, within the next 30 days they should be able to provide that.

MR. FLORES: Thirty days?

MR. GOURIS: Alternatively, the next kind of point would be, commitment -- or carryover --

MR. FLORES: Carryover.

MR. GOURIS: -- which would be November, which would still provide enough time to reverse, and get the appeal, or if they can't provide that in time.

MR. CONINE: I think carryover probably makes a lot of sense.

MS. BINGHAM ESCARENO: I'll amend my own motion to, within the timeline of, prior to carryover.

MR. CONINE: Any further -- does the seconder agree with the amendment?

MS. RAY: (No audible response.)

MR. CONINE: Okay. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Okay. That was fun.

(Laughter.)

VOICE: But we're done.

MR. GERBER: Mr. Chairman, that's all the underwriting appeals that have been timely filed, so now we move to Item 2 -- I'm sorry.

MR. CONINE: I have -- were you going to 2(b)?

MR. GERBER: Yes, sir. Northside Apartments.

MR. CONINE: All right, go ahead.

MR. GERBER: Two(b) and Robbye Meyer, Director of Multifamily will present.

MR. CONINE: That's probably the most excitement we'll have all day.

(Laughter.)

MS. MEYER: Chairman, Board, I'm Robbye Meyer,

with -- the Director of Multifamily Finance. Multifamily divisionally has one appeal remaining, and that is for the Northside apartments.

This application was terminated because the submission of the application did not include critical information for staff to review the application for threshold and underwriting.

At the June 26th meeting the Board allowed the applicant an additional two weeks to turn in the necessary information to enable staff to review the application. The applicant did not submit all of the required documentation, and some of that critical information that was not provided is the USDA financing commitment, the financing structure, and sources and uses.

And the Department still has not received the information necessary to meet the threshold and the underwriting requirements pursuant to the Qualified Allocation Plan and rules and the Real Estate Analysis rules.

This application has not met the requirements of the program, and allowing this applicant to remain active circumvents the readiness to proceed requirements and the competitive process of the program. Further, it will negatively affect applications that have provided the

appropriate information for the Department as readiness to proceed.

MR. CONINE: Okay. I have a witness affirmation form, David Marquez. And he's got some time allocated to him by some other folks, so you've got five minutes.

MR. MARQUEZ: Thank you, sir. Good morning, Mr. Chair, Board. My name is David Marquez. I'm here representing the Northside Apartments, 08147 in Weslaco, Texas, Hidalgo County.

Also with me today is the board chair, Mr. Eloy -- God, I'm sorry, I forgot your name, Mr. Chair. That's bad, starting out bad, Avila. And the president, Mike Lopez, of the Housing Authority.

We have in fact been before you before; we came back May 8th as an appeal, we were terminated then. What we have done is to continue to work; we went before you again June 21st. And so -- I mean, I'm sorry, July 21st.

And so we have continued to work, and we understand that we haven't met threshold with the USDA and that's what we're here for; that's what we're here to ask you to understand, and so far you have granted us that opportunity.

In that opportunity, we have continued to work

with the USDA and I have here 150-something emails that we have had between USDA Temple and USDA National. So because you gave us the time, we have continued; we went out and hired Nixon Peabody, we have Congressional members involved in it.

And so the most important issue of the day has been -- is that the bill was signed, the housing bill was signed, and one of the issues that was brought up with the Board member Mr. Flores last time was a private letter ruling that was going to take a year, year and a half.

Now, due to that House bill that was passed, the General Public Use Rule clarifies that a building meets the General Public Use Requirement if occupancy of the building is limited to individuals who have special needs, or members of a specific group under a federal or state program or policy that supports housing for such a specific group; or involved in artistic and literary activities.

We feel that because of the general purpose ruling, we could not get the activity from USDA that was required; they kept on coming back and saying, "No, you need a private letter ruling, we're not going to give you what you need," and so now also in the bill there is passed under the Rural Housing Services which our 515

program is under, which requires the Agricultural Secretary to take action to facilitate timely approval of requests to transfer ownership or control Section 515 projects, "For the purpose of rehabilitation or preservation."

Well, I don't need to tell you that this is 289 units, in Hidalgo County, representing some 1,200 people that live there. So I don't need to tell you the need that's there.

But what we are asking, and I'm going to read this so I can say it right, but "We respectfully request the Texas Department of Housing and Community Affairs Board allow the application for TDHCA 08147, Northside Apartments to continue through the underwriting process in order to permit the applicant to work through the necessary issues with USDA National.

"We understand we are not in line for 2008 allocation; however it is essential to continue the process with USDA in order to work through some of these issues and possibly receive a 2009 forward commitment.

"Due to the support given to the applicant by this Board, we feel USDA is inclined to move forward, as evidenced by the over 150 emails received to date. Keeping this application alive will keep this USDA matter

in the forefront."

And I have to tell you, they're not the easiest people to work with; I was at the TAP conference, and I kept on asking if USDA was at the conference. Unless I missed them, they weren't here.

So we have two other applications that are in the Valley along the Border that we're bringing next year, so we feel that these issues that we're addressing now are going to continue through the process.

So that we ask that we continue this at least until September 7th -- I mean, September 4th.

MR. CONINE: Questions of the witness?

MR. GERBER: Mr. Marquez, if I could ask you. You've received a letter recently from USDA that indicates that they are -- my understanding is that a letter's been received by you that informed you that the application is not -- is it being considered?

MR. MARQUEZ: Well, I have an email from USDA that says, "Under C.F.R. 3016.25," no. I have not received one either way, if that's what you -- am I answering your question?

(No response.)

MR. MARQUEZ: But the big issue was, what to do with the previous grants and the previous money on the

515. And now because we have actual -- a ruling that says that they can't actually discuss it and move forward with it, we feel that they're more apt to do it.

The other issue is the general purpose rule, was brought up by USDA Temple. And it was brought up to your folks. And so we feel that because they thought that they had ground to stand on, that they weren't going to do anything because of that. But I think we've passed that.

And so the emails that have gone back and forth between our attorneys, between Congressman Hinojosa's office, we now have a meeting being set up right now with the Undersecretary, Tom Doerr, in D.C., and I think all we're asking for is the opportunity to meet with him.

I mean, we're going to get somewhere I think before your September 4th meeting, and that's what we're asking for. And if you've been with us this long, and I know that many of you all know that this is an issue with USDA but particularly along the Border, we just ask that you hang in there with us one more time.

We don't want to mess up the allocations that are -- already been delivered; we understand that. But we as an applicant did everything that we're supposed to; it's just USDA has not responded. And they didn't respond because they didn't know what to do with the \$5.4 million

grant, and they didn't know what to do with the general purpose clause.

So we're asking again to work through that.

MR. CONINE: Any further questions of the witness?

MR. FLORES: Mr. Chairman --

MR. CONINE: Mr. Flores.

MR. FLORES: -- a question for the staff. When we postponed this for 30 days, did that take care of things or do we have to act on it today? Postpone for -- not 30 days but the next meeting.

MR. GOURIS: We -- you know, we could continue to postpone the issue. I think it would -- not beyond, I mean, it's not being recommended because they can't be underwritten at this point, because we don't know how it's going to come out.

If you'll recall at the June meeting, Staff was asked if we could underwrite it if they got information to us by a date certain, and they weren't able to do that, and we weren't -- so we weren't able to move forward.

That was the appeal for the termination, and this is a continuance of that appeal for the termination.

But if it was continued further, it would just stay on the, "Not Recommended" waiting list I suppose, and, you

know, nothing else would happen.

MR. CONINE: Mr. Flores, Mr. Hamby wants to tell you something --

(Simultaneous discussion.)

MR. HAMBY: It probably would be the -- now that I've given up on Mr. Conine, I'm just going to --

(Laughter.)

MR. HAMBY: It would -- what you'd in essence be doing is saying, they're not being awarded today, but because you have to approve a waiting list today, typically the waiting list is every other application that's not been approved. So you would in essence be putting them on the waiting list and then continuing their appeal.

MR. FLORES: By postponing it we would put them on the waiting list?

MR. HAMBY: Well, you would probably put them on the waiting list because you're going to approve a waiting list today --

MR. FLORES: Yes.

MR. HAMBY: -- otherwise you'd have to reopen the waiting list on the September 4th agenda, but you would still not hear their appeal; you would hear their appeal on the September 4th, if it had worked out. The

other --

MR. FLORES: That's a complicated way of answering my question, but it sounds like you mean, if I postpone it, then I give him time to take care of his business in Washington, and then still give him an opportunity to -- give one last shot, at the September meeting --

MR. HAMBY: Well, because we have certain requirements statutorily and one of those requirements is that you approve a waiting list. And so if he wasn't on the waiting list and even if you granted his appeal, he wouldn't eligible to get any credits --

MR. FLORES: You'd have to postpone and put it on the waiting --

MR. HAMBY: -- just like Mr. Fisher's deal that he was discussing was actually terminated; it can't be put on the waiting list because it wasn't on the June 21st list, so it's done. And so that's why this one would be put on the waiting list.

DR. MUNOZ: And then it would have to be done when?

MR. HAMBY: It would be done at the next meeting, if everything -- if you all wanted to do it. You wouldn't ever have to touch it again, but if it were on

the waiting list, it would -- if funds became available, if this Board decides next month that you want to use the new influx of credits to go deeper into the list, it may make an impact.

So there are many things that -- the waiting list is going to be very important this year, because of the structure of the credits, some people may not be able to make their deals work, they may not get zoning, and so if you're not on the waiting list, you don't have a chance at the funding.

DR. MUNOZ: And Mr. Gouris, you said that there was a time specific, time certain that they were supposed to submit --

MR. GOURIS: At the June meeting, yes, sir.

DR. MUNOZ: When was that deadline?

MR. GOURIS: The 17th of July.

DR. MUNOZ: And if they were to remain on the waiting list for the next meeting, then what would be a deadline?

MR. GOURIS: I mean, yes, effectively they would remain active potentially until December 31st. The problem would be, would there be funds available. They score -- if they move forward with the process and could score what their score was, they would score higher than

some of the applicants that are getting funded -- that would be recommended for funding today.

So if they were put on the waiting list, you would have a difficult problem down the road, because if they actually were able to get this addressed, say, November 30th --

DR. MUNOZ: They could end up with a higher score than some --

MR. GOURIS: That we don't have any funds to allocate to them, and then you'd have to make another decision.

MR. GERBER: Mr. Chairman and Board members, if I could just interject here. There's a lot that's really worthwhile about this project, and it's hard to do development on the Border, and I certainly respect the opinion that's been expressed by Mr. Marquez and by others who support this development.

This information was due, having those commitments wrapped up -- they were due February 29th. The applicant has had a long stretch of time, by virtue of the generosity of this Board, to work through these issues.

And we know that USDA is tough; we're trying to work with them to see if we can figure that out. The

applicant will have the option to come back next year, as well. But there are a lot of very worthwhile projects that are not going to make it today, that did have their financing, you know, in shape for us to be able to do the underwriting.

I really feel for the applicant, and I know he's a noble person of good intent, but you know, this has been going on for five months, and I just point that out to the Board; it's -- I don't know what's going to appreciably change between now and -- it was supposed to be together at the last Board meeting, it got pushed off to this Board meeting, it's going to be pushed off to another Board meeting, and I'm just -- move the staff would stand by its recommendation, that --

MR. MARQUEZ: Mr. Chairman, may I --

MR. CONINE: No, you haven't been -- if you haven't been asked a question, so your time for public comment is over with.

Any other questions of either staff or the witness --

(No response.)

MR. CONINE: Seeing none, I would entertain a motion.

MS. RAY: Mr. Chair.

MR. CONINE: Ms. Ray.

MS. RAY: I move staff recommendation.

MR. CONINE: Move staff recommendation to deny the appeal. Is there a second?

MR. CARDENAS: Second.

MR. CONINE: There's a second by Mr. Cardenas. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All those opposed?

(A chorus of noes.)

(Laughter.)

MR. FLORES: My motion failed, Mr. Chairman. I move to quit this. And I move to postpone, then, the appeal until the September Board meeting.

DR. MUNOZ: Second.

MR. CONINE: There's a motion to postpone the appeal to the September Board meeting. Is there any further discussion on --

(Pause.)

MR. CONINE: It stays on the waiting list --

VOICE: -- until I can figure out what you're

trying to --

MR. CONINE: If they postpone the appeal, it stays on the waiting list. It's just a matter of fact.

(Simultaneous discussion.)

MR. FLORES: Nothing simple, Mr. Chairman.

(Laughter.)

MR. HAMBY: You will actually have to vote to put it on the waiting list, because it would not be -- it wouldn't currently be on the waiting list, because it's pending its termination hearing. So it's not technically an application at this point.

