

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD OF DIRECTORS MEETING

Room JHR 140
Reagan Building
105 West 15th Street
Austin, Texas

Thursday,
December 18, 2014
9:30 a.m.

BOARD MEMBERS:

J. PAUL OXER, Chairman
LESLIE BINGHAM ESCAREÑO
TOLBERT CHISUM
TOM GANN
J.B. GOODWIN
JUAN MUÑOZ

TIMOTHY K. IRVINE, Executive Director

I N D E X

<u>AGENDA ITEM</u>	<u>PAGE</u>
ITEM 1: APPROVAL OF THE FOLLOWING ITEMS PRESENTED IN THE BOARD MATERIALS:	15
LEGAL	
a) Presentation, Discussion, and Possible Action regarding the adoption of an Agreed Final Order concerning Gateway Apartments (HTC 94093 / CMTS 1246)	
b) Presentation, Discussion, and Possible Action regarding a Report to Board concerning administrative penalties and initiation of a consolidated contested case hearing for: Amistad Apartments (HTC 0008 / CMTS 0026) Padre de Vida Apartments (HTC 03002 / CMTS 3314) Rio de Vida Apartments (HTC 03035 / CMTS 3341) Vida Que Canta Apartments (HTC 05092 / CMTS 4257)	
RULES	
c) Presentation, Discussion, and Possible Action regarding an order adopting the