Because it concludes on the June 21st one so we can continue, and this would also have to have it added to the waiting list, so it can continue to move forward.

MR. FLORES: So are you suggesting that I --

MR. HAMBY: That you --

MR. FLORES: -- attach that to my motion?

MR. HAMBY: If you desire to, yes. I would suggest you add that to your motion.

MR. FLORES: I would postpone this project until the next Board meeting, and propose that it be placed on the waiting list.

MR. CONINE: Is there a second to that motion?

DR. MUNOZ: Second.

MR. CONINE: Second by Dr. Munoz. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All those opposed?

(No response.)

MR. CONINE: Motion --

Did you vote?

(No response.)

MR. CONINE: You didn't vote.

(No response.)

MR. CONINE: You voted no. Okay. The motion still does not pass, 3 to 3.

MS. BINGHAM ESCARENO: Mr. Chairman?

MR. CONINE: Yes, ma'am.

MS. BINGHAM ESCARENO: I'll make a motion to postpone this application just this one more time --

(Laughter.)

MS. BINGHAM ESCARENO: -- until the September meeting, and move to add it to the waiting list.

MR. CONINE: I think that was the motion we just voted on.

MS. BINGHAM ESCARENO: Oh.

MR. FLORES: We thought we'd convince you.

MR. CONINE: Excuse me?

MS. BINGHAM ESCARENO: Is it not significant that it's one more time, postponed? That there won't be another postponement?

MR. HAMBY: Or another extension.

MR. CONINE: I don't know if you can say that, since it's been postponed a couple of times --

(Simultaneous discussion.)

MR. HAMBY: I believe that was the motion that Mr. Flores made --

MR. CONINE: Yes.

MR. HAMBY: -- so as far as --

(Simultaneous discussion.)

MR. CONINE: That's how the Chair understood --

MR. HAMBY: -- losing side would have to --

MS. BINGHAM ESCARENO: I'll withdraw my motion.

MR. GERBER: Mr. Chair?

MR. CONINE: Yes, sir.

MR. GERBER: I would ask Mr. Gouris if the Board were to approve a motion to extend it, to set a date of August 15th or something along those lines to give you time to do the things that you need to do with it. Does

that --

MR. GOURIS: At present, they can't be underwritten because we just don't know how it's going to be applied. I find it hard to believe that we're going to be able to get that resolved in 15 days.

(Simultaneous discussion.)

MR. GOURIS: Well, if I get to the -- you have to turn it in by the 15th, I just find that -- and then we also -- we'd have about a week before the Board meeting --

MR. CONINE: Are you saying you can't underwrite in 15 days, or --

MR. GOURIS: No, if he has until the 15th to turn that information in, I find it hard to believe, one, that that will get clarified in 15 days --

MR. CONINE: Right.

MR. GOURIS: -- because there's a lot of issues that have to be addressed, and from our conversations with our statewide USDA friends, they're not much closer to any resolution on the subject.

But even if they were, and even if they got it to us by the 15th, now we're talking about a week's time to then digest all that information at the Department level. It's -- for it to go through our processes before it has to get posted and available for you all to

consider.

And at that point it would just be consideration of whether I guess they stayed on the waiting list for some future award.

MS. RAY: Mr. Chairman.

MR. CONINE: Yes, Ms. Ray.

MS. RAY: I speak against the motion for an extension --

MR. CONINE: Well, there is no motion, currently.

MS. RAY: No motion. I mean --

MR. CONINE: You're speaking against -- speaking for --

MS. RAY: I am speaking for the staff, not so much for the staff but in favor of the integrity of the process. To continue to allow this one project, even considering the dire need for housing in the Valley, even considering the absolute integrity of the applicant; to continue this appeal for this one project compromises the entire integrity for the entire State of Texas.

We have rules, we have deadlines. We have granted extensions on this. We recognize the problem with the USDA. We have problems with them all the time. They're not a good group to work with. But to continue to

grant an appeal on this particular case compromises, to me, the integrity of the entire competitive process of the program.

MR. CONINE: I would agree. It's still 3 to 3.

(Simultaneous discussion.)

MR. FLORES: Could we take this up after lunch?

(Laughter.)

MR. HAMBY: I was -- this is the only appeal on the list, so it would be the only one impacting --

VOICE: Well, as long as it's not going to be '08 --

MR. HAMBY: And as long as you're not awarding it today, it would not impact the list. So you could have time to think about the comments that have been made, over lunch if you so desire.

MR. CONINE: Is there a motion to postpone Item 2(b) until after lunch?

MR. FLORES: I so move.

MR. CONINE: Is there a second?

MS. RAY: Second.

MR. CONINE: Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

VOICE: Thank you, Kevin.

MR. CONINE: Going to Item 3. Mr. Gerber.

MR. GERBER: The Disaster Recovery Division on the progress of CDBG housing activities under Round 1 and Round 2.

Let me give you a quick update on Round 1. We're continuing to make good progress. To date, 229 houses have been replaced, another 69 are under construction, and there's details, COG by COG, city by city on page 2 of the six-page report that's in your Board Books.

Don Atwell is here to discuss the activities under Round 2, which is the \$222 million for the Housing Assistance Program that's being passed, a restoration program.

Let me just say real quickly on Round 1 and the progress we're making with the COGs, we have extended those contracts, and believe that they will fulfill the commitments of those contracts, and in many instances they are able to serve families at a slightly higher income

level than the housing assistance program that Don's going to speak about, is going to be able to.

So making sure that they use all those dollars is really important. So, they're moving through it, and we've got a good story to tell on that first \$40 million being administered by the COGs.

Mr. Atwell from ACS, why don't you work -- talk through your part of Round 2.

MR. ATWELL: Absolutely, thank you. Don Atwell with ACS. Good morning Mr. Conine, Mr. Gerber, members of the Board.

MR. CONINE: Hello, Don.

MR. ATWELL: You may remember last time I was here, last month, I had said that we would have the applications all mailed out by August 15th. I'm happy to report that actually all of the applications were mailed out the end of last week. So everyone has their application.

And that's actually created quite a response. There's been a number of calls to the call center, which is what we've been looking for. In fact Monday, which was the first day that had all of the applications out, we got as many calls on Monday as we typically get in a whole week. So that was good.

I'm also happy to report that the average hold time on Monday was only ten seconds. So people aren't waiting very long to have -- to speak to somebody.

We've also set up 120 appointments for people to come into the service centers and meet with the intake specialists to get their applications completed, and those appointments were actually just set up in the first three days of this week.

So having all those applications out there has really generated a lot of interest, which is something we've been looking for.

We've also shortened the application. You may remember that originally it was fairly long; in fact, 53 pages was the document that was sent out originally.

The application now is 14 pages, if you include the documents that go with it, it's actually 19 pages total. So I think that's making a real impact as well.

Currently we have 291 applications that are in process, that includes both the Sabine Pass and the Homeowners Assistance Program. We did the first home inspections last week; there were 19 homes that went out that had made it through the eligibility process, and the inspectors are going out and have looked at them, and those homes are now in the grant determination process.

We're also working through the environmental activities required by the program. The Sabine Pass floodplain noticing, there's two of those that are required; the comment period expired on the 29th, so a couple of days ago, so that's moving forward as well.

We have gotten the contractors selected; there were eight contractors that bid, for a total of 19 different RFP responses because some of the contractors responded to more than one of the RFPs. We've selected seven of those contractors, representing 18 of the actual RFPs.

There are 16 community events that took place through this Tuesday; there are another nine scheduled through the second week of September; that's where we're going out and actually meeting with folks in the community, getting them to either come in and fill out their application with our help, or just talking to them about the program in general. And both of those types of events have been successful.

We are meeting with HUD the week of the 21st to talk about environmental-related to HAP, so we're certain that moves forward through the process, and finalizing the process to work with Lone Star Legal Aid to make sure that people that have heirship problems are able to prove

ownership and able to move to the program.

So the most important thing in the next four to six weeks will be building houses, and just happy to report that.

MR. GERBER: And Don, the first homes will be built in Sabine Pass, starting what, next four to six weeks --

MR. ATWELL: Next four to six weeks. The thing that's the trigger is the release of funds by HUD based on the environmental waiting period.

MR. CONINE: Okay, any questions -- any further questions of Mr. Atwell?

(No response.)

MR. CONINE: If not, we thank you for your continued hard work and due diligence.

MR. ATWELL: Yes, sir. Thank you all for your support.

MR. CONINE: You bet.

MR. GERBER: I would add that we're also working with Don and his team on the duplication of benefits issue, to deal with gap financing questions that may still continue to exist with respect to Round 2 and we're working through those, and we'll probably have more information for you at the September 4th Board meeting.

Also related to just other aspects of the Disaster Recovery Program, in the City of Houston we continue to work with them on the \$40 million that they're administering and they have several -- they have submitted several requests for a payment that we're working through and verifying, according to HUD's process, and we expect reimbursement to be made shortly to them.

Harris County, similarly we are conducting monitoring visits and getting support documentation so that we have clean audit trail, and that we have all of the documentation we need in order to be able to make payment to Harris County.

For multifamily, as you know this Board awarded \$81.1 million to repair and rebuild seven affordable multifamily rental properties that were damaged or destroyed by Rita. And the construction, once completed will restore about 850 rental units.

To date, four of the seven properties have closed on their loans; the rest are expected to close on September 13th.

There's one property that has an issue and we're working through it, but if it does not close by September 13th, you'll be hearing more about it, because we need to move those dollars and move them along quickly,

and get those construction projects underway, and there were other properties on the waiting list. So if you're affiliated with that property, be advised.

On the FEMA Affordable Housing Pilot Program which is another program that we're administering \$16 million for, this is a program that's an alternative to the FEMA trailer, we have ordered 50 homes which are the "House in the Box" Heston [phonetic] Homes that are the alternative to the trailer.

That should be -- we put the purchase order in for those on July 7th, and they're expected to arrive within the next 60 to 90 days. And those will be disbursed to eligible applicants who previously lived in trailers but have now largely been moved to hotels and are on vouchers, throughout Southeast Texas. We have qualified families for those 50, and we're working with the City of Houston, and actually that's why Kelly [phonetic] Crawford's not here today, she's with several folks from the City of Houston, because we've wanted always to have an urban component of this, to see if this technology works inside a major city as well, in a concentrated group of homes.

And they're actually in New Orleans today looking at the home and making sure that it's consistent

with what the City of -- I'm sorry what the Harris County Housing Authority can manage. And they'll -- and that housing authority is, our intention is to have them manage that part of the program, and build anywhere between 20 to 40 of these homes in that community.

That concludes the Disaster Recovery part of it, unless there are any questions.

MR. CONINE: Any questions?

(No response.)

MR. CONINE: Okay, seeing none, we'll move on to Item 4(a).

MR. GERBER: Mr. Chairman, Item -- the first item, regarding Credit Pricing for Housing Tax Credits, this is an informational item. A copy of a brief write-up of the issue is in front of you, and as you know, over the last several Board meetings you heard testimony from developers, lenders and investors on concerns relating to syndication pricing.

Staff is presenting the Board with more information on this issue based on the survey conducted of 2007 tax credit properties -- I'm sorry, 2007 tax credit applications.

Syndicating pricing is the price that the syndicator or investor essentially pays the general

partner for one dollar of housing tax credits on a given development.

And as recently as 2006, prices could regularly be seen at 95 cents per dollar or higher. The impact of the syndication price is declining in that there is less investment into the property in return for the credits. That property must therefore find another source of funds, and in some cases, this has made developments less financially stable.

It's the 2007 applications that are most impacted by this pricing shift; over the last month, Staff has surveyed 58 2007 applications to gather more information on the actual impact of the credit-pricing decline, and Robbye, I don't know if there's any more information you'd want to highlight with respect to that item.

MS. MEYER: No, really, that's pretty much the bulk of it. But I would like to say that the credit-pricing average that we had on the survey of those 2007 deals, the average price now is 80 cents, whereas the average price of when they were awarded was 88. So there is a big decline, and I can see their uncomfortable-ness.

(Laughter.)

MR. GERBER: So we want to report this

information to you. I also wanted to, if I can just pull out for just a second, and make Board members who are not already aware of the passage of House Bill 3221, which was signed by the President yesterday, which institutes some pretty far-reaching housing legislation, and while that Bill's going to impact the Department and its programs in a variety of ways, and you've heard some testimony from witnesses this morning, and some of the provisions will require more immediate consideration by this Board.

In particular, the provisions relating to the allocation of housing tax credits, for this year potentially; on these provisions there are significant policy decisions to be made by the Board, and to help Staff in fully considering all the options and perspectives.

We are going to host a work group meeting solely for this purpose, to discuss the implications of that legislation, so that Staff can make some recommendations to this Board at the September 4th Board meeting.

That work group meeting, which everyone is invited to, is going to be on Thursday, August 14th from 8:30 to 4:00, here in Austin, and we will send that information on the LISTSERV as to the location of that.

And a detailed list of questions will also be released prior to that work group meeting, to ensure that the attendees are prepared and able to maximize the use of the group's time, based on the questions that we think we need answers to, to give you all some recommendations on what we do with that tremendous piece of legislation.

Moving to Item 4(b) Mr. Chairman, which is Presentation, Discussion and Possible Approval of Housing Tax Credit Amendments, I'm going to let Robbye Meyer, our Director of Multifamily walk us through those --

MR. CONINE: Tell you what. Before we do that --

MR. GERBER: Yes, sir?

MR. CONINE: -- I think it's a good place to stop for lunch. So why don't we go into Executive Session for the Board, for about an hour.

MR. GERBER: Okay.

Mr. Chairman and Board members, on this day, July 31, 2008, a regular meeting of the Governing Board of the Texas Department of Housing and Community Affairs held in Austin. The Board adjourned into a closed Executive Session, as evidenced by the following:

The opening announcement by the presiding officer or his designee that the Board will begin its

executive session today, July 31, 2008, at 11:58 a.m. The subject matter of this Executive Session deliberations is as follows:

A. The Board may go into Executive Session on any agenda item appropriate and authorized by the Open Meetings Act, Texas Government Code Chapter 551;

B. The Board may go into Executive Session pursuant to Texas Government Code 551.074 for the purposes of discussing personnel matters, including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee;

C. Consultation with an attorney, pursuant to Section 551.071, Subsection (a) of the Texas Government Code; or

D. Consultation with an attorney pursuant to 551.071(a) of the Texas Government Code, (1) with respect to pending litigation styled *Brandal v. TDHCA*, filed in state court in Potter County, (2) with respect to pending litigation styled *Rick Sims v. TDHCA*, filed in federal district court; and (3) with respect to pending litigation styled *The Inclusive Communities Project Incorporated v. Texas Department of Housing and Community Affairs, et al.*, filed in federal district court; or (4) with respect to

any other pending litigation filed since the last Board meeting.

(Whereupon, the Board went into Executive Session.)

MR. CONINE: We'll call the Board meeting back to order. Okay, I believe we stopped at Item 4(b). Mr. Gerber?

MR. GERBER: 4(b), Mr. Chairman --

MR. CONINE: Tax credit and --

MR. GERBER: -- Board members, the first Housing Tax Credit amendment is Southwood Crossing. Ms. Meyer, would you like to --

(Pause.)

MS. MEYER: Had to get clearance from our general counsel.

MR. GERBER: Always a good thing.

MS. MEYER: Southwood Crossing, 05199, Chairman and Board, this owner is requesting approve to reduce and reposition the number of buildings and substitute other amenities for some amenities that were originally proposed.

The number of buildings was reduced from 13 to 12 --

VOICE: I'm sorry, Mr. Chairman. I don't

believe I heard the statutory requirements, coming back in out of Session, that no action was taken.

MR. GERBER: Sorry, Mr. Chairman. The Board has completed its Executive Session of the Texas Department of Housing and Community Affairs on July 31st, 2008, at 1:00 p.m. No action was taken during the Board meeting, or no follow-up action is required.

Please continue, Ms. Meyer.

MS. MEYER: The number of buildings was reduced from 13 buildings to 12 because of an expansion of utility and drainage easements; at the owner's request, the city permitted a 25-foot utility easement to be moved from the middle of the property to the rear of the property, and the provider, the utility provider okayed the relocation but they had to expand it from 25 feet to 50 feet.

The expansion of the utility easement and the creation of the new drainage features reduced the site's usable area, thus requiring the need to combine two buildings into one, and reposition the buildings on the site.

The number of units in the net rentable area were not changed. The original -- the application originally proposed self-cleaning ovens, refrigerators with icemakers and storage rooms, worth 3 points all

combined, and foregoing these three items, they were not delivered, but the owner stated that they did supply R-15 walls and R-30 insulation in the ceiling, and those were a 3-point item in scoring.

The changes would not have affected the scoring or threshold qualifications for the application, and therefore the application for the award would not have been affected.

Staff recommends the Board approve the request with the assessment of appropriate penalties for implementing the changes before obtaining approval.

MR. CONINE: Okay. Hang on a second, I do have a witness affirmation form here, Barry Palmer.

MR. PALMER: Mr. Chairman, we also have Ike Akbari, the developer signed up to speak on this item, and if we could, we'd like to have him speak first.

MR. CONINE: Okay, and I see where someone else has yielded some time to Ike, so you've got five minutes.

MR. AKBARI: Well, I don't think I need -- Mr. Chairman, I need more than three minutes but I appreciate it.

MR. CONINE: Good, good.

MR. AKBARI: Mr. Chairman, member Boards, Mr. Gerber, first of all I want to thank you and thank the

staff for recommending approval of this. This is a project which was actually -- the credit was issued right before the Hurricane Rita, of course you remember, and then subsequently we had also received another Phase 2 for this project.

During our investigation at the time we were trying to do the plan and specification obviously we found out -- well, we knew there was a high-line, a high-voltage line of electricity, and you know obviously for the safety purposes, we tried to move that, and it took us, you know, a lot of negotiation with the utility company, we were able to accomplish that, to move that one to the end -- to the north part of this.

And also based on the city government, the city requirement that we had to add the additional easement for, you know, for providing some drainage. And obviously that helped enhance the project, and I want to mention to you also, none of the building has more than 12 units, and the only reason we originally had 13, the additional building probably was only because of this utility line to be in the center and it was not permitting us to have this building.

Therefore I again appreciate your recommendation. Also I would like to ask you not to

impose any penalties, and allow us to continue to work with the affordable housing and provide additional housings there.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Okay, thank you.

Barry, do you --

MR. PALMER: Hi, my name is Barry Palmer with Coats, Rose. I wanted to speak on behalf of the amendment and to urge the Board not to impose penalties in this situation. As we mentioned earlier, this was a project that was built in Port Arthur in the immediate aftermath of Hurricane Rita in 2005.

At the time that this project was built, the Board did not have the provision in its QAP that called for penalties for amendments that are done after the fact.

The developer thought that these were very minor changes, did not realize at the time that he had to come back for an amendment, and was focused on supplying replacement housing for Rita as quickly as possible.

And then after the fact, realized that an amendment was necessary, the staff has recommended approval of the amendment, but suggested possible penalties. Again, this whole concept of penalties didn't

come into the QAP until 2006, after this project was built, so I would just ask the Board to waive penalties in this situation.

MR. CONINE: Any questions of the witness?

Yes.

(No response.)

MR. CONINE: No? Okay.

MS. RAY: Mr. Chairman?

MR. CONINE: Yes, ma'am.

MS. RAY: I move that we grant the appeal, with no penalty assessment.

MR. CONINE: There's a motion on the floor by Ms. Ray, is there a second?

MR. FLORES: Second.

MR. CONINE: Second by Mr. Flores, any further discussion? Mr. Cardenas.

MR. CARDENAS: "Staff recommends," it says here, "Staff recommends the assessment of appropriate penalties." What are appropriate penalties?

MR. GERBER: Mr. Chairman, Board members, you have the option of up to a 10-point penalty for -- in this instance if you wish to assess one against the developer for failing to notify the Department prior to the change.

We -- the Board has assigned some penalties in

some instances, but in this particular instance, the Board -- we are recommending that the Board approve the changes and we are recommending, believing that the developer did know, that a penalty should be imposed.

I would also say that staff I think has also been -- we appreciate the fact that Mr. Akbari has been in a difficult spot on this deal, figuring what's going on in Southeast Texas.

MR. CONINE: Any other questions?

(No response.)

MR. CONINE: We've got a motion on the floor to approve with no penalties. Any -- all those in favor of the motion, signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries.

MS. MEYER: Chairman, Board. The next amendment on your list, Melbourne Senior Community 07203 has been withdrawn, so we will move on to the next one, The Canyons Retirement Communities, 07219.

This owner is requesting approval to forego the installation of dishwashers in 35 of the units, and disposals in 27 of the units. To compensate for the loss

of the dishwashers and disposals, the owner states that the development will contain features that were not proposed in the application, including \$19,000 expansion of the original area for a coffee bar, and the furnished fitness center.

The owner states that the request will -- to withhold the dishwashers was made to conserve cabinet space, and kitchen area; the average size is only 25 square feet, and there's only five feet of linear counter space and cabinet space.

Although the Property Condition Assessment did not include the installation of dishwashers and disposals, the owner did sign a certification at the time of the application, assuring delivery of those threshold items.

Staff recommends the Board deny the request because installation of dishwashers and disposals is a threshold requirement, and the application would have been terminated without the owner certification.

MR. CONINE: Okay, I've got, it looks like one witness affirmation form, Charles Shelton.

MR. SHELTON: Chairman Conine, members of the Board, thank you for giving us this opportunity. I'm Charles Shelton, I'm Vice President of Sears Methodist Retirement System, which is the general partner in the

limited partnership that will own this project.

To give you just a very thumbnail background on this project, this is a building that was -- the youngest part of the building is 70 years old; the oldest part is 90 years old. It's a seven-story building that housed the Northwest Texas Regional Hospital up until 1983, at which time the hospital district sold the building to the Evangelical Lutheran Good Samaritan Association, which converted it to a market-rate retirement housing community.

In 1993, the Good Samaritan folks gave that building to the Sears Methodist Retirement System, in lieu of closing it down because they were not able to operate it successfully. We operated it very successfully until -- as a market-rate retirement community until 1998, at which time we had opened a new retirement community in Amarillo, and we moved people who did not qualify for affordable housing out to our new community, and converted The Canyons to an affordable housing project.

The Good Samaritan people had one floor of a nursing center in the building, 60 beds; we received a block grant from the City of Amarillo that enabled us to convert that floor back to apartments.

But you can imagine the complexity of doing any

kind of major renovation in a hospital that's been converted to a retirement community, and that is 70 to 90 years old.

We did submit the waiver request. There are 111 units in this building, and when the architect got into his design work, he found the issue with the disposals and the dishwashers. And so they're two separate items, that we are requesting a waiver for here.

As was noted, the average size of the apartments in question is 425 square feet. The rents on these units range from \$290 a month to \$520 a month. And the kitchen space is just 25 square feet, with only five linear feet of counter space.

The dishwasher would take up two linear feet of under-the-cabinet space, under-the-counter space. The existing wall that has the plumbing and the electrical does not have enough linear feet to enable the installation of the dishwasher and the disposal, so we would have to provide -- we would either have to build more wall space and move plumbing and electrical, or we would have to provide a portable dishwasher for this space, which presents a major problem considering the fact that our clientele are frail, elderly people and they would have to connect and disconnect every time they use

the dishwasher.

And if I may, just one other fact that I would like to call to your attention: We do provide meal service, one hot meal every day, to those residents who elect to take it, and the vast majority of them do. And so this eliminates largely the use of dishwashers and disposals in the unit.

So we respectfully ask you to approve our waiver.

MR. CONINE: Questions for the witness.

(No response.)

MR. CONINE: I have one question, I think. At least one. Dishwashers I kind of understand in certain cases. On disposals, I have a hard time understanding. Tell me what the problem there is.

MR. SHELTON: All right. The problem is that in some of these units we are having to use what is called a Pullman kitchen; it's a self-contained unit that has the sink, the under-the-counter refrigerator and the range. And to put -- they're not available with a disposal, and to -- we could modify them and put disposals in them, but it would void the warranty on the units themselves.

And so we feel it's not a prudent business proposition to void that warranty.

MR. CONINE: Okay. And the one comment for staff if I might; it would be helpful for this Board member if we had some, like, little architectural renderings on what they're like now and what they, you know, what the problem really is, because there's nothing in here, other than just telling me it doesn't fit.

There's nothing I can visually look at. So when you get floor plans, it would be helpful from now on.

Thank you.

MR. SHELTON: Thank you.

MR. CONINE: Any other questions of the witness?

MS. RAY: Mr. Chairman --

MR. CONINE: Yes?

MS. RAY: -- the only other question I would have of the witness, and you might not be the one to answer this question, but the certification that was given at the time of the application that these items would be provided, how did that get out of sync with what we're absolutely able to provide?

MR. SHELTON: If my memory serves me correctly, the certification was omitted in the initial application and was corrected subsequently, and then we discovered the problem when the architects dove into the project and

began doing the extensive detail work to determine what was going to have to be done to the units to make them serviceable.

MR. CONINE: Okay. Any other questions of the witness?

(No response.)

MR. CONINE: I'd entertain a motion.

DR. MUNOZ: Mr. Chairman, I have a question.

MR. CONINE: Sure. Dr. Munoz.

DR. MUNOZ: Is it possible to make a motion that would grant their request for a waiver and assess penalties? This is different than Staff --

MR. CONINE: Well, they're doing it ahead of time here, and I would guess that because they're doing it ahead of time, that probably wouldn't meet our penalty proposal, because a penalty's dealt with after the fact.

DR. MUNOZ: Okay.

MR. CONINE: But I tend to see the extenuating circumstance here. Because it's an elderly population I think I'd be favorably inclined on this one.

DR. MUNOZ: All right.

MS. RAY: Mr. Chairman?

MR. CONINE: Yes?

MS. RAY: We've had this discussion before on

elderly projects and the extreme small number of square footages in the apartments would leave me to move that we approve the request, on the part of the developer.

MR. CONINE: Motion to approve the request. Is there a second?

MR. CARDENAS: Second.

MR. CONINE: Second by Mr. Cardenas. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Okay, moving on to Item 4(c).

MR. GERBER: Mr. Chairman and Board members, there are five extension requests that are before you today. Four of the extensions are for the submission of documentation for commencement of substantial construction. All four have received previous extensions from December 1, 2007, to May 30, 2008.

All have now submitted the documentation, and are under review. They are, Hanratty Place, which is

requesting that the deadline be extended to July 3rd, 2008, Vista Pines, which is -- I'm sorry, Vista Pines, Legacy Senior Housing of Port Arthur, and Waco River Apartment Homes, are all requesting that the deadline be extended to June 26th of 2008, and Staff is recommending that the Board approve all four requests.

MS. RAY: Mr. Chairman?

MR. CONINE: Ms. Ray?

MS. RAY: Is there a public comment?

MR. CONINE: There is no public comment.

MS. RAY: I move staff recommendation.

MR. CONINE: Move staff recommendation. Do I hear a second?

MS. BINGHAM ESCARENO: Second.

MR. CONINE: Second by Ms. Bingham. Is there further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: all opposed?

(No response.)

MR. CONINE: Motion carries. I believe we tabled Item --

MR. GERBER: Mr. Chairman, we still have two more items on that --

MR. CONINE: Oh, we do?

MR. GERBER: -- agenda item, Villa Main Apartments has actually been removed from the agenda --

MR. CONINE: Right.

MR. GERBER: -- the last request is from Mariposa Apartment Homes at River Bend, they're requesting extension of the deadline to submit the documentation of cost certification, from July 1st, 2008, to August 15th of 2008, and Staff is similarly recommending that the Board approve the request.

MR. CONINE: Do I hear a motion?

MS. RAY: So move, Mr. Chairman.

MR. CONINE: Ms. Ray moved, is there a second?

MR. FLORES: Second.

MR. CONINE: Mr. Flores. Any further discussion on approving these?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries. Now we'll go back to -- we tabled Item 2(b) until after lunch, and for most of us it's now after lunch. Do I hear anything from the Board?

MR. HAMBY: I'm not the Board, but I will refresh your recollection on the Robert's Rules of Order on this.

We had two separate motions, one to deny the appeal, and that would take it out of the process altogether; that vote failed on a 2-3 motion.

And then we had another motion that was made subsequently, that would postpone it until the September 4th meeting and include them on the waiting list, and that vote failed 3-3.

And so what we ended up with this is, if anybody wants to make a motion, someone from the losing side of whatever motion you want to make, would be eligible to make a motion similar to the motion that failed.

MR. CONINE: Don't we need a motion first to put Item 2(b) back off -- take it up off the table?

MR. HAMBY: You picked it up off the table, that's your prerogative, whenever you brought it back up. But it would be a motion to reconsider --

MR. CONINE: Right.

MR. HAMBY: -- a motion, and then the motion.

MR. CONINE: Okay, that's what we're doing.

(Laughter.)

MR. CONINE: Okay, Item 2(b) is now back on the table. Do I hear a motion?

DR. MUNOZ: Well, being on the losing side of that, I move staff's recommendation.

MR. CONINE: Move staff recommendation to deny the appeal. Was there a second?

MR. CARDENAS: Second.

MR. CONINE: Second by Mr. Cardenas. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: Any opposed?

(No response.)

MR. CONINE: Motion carries.

All right, now we're back to Item 4(d).

MR. HAMBY: 4(d).

MR. GERBER: Mr. Chairman, this is the moment we've all been waiting for. Before I turn it over to

Robbye Meyer, I'd like to just take a moment to really commend Ms. Meyer and Tom Gouris, and I'd actually like to ask the staffs of REA and Multifamily to stand up and just acknowledge them.

On the REA team we've got of course Tom, Raquel Morales, Cameron Dorsey, Diamond Thompson, Sam Hoover, Tom Cavanaugh, Tom Kincaid, David Burrell, Pamela Floyd, Audrey Martin and Rosario Bunuelos [phonetic] who do extraordinary work --

(Applause.)

MR. GERBER: -- doing, underwriting these deals -- and on the multifamily side I'd like to, of course working with Robbye are Shannon Roth, Theresa Morales, Sharon Gamble, Jason Burr, Ben Shepherd, Kent Vidal, Elizabeth Henderson, Valentine DeLeon, Nicole Fisher, Liz Klein and Misael Arroyo, who do extraordinary work.

(Applause.)

MR. GERBER: Ms. Meyer, the floor is yours.

MS. MEYER: You have all of us to thank for that 1950 book, reading material that you've had for the past week.

MR. CONINE: And I've really enjoyed it.

(Laughter.)

MS. MEYER: I know you appreciate that, so I had to bring that up.

There was a couple of changes from the last posting, and the first Board materials that you received, and I'll go through those real quick. We had one application that withdrew, and it was 08284, North Eastman Residential, and the one that took its place in Region 4 Urban is 08262, Lakeview Apartment Homes.

And then I will explain how the rest of it works. Each year, the State is authorized a base allocation based on per capita population, and this year that base amount was \$47,808,760. In addition to that we add \$227,109 that was carried forward from 2007.

Texas also participates in a national pool which hasn't been announced at this time, but the national pool will be added to that base amount once it is announced.

But the current total for that base amount is \$48,035,869. As I mentioned in the training at the last Board meeting, the Board is required to set aside 15 percent of the State credit ceiling for at-risk developments, 5 percent of the State ceiling must be allocated to USDA developments, and that 5 percent is included in the at-risk set-aside.

And 20 percent of the developments -- 20 percent of the credit ceiling must be allocated to applications for developments in rural areas. These required set-asides are calculated based on the base allocation, including carry-forward and national pool, but does not include any returned credits.

The returned credits are returned directly to the region from which they were originally awarded, and the at-risk set-aside, that amount is \$7,205,380; the USDA amount is \$2,401,793. And the rural amount must equal or exceed \$9,607,174.

In contrast, the 10 percent federal, nonprofit requirement is calculated on the total ceiling, and this includes the returns. We had \$1,350,847 returned in credits from previous years.

These return credits have been attributed to each of the appropriate subregions, and the amount in that subregion has been adjusted accordingly. The total state ceiling available for 2008 is \$49,390,716. Therefore, the federal 10 percent set-aside amount must meet or exceed \$4,939,071. It should be noted that all the required set-asides have been met, to the extent that there were eligible applications available.

The USDA set-aside is \$31,037 short of that

requirement; however there are no eligible applications for that remaining amount.

The recommendations made by staff exceed the at-risk amount by \$188,350. This overage was deducted specifically to the statewide collapse so as not to affect any specific region, and we discussed these methods for reviewing these reports at the last meeting, but if you have any questions I'll be glad to answer them at this time.

A little more confusion (laughs). At the -- with the previous Board actions you had \$2,691,457 of additional credits from applications from 2005, that were awarded for increased construction costs, and you also have \$4,195,680 in forward commitments from 2007.

The final amount that the Board has to award today is \$42,503,579. And with that, Staff is recommending that you approve the list in front of you, and with one caveat, the approved list, any credits that are returned from this point through December 1st will be able to be credited to one development that is going to be short, and it is in Region 8 Urban, 08261, Towne Center Apartments, originally asked for over \$1 million and with the shortage in what's left over in the statewide collapse, at this point they're only going to receive

\$663,121 on an annual amount.

And we ask that we be able to take return credits and apply it to that, to make that deal whole, up until he meets the \$2 million test.

MR. CONINE: Okay.

VOICE: Robbye?

MS. MEYER: Yes?

VOICE: [inaudible] your recommendations?

MS. MEYER: There's two other recommendations: the waiting list, which is the applications that are not being recommended at this time, they will be on the waiting list; and as -- if there are, hopefully there won't be, but if there are already more credits returned during the year that we would move to those down that list.

And our third one is, in situations where any condition of the commitment notice is not substantiated by the required deadlines, approval to grant the commitment notices without first bringing them back to this Board for decision, and using the waiting list to award new ones, then bringing them back to the Board for subsequent ratification. And I think that's got all of them.

MR. CONINE: All right. We have a few witness affirmation forms.

(Laughter.)

MS. MEYER: Really?

MR. CONINE: Let me remind the witnesses that we're not doing forwards today. The first one I have is Richard Franco.

MR. FRANCO: Mr. Chairman, Board members, Mr. Director, good afternoon. My name is Richard Franco. I'm the CEO of the City of Corpus Christi Housing Authority.

I'm here to respectfully request a forward commitment of tax credits for D.N. Leathers Townhomes, Number 08194. D.N. Leathers Townhomes is named after a black schoolteacher and community leader during the era of segregation that prevailed in this country and indeed in the City of Corpus Christi.

The proposed development site historically was the black community of Corpus Christi. No new construction has taken place in this neighborhood since 1941.

Primary in our request is a need for additional affordable housing in our community. We are currently at 99 percent occupancy of all the housing stock that the Authority owns. Again, your utmost consideration in awarding D.N. Leathers Townhomes a forward tax credit commitment is greatly appreciated by the community we

serve. Thank you.

MR. CONINE: Thank you. Any questions of the witness?

(No response.)

MR. CONINE: Thank you.

Mark Shugrue? You good?

(No response.)

MR. CONINE: Charles Price?

(No response.)

MR. CONINE: Yes, that's Charles Price, City of Fort Worth?

(No response.)

MR. CONINE: Not here. Robert Burchfield.

MR. R. BURCHFIELD: I've given my time to Lee Burchfield.

MR. CONINE: Lee Burchfield.

MR. R. BURCHFIELD: Thank you, sir.

MR. L. BURCHFIELD: Afternoon, members of the Board, Chairman Conine and Mr. Gerber. My name's Lee Burchfield. I'll be speaking on behalf of Application 08208, Mansions at Briar Creek in Bryan, Texas. Yes, we're back again.

As most of you all know, this is our third year in front of you, trying to bring this project to the

elderly citizens of Bryan. Last year we did receive an allocation of tax credits but did have to return those credits due to the city politics within Bryan, we weren't able to meet the conditions of our commitment notice.

This year, however, the City is behind us. I'm pleased to announce that Tuesday of this week, the City Council had a special session voting the approval of our zoning, which will be the final reading of the zoning for this development, as well as the commitment of development funding required, which would be required under our commitment notice.

It's instructive to note that under that agenda item there were two developments being considered by the City of Bryan, the other being 08261, the Towne Center Apartments, which Ms. Meyer just asked an exception for. I do understand they were not voted for the development funding, and as such, will probably not be able to meet their conditions of commitment.

As you can see, we've done our work in Bryan and are ready to proceed with our development, and we have, you know, one small little issue and that's the opinion of the underwriting department that at the time the analysis for underwriting was completed, our deal does not underwrite.

Now, the contention with underwriting staff was that, the utility allowance schedule that we presented in our application was outdated and had been supplemented by the local PHA, as well as our operating expense factors that we used in our application were not agreed to by underwriting; they increased our expense factor.

So, you know, if you increase your utility allowances and you increase your expenses, of course that's going to have an effect on your debt. And you know, in this case it took a million dollars out of our sources. You know, in any deal here you take a million dollars out, it's not going to underwrite.

In the past, when we've had a discrepancy with Staff underwriting in the utility allowances used for their underwriting versus what we submit in our application, and in the expense factors that are used in the underwriting, versus what's published in the application. We're issued a deficiency notice and we're given a chance to respond.

In this case however we were not given that opportunity. The first time that we knew the discrepancy between the underwriting numbers and our application was when the underwriter called to let us know that the deal would not be recommended because it doesn't underwrite.

Now, when you're calling me and telling me I've got a gap in sources, what I'm going to do is go fix that gap, and that's what we do as developers. These deals are fluid in motion.

We immediately commissioned a site-based utility allowance study. What that site-based utility allowance study allows us to do is utilize utility allowance that would be germane to the specific development.

As you know, most public authorities are using a pool of developments that are 30 to 50 years old to generate an average utility base. So in this case, we go out and we commissioned a study that is specific to our development.

That study has been provided, as well now the final acceptance letter to the staff to use in the underwriting.

Also, we surveyed our market. The tax credit letters that were submitted with our application process was 82 cents. That's where the syndicators back in January decided that the market might be in June or the end of this last year. And you've heard testimony today, that's -- you know, that's where the average is.

Well, that fact of the matter is, we are above

average. We've closed a tax-exempt bond transaction in June where our tax credit rate was 87 cents; and in fact I just got an email this morning that, after closing, our lenders are actually going to go back and give us an extra cent, and we'll get 88 cents.

I understand the staff's position. As I understand it, you know, they've been given all this information: debt letters, equity letters, and, you know, we've pumped, over a million, I think \$1.3 million of sources back into the transaction.

But their position is, it just came in too late. And that they don't have a mechanism within the rules to allow them to utilize the new information.

The way we look at it is this: the underwriter did his job, but he used new information; he used a new utility allowance, he used new underwriting expenses, but you didn't look at the whole picture. I think if you're going to look at half the information you should look at all of it, the information that we provided.

You know, I pulled several of the approved tax credit applications for this round, and their debt letters are in the 6 percent range.

(Sound of electronic timer.)

MR. L. BURCHFIELD: Is that my five minutes?

MR. CONINE: Yes.

MR. L. BURCHFIELD: I'll try to wrap it up.

MR. CONINE: Good.

MR. L. BURCHFIELD: But if you can get a deal closed today at 6 percent, there's better developers out here than me; the average is 7, 7-1/2 percent, for debt.

For example -- sorry, I'll skip ahead. What we're asking for is twofold: One, to be either allow the Department, the staff to utilize the most current information. You all are aware of the economic conditions that we're in today, and they're underwriting two letters that are six months old. Those letters are invalid.

We've provided them with current close-able information to underwrite the transaction. Skipping, sorry -- so we would, you know, at the least either ask for the consideration for the staff to have the time to underwrite our transaction with our current information, or at the very least, a forward commitment for next year.

MR. CONINE: Any questions of the witness?

MR. L. BURCHFIELD: I would ask for some action, at least.

MR. CONINE: No action at this point in time. This is public comment.

MR. L. BURCHFIELD: Yes, sir.

MR. CONINE: Thank you.

MR. L. BURCHFIELD: Thank you for your time.

MR. CONINE: What did I do wrong now?

MR. HAMBY: You didn't do anything wrong, Mr. Chairman, I apologize. I'm sorry to interrupt, but I just wanted to clarify for the Board that discussion. That was an appeal that you all heard last month and you denied the appeal, they missed their timeliness to request a rehearing under 1.8, so that's -- that discussion, so if you wanted to act on that, you would have to put it on next month's agenda.

MR. CONINE: Okay. Thank you for clarifying that.

Mike Lankford?

MR. LANKFORD: I'll pass.

MR. CONINE: Pass? Wayne -- or hang on just a second; hang on. I have half of East Austin here on the Manor Road SRO --

(Laughter.)

MR. CONINE: Looks like about seven or eight witness affirmation forms; only three can speak at this point on the Manor Road SRO. Wayne, it looks like Hillman? Eliza May, Lynn Marshall, Nicky Metaine, Rodney Ahart, Eddie Guest, Skooter Cheatham, Sonny O'Gunroe, and

Steve Spear [phonetic]. Three of you can come speak.

MS. MARSHALL: I'm Lynn Marshall, two of the people have stepped out briefly. May I go get them?

MR. CONINE: You better hurry.

MS. MARSHALL: Okay.

(Laughter.)

MS. MARSHALL: I apologize for that;
[inaudible] across the room.

(Laughter.)

MS. MARSHALL: Shall I start?

MR. CONINE: Yes, come on. State your name, please so we'll know who you are.

MS. MARSHALL: My name is Lynn Marshall, and I am here on the Manor Road SRO case. And I am opposed to it, and I will explain why.

First I would like to say that the neighborhoods are really not NIMBY. They are very diverse; they have a diversity of housing types, of people, any way you cut it, it's a wonderful place to be.

We're being characterized that way I think unfairly, because we already embrace considerable diversity.

But the area where this project is being proposed is not the right area for this kind of project; I think it's ill-advised for it. It's a dangerous area; the

area on the margins there along Manor Road is a high crime area full of drug dealing, prostitution, assaults, robberies; just recently a few days ago somebody was pulled under the bridge who lives under a group home by two people who were hiding under the bridge, and beaten and robbed.

That's the kind of thing that people who would live there would face. We face this on a, you know, daily basis, we who are there living and working in the area, but most of us are not of the vulnerable population that this would serve.

As has been stated, housing should not add to your problems, and housing in this particular location would do that; it would add to people's problems. I had other things to say, obviously I have a lot of notes.

I have a cousin who's schizophrenic; I've seen things through that filter I guess because I help him with housing, I would not want him to live there even though it would be quite convenient for me to have him there, but right now he's having to move from the place where he lives, along I-35, because he's being predated upon, and that is a common problem in this area for people who are vulnerable.

I have a friend from church whose son moved to

the Manor Road area, a couple of blocks from where this project would be; he's a recovering substance abuser and alcoholic, trying to put his life back together. He left the hotel where he works and lives to move over there, and had to almost immediately move out because the crack dealers targeted him as a person recovering from substance abuse and went after him.

That will happen with anybody who lives there, I think, who faces these challenges. Housing is needed for people who need help, but again in my opinion, this is not the right place for it, and for that reason, I do oppose this project. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Number two?

MR. CHEATHAM: We're missing several of our speakers because they thought this was going to come up later. I'm Skooter Cheatham. Business owner of University Hills, a resident of Windsor Park for 28 years; and I guess I'm going to have to represent the various neighborhood associations, because some of those people like I said aren't here now.

I've got -- I was looking at the letter of submittal from Camille Paglia to Robbye Meyer, and she's

speaking on behalf of the Community Partnership for the Homeless, and submitted the application and said, "The approval of this application would create 110 units of highly affordable, house -- quality, affordable housing for homeless person in the Austin area.

"The site is an ideal location, this is located on a bus line in an established neighborhood near schools, shopping, and many employment opportunities."

One of the things that we wished would happen with community partnership that did not happen is that we'd just undergone a two-year, very difficult, neighborhood planning process to put out the University Hills-Windsor Park Neighborhood Plan. And there was plenty of opportunity, because the project was apparently in the works for quite a bit longer, but Community Partnership was not involved in that process, and came in after the process was completed, and proposed a project.

Had they more carefully studied the intent of the surrounding neighborhood, would have understood that the neighborhood statistically, and it doesn't matter what anybody said earlier, if you look at the data, we have closing schools just south of us, Johnston just closed, Pierce is on its fourth year of not making the standard, it's got one more year; Reagan is in the same process.

East Austin schools are on the downswing; we've lost businesses -- and Eliza May would have had the percentages for those; we've got a rising crime rate which was just publicized on the news in the last couple of nights; the police are trying to get some of that under control.

And our business area, the business are that's just down the street from this property, and catty-corner to the property is one of the four highest crime areas in Northeast Austin. And I think Lynn has already commented about that.

We have a loss of single-family homes, and so in the neighborhood plan, the intent for this project, which is this property is surrounded by single-family homes, was to increase the home ownership, because we'd gotten out of balance with the diversity of the neighborhood; we've got lots of rental units, in fact we've got 254 units within 500 feet of this property.

(Sound of electronic timer.)

MR. CHEATHAM: Am I over the time?

MR. CONINE: Yes, sir.

MR. CHEATHAM: Okay.

MR. CONINE: Please wrap it up.

MR. CHEATHAM: Okay. We think it's the wrong

model; it's too big, we feel like not getting into the things I was going to say, that we need to integrate our needy in the neighborhood, not segregate them in large populations like this. And we feel like we need to disperse citywide, not concentrate East Side.

And I didn't get into the East Side concentration, but that's it. Okay, I guess that's --

MR. CONINE: Any questions for the witness?

(No response.)

MR. CONINE: Thank you, Mr. Cheatham.

Appreciate it.

MR. CHEATHAM: Okay. Let me pass this out to you -- this has the record of opposition of all neighborhood and [inaudible] votes of associations not to support the zoning change or the funding, so --

MR. CONINE: Is there one other person that wants to testify out of this group?

(No response.)

MR. CONINE: Duane Hillman, Eliza May, Nicky -- LeVane, Rodney Ahart, Eddie Guest, Sonny O'Gonroe, and Steve Spear. Going, going, gone.

All right. Thought that was bad, we got 15 folks from San Angelo, half the town of San Angelo is here --

(Applause.)

MR. CONINE: -- again you'll have three people out of this group of 15 that can speak for Blackshear Homes: Antonia Gomez, Richard Baron, Terry Shaner, Rev. Craig Meyers, Lynn Springer, Peggy Tharpe, Rev. Fred Adams, Ronald Bailey, Jerry Laksi, Joe Johnson, Joe Johnson again -- he got counted twice, Dr. Loreno Johnson, Bob Salas, Shawn Lewis, Kathy Keene [phonetic]. Get ready to get to speak. Five minutes apiece if you need it.

REV. MEYERS: Could I introduce people that are coming just as a group, because --

MR. CONINE: Sure.

REV. MEYERS: -- they had to get up at 4:00 --

MR. CONINE: Why don't you state your name first.

REV. MEYERS: Craig Meyers.

MR. CONINE: Okay, Craig.

REV. MEYERS: They had to get up at 4:00 this morning, and about a day and a half to arrange their schedules to be here --

MR. CONINE: Okay.

REV. MEYERS: -- and you guys want to -- there's the group of 15.

(Applause.)

MR. CONINE: Thank you for coming.

(Applause.)

REV. MEYERS: I'm short. I'm Craig Meyers and I'm a resident of San Angelo, Pastor Emeritus, St. Paul Presbyterian Church, in San Angelo, a member of WTOS, which is a community-organizing group, and I've been involved for 25 years with most of the hands-on kinds of issues that deal with low-income housing, and neighborhood revitalization.

And I'd like to suggest there are four points to make very quickly about the Blackshear Homes proposal that indicate its validity as probably the choice of all of San Angelo are informed about the demographics, and the research and the needs of low-income housing, and neighborhood revitalization.

The first point is this: that the strength of this is that it's not a stand-alone project. That it's a project that's a part of a comprehensive strategic plan, that's included all the city agencies, all the not-for-profits that deal with housing, the neighborhood residents who are the target audience, who've come together to propose something that's transforming a whole neighborhood, and right now after only three years of this, it has favorably comparable results with virtually

any neighborhood revitalization program in the State of Texas, and the nation for that matter.

In that time, the housing stock in this neighborhood has gone up from 30 percent that was healthy, safe and was structurally viable, to 65 percent, which has included over 300 housing units, that have either been rehabilitated, new housing starts, or an apartment complex which was the worst project in the City of San Angelo with drugs, racial divisiveness, sexual abuse and gang activity, into a totally renovated project, that has about 200-plus units that are now safe, healthy, have new security cameras, landscaping, redone inside and out.

And this is because it was a collaboration of the not-for-profit, private enterprise, the City programs, funding from State, federal and local funds.

This not standing alone project is multiplied in terms of its dollar impact, many times over because of the work that's done to renovate the whole neighborhood around it.

The City of San Angelo has invested tens and tens of thousands of dollars on clearing land that had previously been overgrown havens for drug activity, dumping areas -- 65,000 pounds of solid waste has been removed. Twenty-five condemned properties that had been

on the condemned list for a long period of time have been removed in 12 months; 70 homes have been rehabbed, and these are specifically to allow the elderly low-income folks to remain in their houses.

And this is a project that has a surrounding umbrella that is extremely successful, remarkably so, and it is viable because it does not depend upon just one source of isolating a target population and removing them from the community, but making the whole community more livable.

It's sustainable, because a considerable amount of money, in the millions, has been dedicated in the immediate future and years ahead, to the continuation of this process. And that sustainability and viability and track record commend itself for consideration.

Beyond that, the most important thing is that virtually everybody who is involved in neighborhood revitalizations or low-income housing, is in support of this. The State Legislator from San Angelo, Drew Darby, appeared at the initial hearing -- or did not appear, but sent the administrative staff with an in-depth reason why he supported this program.

The Mayor of San Angelo has indicated that this project is the project that will most favorably impact the

low-income folks in San Angelo. The City Council has gone on record unanimously affirming that this is the project of choice for the City of San Angelo in dealing with low-income issues and neighborhood revitalization.

The City Manager --

(Sound of electronic timer.)

REV. MEYERS: Okay, I just want to list the people very quickly to close up, okay? The City Manager, all of the heads of the city departments, the Cosa Dice [phonetic] People of the City of San Angelo Community Development that oversees the sales tax allocations, the community development people who oversee the federal block grant funding, virtually all of the not-for-profits have had a hand of contributing to this, that deal with low-income. And the data for this project, this proposal came directly from face-to-face, house-to-house surveys of the needs of the community.

There is not this kind of uniform support in any project that I've ever seen, of all the people who are knowledgeable about the needs and the possibilities of San Angelo. Thank you.

MR. CONINE: Thank you. Any questions for the witness?

(No response.)

MR. CONINE: Witness Number 2 in this group?

MR. LEWIS: Good afternoon, Mr. Chairman, members of the Board. My name is Shawn Lewis, I'm the Director of Planning and Development Services for the City of San Angelo, and I'm pleased to stand before you in support of Project 8300, which as Rev. Meyers mentioned is the Blackshear Homes project.

Also I'll be speaking to the City's lack of support for one of the other projects that has been funded, tentatively, 8138. As Mr. Meyers said, we do have the support of City Council as well as the City Manager's office. It's very important to note three different points. First of all, no project, as has been mentioned, has received the type of grassroots, broad public support that the revitalization of the Blackshear neighborhood has enjoyed.

I was surprised this morning when I got to the parking lot, to find all these citizens, who, not solicited by the City, were here to come and speak in support of this. As has been mentioned, almost 30 residents at your last week's meeting were also here in support.

This is a true sign of support from the entire community from the neighborhood that's being affected, and

is I think a rare combination of City and local support.

Secondly, the City of San Angelo is firmly committed to this project in totality. First of all, regarding the revitalization of this neighborhood overall, with the 20 buildings that have been condemned over the last couple of years in this neighborhood, have been demolished through a partnership between the National Guard and the City of San Angelo.

We're committed to continuing to take down the worst of our housing stock. Secondly, more than half a million dollars in reinvestment has gone into this neighborhood in the form of infrastructure improvements. This includes street lighting, new sidewalks, street improvements that have benefited the entire area, and the City of San Angelo intends to continue to invest in this neighborhood.

Third of all the City has also partnered with nonprofits like the Galilee Community Housing Corporation, as well as Habitat for Humanity, to increase the housing stock in this neighborhood; but we are falling woefully short, and it's your support that can help change that today with the tax credits for this important project.

Also the City Council has earmarked \$200,000 for their support specifically for this project.

Significant, in my mind. Tens of thousands of pounds of unsightly waste as well as scores of junk vehicles have been removed through an aggressive code enforcement program, as well as our Dangerous Buildings program.

So clearly the Blackshear neighborhood and this project have the total commitment of the City of San Angelo. And last but certainly not least is the issue of land use and suitability of the other project that's proposed for funding in this round, the other project 8138.

Regarding the land use in this area, San Angelo has a large number, a high number relative to our population, of senior housing projects in the city. With that in mind, and the fact that a number of those senior housing projects are located in the river area close to our downtown, where Project 8138 is slated to be built, we feel like from a planning perspective and from the City Council's goal statements as well as our comprehensive plan, that adding to more senior housing in the area of the river and downtown, simply makes our housing stock in that area homogenous.

Obviously as you know, to build viable neighborhoods, we want to have a diversity of housing stock for multiple age groups, and not be age-specific

with regard to our housing stock. We are getting to a tipping point to where that excess housing stock for seniors is starting to cause problems in terms of getting more reinvestment in our downtown area, as well as the riverfront properties.

So in conclusion, the City Council and the City Manager's office and the entire City of San Angelo supports the Blackshear Homes project, and we also want to share our lack of support for the other project in San Angelo, which is currently slated for funding. Thank you.

MR. CONINE: Any questions of the witness? You have one, Counsel?

MR. HAMBY: I have one off-line.

MR. CONINE: Off-line, okay. (Laughs). Any questions?

(No response.)

MR. CONINE: I think you're number three.

MR. ADAMS: Hello, my name is Fredd Adams, I pastor of St. Paul Baptist Church, in the great City of San Angelo, Texas, also a member of West Texas Organizing Strategy.

I live in the Blackshear area. Just off the top of my head I know that there are at least five developments in the City of San Angelo that have been

constructed with the elderly in mind. I would like to just say to the Board that due to our walking the neighborhood and establishing relationships with the seniors of the neighborhood, canvassing -- their concerns, that most of them take a lot of pride in the area in which they live, especially their homes.

These are homes where they've raised their children, these are homes where they watch their grandchildren play, and so they would like to stay there in that community.

What we are hoping to see happen is to add a crown jewel to something that very few cities have been able to accomplish, and that is true neighborhood revitalization.

I'm not talking about putting up a high-rise, I'm not talking about putting a couple of houses on a couple of different streets and saying that we revitalized the neighborhood; but what I am saying is, going in and revitalizing, actually giving that neighborhood a makeover, a complete makeover, from what it was to what it should be, which is what it once was if that makes any sense.

There was a time when we were all proud of our neighborhoods, but due to circumstances, children moving

off and whatnot, a lot of times the neighborhoods would go down. But what the City of San Angelo has been able to do collectively, leadership and citizens is to come together and to actually redo the Blackshear community, and to open up funds so that we can put more houses in that community, would be as I said a crown jewel in neighborhood revitalization.

We have worked very hard in establishing relationships with the people of that community, and I feel very comfortable in saying that we know what it is that is needed. This is not about taking property in a deprived area of the town and then building housing that cannot be afforded by the people that make up that area, so much as it is affording the individuals that have spent a lifetime there, that have invested a lifetime there, in their homes, in their families, affording them the opportunity to stay there, with pride, and to remain in the neighborhood that they have made their lifelong investments in.

And so I would ask that you would seriously consider the words that I've spoken; as I said we have worked very hard in establishing relationships with the seniors of that community; we have walked, we have talked, and we have come together for the first time.

I pastor a Baptist church, and I've never seen a congregation completely agree on anything; but the citizens of San Angelo and the leadership of San Angelo all agree that we do want to continue with that endeavor in neighborhood revitalization and that those funds would be better used for that purpose as opposed to another senior citizen -- yes.

(Laughter.)

MR. CONINE: I can't say that I've ever heard a Baptist preacher at a loss for words.

(Laughter.)

MR. CONINE: Thank you, Reverend Adams. By the way, you folks from San Angelo if you see an ex-TDHCA Board member named Robert Brewer floating around out there, you tell him that we said hello, from -- Rio Concho I think is where he hung out for a bit.

Next witness is Granger MacDonald.

MR. MacDONALD: Thank you, Mr. Chairman. I'm not here to speak against the Blackshear project and oddly enough I'm going to speak for my competition. This is a great project, it's a project that's been overlooked. The town of San Angelo has been overlooked for years.

1997, we built 114 affordable units, family units in San Angelo, Texas. That is the only tax credit

deal in San Angelo, Texas. The only one. The problem with San Angelo is, we have a big brother in Midland-Odessa that gets all the credits in the region.

So therefore it's been a hard fight to get affordable housing of any shape, format, at all in San Angelo. And I would respectfully request that this project get credits as well on a forward commitment. I know you're not doing forwards today, but I'd like for you to certainly keep this in the hopper.

Additionally, I'd like to say that I have to respectfully disagree with a few of the folks. There is no affordable seniors housing today in San Angelo. Everything that's there in the way of senior's housing is market rate. There is no Section 42 Seniors Housing in San Angelo. There is only one senior project, and it's a family project that we did in 1997.

The need in a community of over 100,000 people is phenomenal. Our market study shows a capture rate of three; anything under 25 is considered great. Three is what it is in San Angelo, Texas, for a seniors' deal. For a family deal, same number.

They need to be given an award, we need to be given the award that we've already qualified for. Thank you.

MR. CONINE: Any questions of the witness?

(No response.)

MR. CONINE: Okay. Mike Lankford? You good?
Where did Mike go? Is he out? David Marquez?

MR. MARQUEZ: Different project.

(Laughter.)

MR. CONINE: That's what it says here.

MR. MARQUEZ: 08145, Oasis at the Park. I would like the Board to take this project under recommendation. The Mayor of Corpus Christi last Board meeting came here, Garrett came here, and talked about how they had their process in ranking tax credit projects 1, 2 and 3, Oasis at the Park was given the 18 points and over 5 percent of the total development costs; the other projects ranked below that.

I think we even got a letter from the Bishop. And so this project is well-served in the City of Corpus, and I just wanted to make sure that Oasis at the Park, 08145, is on your list. So thank you very much.

MR. CONINE: Thank you. Any questions of the witness?

(No response.)

MR. CONINE: Lankford, you're good. Let me finish my paperwork here. and I think that's it.

Okay. We have had staff report to us and recommend to us on Item 4(d). Is there any other discussion of the Board members or do I hear a motion?

MS. RAY: Mr. Chairman?

MR. CONINE: Ms. Ray?

MS. RAY: I move staff's recommendation on the tax credit --

MR. CONINE: Including the waiting list?

MS. RAY: Including the waiting list.

MR. CONINE: And what was the other thing?

(Laughter.)

MR. CONINE: Waiting --

(Pause.)

MR. CONINE: Oh, yes. The interim ability to issue commitments in the meantime.

MS. RAY: That's my motion, Mr. Chairman.

MR. CONINE: I hear a motion, do I hear a second.

MR. FLORES: Second.

MR. CONINE: Flores, seconded. Any further discussion?

(No response.)

MR. CONINE: Drum roll, please. All those in favor, signify by saying aye?

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries. Item 5(a), Mr. Gerber.

MR. GERBER: [inaudible], sir?

MR. CONINE: Go ahead, applaud.

(Applause.)

MR. GERBER: Mr. Chairman and Board members, Item 5(a) is a --

MR. CONINE: [gavel] Keep the conversations outside, please.

MR. GERBER: -- resolution including the inducement of one tax-exempt bond application, Woodmont Apartments in Tarrant County.

Felicity Place, which is noted on your agenda, is not being considered today. I strongly urge those who are involved with Felicity Place to work very closely with their community so that they will be included on the next agenda. If they don't, we will not be recommending that deal at the September 4th Board meeting.

Moving to Woodmont Apartments in Tarrant County, upon Board approval to proceed, the application will be submitted to the Texas Bond Review Board for

placement on the 2008 waiting list, the application will reserve approximately \$15 million in 2008 state volume cap.

The Board has previously approved 12 applications for 2008 program year; the Department has received one letter of support from State Representative Lon Burnam and no letters of opposition.

It should be noted again that approval of the inducement resolution does not assure that the development will ultimately receive approval for the issuance of the private activity bonds. It just begins the 150-day process to see if the deal is viable, and then brought back to this Board for affirmation at a later date should the deal be in fact do-able.

We seek the Board's inducement of Resolution 08029.

MR. CONINE: Do I hear a motion?

MR. CARDENAS: So move.

MR. CONINE: Moved by Mr. Cardenas. Do I hear a second?

MR. FLORES: Second.

MR. CONINE: Second by Mr. Flores. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries. Item 6(a),
HOME --

MR. GERBER: Mr. Chairman, Board members, Item 6 is a presentation of HOME award recommendations for all the active NOFAs that are for various program activities.

Jeannie, why don't you run through the -- run through all of them.

MS. ARELLANO: Good afternoon. Jeannie Arellano, Director of the HOME Division. Item 6(a) is a presentation of the HOME Award recommendations for all active NOFAs, for various programming activities.

All applications have been reviewed by the portfolio management compliance division, and issues of material noncompliance, unresolved audit findings or questioned or disallowed costs have been identified.

I'm going to go ahead and go through all of the programs and then ask for approval at the end of all the recommendations.

Our Disaster Relief Program, on June 16, 2007,

Liberty County experienced severe storms, tornadoes and flooding, subsequently included in a federal disaster declaration, issued on August 21, 2007. The availability of HOME funds as permitted through the Department's deobligated funds policy was shared with the community, and technical assistance for completing the applications offered.

As detailed in the Board write-up, the City of Dayton's application was received on May 29th, 2008, ten days past the deadline date. Since Liberty County was declared a federal disaster area, unmet housing needs continue to exist as a result of the disaster, and deobligated funds are available; Staff is requesting a waiver of the application deadline, in 10 TAC Section 5347(5) in order for the City of Dayton's application to be recommended for funding.

Staff recommends this award with changes from the original request for, one, administrative funds reduced from \$20,000 to \$10,000; two, an increase to the number of units required from six to seven; and three, Board approval to waive the application deadline date in 10 TAC 5347(5).

MR. GERBER: Jeannie, let's stop there. Since there's a rule waiver that's been requested on that one,

why don't we take that one separate from the other awards.

So again, what we're asking is to allow Liberty County's application to be submitted, it's going to be ten days past the deadline which requires the rule waiver, the request would be for administrative funds from \$20,000 to \$10,000, the number of units required from six to seven, and then again the Board approval to waive that application deadline.

MR. CONINE: Do I hear a motion?

MS. BINGHAM ESCARENO: So move.

MR. CONINE: Motion Ms. Bingham. Second by Mr. Cardenas?

MR. CARDENAS: Second.

MR. CONINE: Okay.

MS. ARELLANO: I -- I'm sorry.

MR. CONINE: Any other discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: Okay.

MS. ARELLANO: Okay. Our Homebuyer Assistance Program, I notice the funding availability for \$6 million for homebuyer assistance was released in January 2008 with applications due by May 30, 2008.

The HBA program provides assistance to first-time homebuyers earning 80 percent or less of the area median family income as defined by HUD for down payment and closing cost assistance.

The amount of HOME funds provided to any household should not exceed the greater of 6 percent of the purchase price of the single-family housing or \$10,000, whichever is less.

Of 22 applications received in response to the NOFA, 17 have been approved by the Board totaling over \$3 million in project funds, targeted to serve 401 households.

A balance of \$2,223,919 remains available. One application is being reviewed, and three applications are presented today for funding recommendations, including the Organizacion Progresiva de San Elizario, El Paso Credit Union HOAP, and Hill Country Home Opportunity Council.

Brief descriptions of these applicants are provided in your Board write-up. I'll move on to Tenant-Based Rental Assistance Program. A notebook for \$3

million for Tenant-based Rental Assistance was released in January 2008, with applications due by May 30th, 2008.

The TBRA program provides eligible households rental subsidies including security and utility deposits, for up to 24 months and earning 84 percent or less of the AMFI as defined by HUD.

Tenants must also participate in a self-sufficiency program. Of 14 applications received in response to the NOFA, eight have been approved by the Board, totaling over \$1.6 million in project funds targeted to serve 163 households.

A balance of \$1,385,238 remains available. Two applications are under review, and one application is being recommended for an award at the Buckner Children and Family Services, Incorporated. A brief description of this applicant is provided in the Board write-up.

Our Rental Housing Development Program, a NOFA for \$15 million for rental housing development was released in July 2007. In May 2008, the Board approved an increase of \$12 million to the total amount of funds available under this NOFA.

The NOFA allowed applicants to apply for funding on a statewide, first-come, first-served basis, and the application deadline was June 2nd, 2008. Thirty-

five applications have been received, totaling over \$33 million in funding requests.

All rental housing applications including CHDO and those serving persons with disabilities being recommended for funding have completed all three phases of the application review process. Applications that are layered with an application for housing tax credit but are not being recommended for an allocation of tax credits are also not being recommended for a HOME award.

The Real Estate Analysis Division has evaluated the applications and the underwriting reports including the housing tax credit action item in today's Board Book, and staff recommends the Board approve the HOME rental housing development awards for \$11,461,223.

Our Community Housing Development Organization, CHDO, Rental Housing Development Program, a NOFA for \$6 million for CHDO organizations rental housing development was released in July 2007. In May 2008, the Board also approved an increase of \$6 million to this NOFA.

The NOFA allowed applicants to apply for funding on a statewide, first-come, first-served basis, and the application deadline was also June 2, 2008. Nine applications were receiving totaling over \$19 million in funding requests.

Staff recommends that the Board approve the HOME CHDO rental development awards for \$7,550,000, with one condition for Application Number 08149, American GI Forum Village I and II, but that award is subject to CHDO certification which is still under review.

Our Rental Housing Development Program for Persons with Disabilities, a NOFA for \$1,675,307 for rental housing development for persons with disabilities was approved by the Board in June 2008. The NOFA allows applicants to apply for funding on a statewide, first-come, first-served basis, and the application deadline is October 3, 2008.

One application has been received requesting both HOME and housing tax credits; if the recommendation is approved, \$426,145 in project funds will be awarded, and a balance of \$1,249,162 remains in NOFA to consider for future applications and award recommendation.

Staff recommends the Board approve all of the HOME awards as detailed in the Board write-up and attached award recommendation logs. The approval of this item will result in the award of over \$20 million in HOME funds, and approximately 610 units of affordable housing.

MR. GERBER: I'd say that's a huge volume of work for HOME staff and they have done extraordinarily

well in processing through these over the last several months, and we appreciate the Board's indulgence and ask for a motion to approve the award of those funds among all of those categories.

MR. CARDENAS: So move.

MR. CONINE: Motion by Mr. Cardenas. Do I hear a second?

DR. MUNOZ: Second.

MR. CONINE: Second by Dr. Munoz. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

(Applause.)

MR. CONINE: Mr. Chairman, if the folks -- I see Laura and Barbara and others, if they're folks from the HOME team, if you guys could stand up so the Board could see you and --

(Applause.)

MS. ARELLANO: And if I could indulge you in

wishing Barbara a happy birthday today.

MR. GERBER: Happy birthday, Barbara.

Six (b).

MS. ARELLANO: Item 6(b) is the Presentation, Discussion and Possible Approval of the HOME Single-Family Notice of Funding Availability. On March 24, 2008, the Department received its funding approval and grant agreement from HUD. The approval and agreement included \$40,043,225 for the Department's Program Year 2008 allocation of the HOME program.

The Department's Approved 2008 Consolidated Annual Action Plan included approximately \$23,034,118 allocated for single-family programs, including \$16,123,882 allocated for the Owner-Occupied Housing Assistance Program, and \$3,455,118 dedicated to each of the Tenant-Based Rental Assistance Program and the Homebuyer Assistance Program.

As proposed, the NOFA makes funds available to eligible applicants to provide assistance to income-eligible households with either assistance for the rehabilitation or reconstruction of owner-occupied housing units; rental subsidy or down payment assistance, as required by Section 2306 of the Texas Government Code.

These funds are subject to a Regional

Allocation Formula. Funds will be available through the RAF under each program activity for the first 60 days; the funds will then be made available statewide within program activities for the next 90 days, and thereafter statewide for any one of the available activities. The final application deadline is April 30, 2009.

The availability and use of these funds are subject to the Department's HOME program rule and the federal regulations governing the HOME program. An open application cycle method will be used to process applications received in response to this NOFA.

And in efforts to prevent predatory lending and foreclosures, and as supported by HUD, Staff also recommends imposing the following first-lien mortgage financing requirements for households receiving homebuyer assistance:

One, that there are no adjustable-rate mortgages; two, no loans where the loan-to-value is equal to or greater than 100 percent; no subprime loans, origination-associated fees, and fees associated with the first-lien mortgage loan may not exceed 2 percent of the loan amount. And the debt-to-income ratio, the back-end ratio may not exceed 45 percent.

All applications will be required to meet a

minimum threshold score and threshold criteria, which are established in order to incentive applicants to provide eligible match or target lower-income households.

The proposed NOFA is attached to this action item. Staff recommends approval of the 2008 Single-Family Notice of Funding Availability and approval to release for publication in the *Texas Register*. With this action, nearly all available HOME funds have been programmed into a NOFA or set aside for a specific, mandated activity, and Staff anticipates presenting to the Board a current status of HOME funds which will detail balances at the September Board meeting.

MR. CONINE: Okay. We're going to give away some more money, I think, soon as we get a motion.

VOICE: [inaudible]

MR. CONINE: Yes --

MS. BINGHAM ESCARENO: [inaudible] you approve?

MR. CONINE: -- we generally do.

MS. RAY: Second.

MR. CONINE: Thank you Ms. Bingham, and seconded by Ms. Ray. Any further discussion on the motion?

(No response.)

MR. CONINE: Seeing none, all those in favor,

signify by saying aye.

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

Moving on to Item 6(c).

MS. BOSTON: This next item we're actually recommending bringing to you next month, and -- on September 4th, and we're going to bring it as a -- the write-up's going to be quite different; it's going to actually be a rule revision. It will be a proposed draft rule revision.

However, one of the interested parties is here to make comment and would like to kind of talk to you a little bit about that, as her testimony.

MR. CONINE: Yes, I do have that. Robin Cisco.

MS. CISCO: Hi, I'm Robin Cisco, I'm with Langford Community Management. I'm currently administering five 2006 HOME OCC grants, and I'd like to thank Chairman Conine and Mr. Gerber and the Board for giving me an opportunity to speak.

As you know, in 2006 the Board approved HOME OCC rules that changed the assistance to homeowners from a grant to a deferred forgivable loan. Under this rule, 20

percent of the loan amount is forgiven each year for five years.

This change in the loan allows the Department to enforce the affordability period, essentially giving the agency the right to ensure that income-qualified homeowners remain in the home for five years. If the homeowner sells the home or otherwise transfers the property, the loan forgiveness stops and the homeowner must pay off the lien on the home.

The problem is that no provision was made for families of those homeowners who die during the five-year affordability period. In those cases, the loan forgiveness ceases just as if the homeowner had sold the home. Many of the assisted homeowners in this program are elderly, so unfortunately the death of a homeowner during the affordability period is not uncommon.

The homeowners qualified for this program because they are low-income, and in those cases where the homeowner dies, his or her low-income family is left with the burden of paying off the lien on the property if they want to sell the home, or transfer the home into one of their own names.

This is a significant penalty to these low-income homeowners. In 2007, the Board saw fit to correct

this problem by allowing the loan forgiveness to continue, in cases where the homeowner dies or transfers the property, as long as it's transferred to someone who's at or below 30 percent AMFI. However, this only applied to contracts awarded after the December 2007 adoption date.

The 2006 contracts, and most 2007s were awarded prior to that date, so the families of those assisted homeowners fall in a gap. As the agenda item was originally stated, I was going to strongly urge that you close this gap by making the rule retroactive, to all 2006 and 2007 contracts. However, I had a concern that, Staff has recommended that you make the rule retroactive only to those loans that close after August 8th.

This doesn't solve the problem; it eliminates the penalty to some 2006 and most 2007 homeowners, but it will leave many 2006 homeowners with the penalty still in place.

I've been working very diligently with your staff to close loans under these rules, and we've been successful to date in closing loans on over 70 percent of the homeowners that I'm working with. If you don't make the rule retroactive to all 2006 and 2007 homeowners, then you're leaving a great many in the gap with the penalty still in place, because they've already closed on their

loans prior to August 8th.

I know that staff recommendation is made this way because making the rule truly and completely retroactive to all affected homeowners will require some considerable paperwork to amend the closings that have already occurred. These new rules have been a great challenge to the contract administrators and to TDHCA staff, and I've been really pleased with the hard work of your staff to get these loans closed.

I understand it will take some extra effort to get all of the 2006 contract year families out from under this penalty, but it is work that I and the contract administrators are willing to do, because this is so important an issue to the low-income homeowners that we are assisting.

MR. CONINE: Any questions of the witness?
We'll take that under advisement --

MS. CISCO: Okay.

MR. CONINE: -- instruct Staff to come up with a resolution --

MS. CISCO: I appreciate it. Thank you.

MR. CONINE: Great. Thank you. Item 6(d)?

MR. GERBER: Mr. Chairman, we're ready for our presentation of two HOME contract amendments, and Jeannie

will walk through, starting with the City of Edinburg.

MS. ARELLANO: Okay. The first is for the City of Edinburg, which received an owner-occupied housing assistance contract in the amount of \$286,000 to assist eight households to rehabilitate or reconstruct their homes.

During the course of the contract, the administrator identified eight homeowners they intended to assist under this contract. The environmental clearance has been completed on all eight households, and all of them have been entered into a Department's contract system and have submitted documents for review.

The administrator plans to reconstruct each of the homes they will be assisting; of the eight households being assisted under this contract, five households are moving through the loan process; however, three households have appraised values greater than the amount of assistance to be provided.

This prevents the Department from determining the loan amount. It is also important to mention that two of the affected three homeowners are using other sources of funds provided by the City to meet match obligations.

The initial appraisal submitted for each of the three homes reflects a value that exceeds the amount of

assistance the administrator intends to provide for the reconstruction of the homes. The current loan policy requires the loan amount be calculated by subtracting the initial appraised value and 10 percent of the final appraised value from the final appraised value.

In order to proceed with the loans for these households to be assisted, Staff recommends that the loan amount equal the amount of HOME assistance provided, with no adjustment for the initial or final appraised values, nor the matching funds provided.

Without this Board action, Staff has no ability to originate a loan to assist these households.

Staff recommends that the Board approve that the loan amount be equal to the amount of HOME assistance provided with no adjustment for the initial or final appraised values.

MR. CONINE: I have a witness affirmation form, Marissa Garza.

MS. GARZA: Good afternoon. My name is Marissa Garza, I'm with the City of Edinburg, Director of Community Development. I'd like to thank you for allowing me to come before you.

My staff and I have been working closely and diligently with the staff and the HOME division to provide

the much-needed assistance to our Edinburg residents. I ask that you act favorably on the recommendation as proposed by Staff, and I am here to answer any questions that you may have.

MR. CONINE: Okay, thank you. Any questions of the witness?

MS. RAY: Mr. Chairman?

MR. CONINE: Yes, Ms. Ray.

MS. RAY: I move staff recommendation.

MR. CONINE: Motion for staff recommendation on this item. Do I hear a second?

MR. FLORES: Second.

MR. CONINE: Second by Mr. Flores. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries. Item 6(e).

MS. ARELLANO: But we still have one more.

MR. CONINE: We do? Oh, the Housing Authority.
Okay.

MS. ARELLANO: The second amendment request is for Edinburg Housing Authority, the homebuyer assistance contract, to reduce the number of required households from 30 to 25, and to waive the match obligation. This will be the administrator's second amendment.

The first amendment, which was approved by the Board on August 23, 2007, reduced the number of homebuyers required from 50 to 30, reduced the match obligations from \$10,000 to \$6,000 and extended the contract for 12 months.

Additionally, due to the administrator's difficulty in identifying eligible homebuyers at the lower AMFI targets, the AMFI income limits were increased. The administrator has set up 17 households, ten of which have received homebuyer assistance in the Department's contract system.

Five of these households are active and are pending loan closing before funds can be requested and disbursed, and two households are being processed by Department staff for setup approval.

The administrator has not submitted information that indicates how they will be able to assist the additional eight units to achieve a total number of 25 households served they're proposing.

With this request, the administrator has

indicated the match source is funded with federal funds; in their letter dated October 1, 2007, the administrator indicated that they had only recently discovered that their match source received federal funds.

HOME regulations require that eligible match be from a non-federal source, be a permanent contribution to the project and be provided by a person or entity not also receiving a benefit from the HOME award.

Upon receiving the administrator's request for reduction in match, the original application was rescored; the administrator did not receive any points in the match category on the original application, which occurs when the original match amount does not exceed the 12-1/2 threshold requirement.

The original match amount requested equaled 2 percent of the amount of project funds requested. Reducing the administrator's match requirement from \$6,000 to zero would have no impact on the overall application score of 71, thus the administrator's application would still have been funded.

Staff does not recommend approval of Edinburg Housing Authority's request to reduce the number of required households from 30 to 25; if the Board chooses to deny the administrator's request, and the administrator

does not assist 30 households by September 28, 2008, the administrator will be in noncompliance with contractual obligations.

In accordance with 10 TAC Section 53.42(i), the administrator would not be able to apply for funding until 12 months past from the deobligation previously funded HOME contract for failure to meet contractual obligations.

And based on current rules and contractual requirements, Staff is not recommending approval of the reduction in match requests, because the request exceeds the 25 percent reduction.

MR. CONINE: Okay. I do not have any further comment on this item. Any questions for Staff?

(No response.)

MR. CONINE: Entertain a motion?

DR. MUNOZ: Move staff recommendations.

MR. CONINE: Nunoz moves for staff recommendation. Is there a second?

MR. CARDENAS: Second.

MR. CONINE: Second by Mr. Cardenas. Any further discussion?

MR. FLORES: Just a question, Mr. Chairman.
If --

MR. CONINE: Go ahead.

MR. FLORES: -- they don't comply with this, do they owe us money back of some kind? Because it looks like to me they're not going to meet this, the threshold of 15 points --

MS. ARELLANO: They wouldn't owe us money back, because they haven't drawn the funds. But we would be deobligating the balance that they did not use.

MR. FLORES: So they would not owe us anything?

MS. ARELLANO: Correct, because we fund them once the loan has closed.

MR. FLORES: Yes. Okay, thank you.

MR. CONINE: Any further questions?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: Motion carries.

MR. GERBER: Mr. Chairman and Board members, Item 6(e) is the Presentation and Discussion of Possible Housing Trust Fund Program Board Recommendations.

In January 2008, a NOFA for \$1 million was released for the Housing Trust Fund, 2008 Home Ownership

Super-NOFA Program. The funds were to be utilized for the rebuilding and rehabilitation of affordable housing for homeowners and gap financing or down payment assistance for first-time homebuyers.

Eleven applications totaling over \$2.4 million were received in response to that NOFA. The Board has already approved five applications for funding totaling \$1 million, and subsequently approved the increase of an additional \$1 million for this NOFA at the June Board meeting.

Therefore, four additional applications are being recommended today for award recommendations totaling \$966,198 in project funds, and \$33,810 in administrative funds. These include an award for the Austin Affordable Housing Corporation, Community Development Corporation of Brownsville, Fort Worth Area Habitat for Humanity and El Paso Credit Union HOAP. One application which was received on the application deadline is still under review. If the award recommendations are approved, no balance will remain under this NOFA.

The 2008 Housing Trust Fund Home Ownership Super-NOFA remains oversubscribed, by about \$249,000. Staff again is asking for a motion to approve these four awards.

MR. CONINE: I do have a witness affirmation form. Gage Yager, I believe?

MR. YAGER: Good afternoon, Board, my name is Gage Yager, Executive Director of Trinity -- or Fort Worth Area Habitat for Humanity, is the official name. Thank you, Mr. Chairman, Mr. Gerber and your whole staff that worked so hard with us to do what we all do. I just want to say, thank you very much for everything that TDHCA does.

Our Habitat affiliate was the first Habitat affiliate to receive Bootstraps funds in the State of Texas and worked wonderfully with Homer Cabello and the rest of the staff to make a phenomenal program that it is, and we're excited to be a part of the new opportunity that we're talking about today.

We're bringing a lot of match to the table and we've had a long history of success with Bootstraps in building homes across Tarrant County and Johnson and Parker and Wise County over the years, and appreciate your positive consideration of our application.

MR. CONINE: Thank you. Any questions for the witness?

(No response.)

MR. CONINE: Thank you very much. Appreciate

your perseverance in making it through the day.

(Laughter.)

MR. CONINE: Do I hear a motion?

MS. BINGHAM ESCARENO: Move staff's recommendation.

MR. CONINE: Ms. Bingham moves staff's recommendation; is there a second?

MR. FLORES: Second.

MR. CONINE: Second by Mr. Flores. Any further discussion?

(No response.)

MR. CONINE: Seeing none -- yes.

(Simultaneous discussion.)

VOICE: El Paso Credit Union HOAP, what's the HOAP stand for?

MS. ARELLANO: I don't know. I believe it was actually in the application that way.

VOICE: Okay.

MS. ARELLANO: The acronym --

MR. CONINE: They got a lot of "hoap."

(Laughter.)

MR. CONINE: -- out there in El Paso in the credit union. Any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

THE CLERK: Motion carries.

MR. GERBER: Mr. Chairman, Board members, the last item on today's agenda is 6(f), Presentation and Discussion of the 2009 -- and Possible Approval of the 2009 Housing Trust Fund Plan.

The Department is required to provide an annual report to the Legislative Budget Board, the House Appropriations Committee and the Senate Finance Committee no later than October 1st, detailing the Agency's plan to expand our 2009 appropriation.

We're presenting that plan to you well ahead of the October deadline to allow the Department to begin awarding funds as expeditiously as possible. A 2008 plan was approved by the Board and submitted in October 2007, reflecting the plan to expend the 2008 appropriation, and that plan is continuing to be implemented, and you've continued to make awards under the funds that were provided under that plan.

The attached plan reflects only the use of the

2009 Housing Trust Fund program appropriated funds. All funds remaining from the 2008 plan will remain programmed as outlined in that 2008 plan.

The proposed 2009 plan is continuing similar programming to that 2008 plan, a summary of those activities in is your Board Book, but just to quickly outline some key differences from the 2008 plan:

We're going to be using \$3 million for the Bootstrap Self-Help Housing Program; creation of a \$97,461 Bootstrap Self-Help Capacity-Building Pilot Program to hopefully expand the capacity of entities doing Bootstrap Programs throughout the border area.

There's a plan -- included in the plan is to use loan repayments and interest sources, and not the 2009 appropriation, for disaster recovery homeowner repair gap financing program -- gap financing if necessary to complement the second series of CDBG disaster recovery funding, although the Department continues to look for alternative sources of gap financing.

We will also continue the rental reduction program in an amount of \$750,000 with a removal of the restriction against properties involving housing tax credits. That should be a significant factor in getting those dollars to move and make a difference in rural parts

of Texas.

We will also seek to continue the Texas Veterans Housing Support Program, as utilized with 2007 Housing Trust Fund dollars, in the amount of \$1 million, which has done so much to help returning veterans from Afghanistan and from Iraq with special needs.

We also will be proposing -- are proposing a continuation of the Home Ownership Super-NOFA in the amount of \$1 million, with the elimination of disaster assistance from more recent disasters, since those communities can apply for HOME disaster funds.

Staff is recommending the approval of this Housing Trust Fund annual plan, one amendment that I would like to say that's different from the Board Book is that we have indicated that approximately \$1.3 million of the interest and loan repayments that's in the account is available for use above and beyond all appropriated funds, and we intended to use that for CDBG funding.

We are going to propose that be taken down by \$100,000, and that we use that for a capacity-building program separate from the Bootstrap Capacity-Building Program, to help promote and build capacity of nonprofits in Texas, allowing them to leverage the funds as much -- as match for various federal NOFAs, for capacity-building,

or technical assistance.

We'll be preparing a NOFA that we'll bring to this Board prior to those funds being released, and again the balance of that, the \$1.2 million balance, will go and be available for gap financing.

The emphasis on the \$100,000 and the NOFA you will see will be on capacity building that builds capacity that ends with actual production, housing being put on the ground. With that, again we're asking for your approval and a motion to approve the proposed 2009 Housing Trust Fund Annual Plan, and allowing us to submit it to the appropriate folks here in the Legislature.

MR. CONINE: Any questions for staff?

(No response.)

MR. CONINE: How about a motion?

MR. FLORES: [inaudible].

MR. CONINE: Motion by Mr. Flores. Is there a second?

MS. BINGHAM ESCARENO: Second.

MR. CONINE: Second by Ms. Bingham, any further discussion?

(No response.)

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

(A chorus of ayes.)

MR. CONINE: All opposed?

(No response.)

MR. CONINE: The motion carries.

MR. GERBER: Mr. Chairman, just one last cleanup item, we did receive a request from State Representative Jose Menendez asking for a 2009 forward commitment for Darson Marie Terrace, Application 08269. We'll make sure that that's included in your materials for review.

MS. RAY: Which one was that --

MR. GERBER: That's for Darson Marie Terrace, that's --

MS. RAY: [inaudible]

MR. GERBER: -- in San Antonio, yes, ma'am. Asking for a forward commitment.

On the report items that you have available to you, there's a report on the Low Income Home Energy Assistance Program State Plan. That plan has received very little public comment and no significant changes were really germane to the plan, and so we are going ahead and submitting that to the Department of Health and Human Services, but there's more details about that -- about the public comment, should you need that, at the back of your

Board Books.

Beyond that, the next Board meeting is scheduled for September 4th; it will be a lengthy Board meeting dealing with lots of our rules. We look forward to seeing all of you then.

MR. CONINE: And I'd like to echo the congratulations to staff for everything they've done this particular cycle, you guys did a great job. Probably setting a record getting out of here before 3:00, but --

(Laughter.)

MR. CONINE: -- and for those of you that hauled these big, thick books over here, thank you. We'll probably need them again next month as well, so --

MR. GERBER: Take them with you as a party favor.

MR. CONINE: No, we don't --

(Laughter.)

MR. CONINE: -- want to do that. But again, thanks to staff, you guys did a great job. Appreciate everything.

Any other questions or --

VOICE: Thank you, Board, for a job well done.

MR. CONINE: -- yes, sir --

(Applause.)

MR. CONINE: And we stand adjourned.

(Whereupon, at 2:40 p.m., the hearing was concluded.)

C E R T I F I C A T E

MEETING OF: TDHCA Board
LOCATION: Austin, Texas
DATE: July 31, 2008

I do hereby certify that the foregoing pages, numbers 1 through 193, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the Texas Department of Housing and Community Affairs.

(Transcriber) 8/04/2008
(Date)

On the Record Reporting
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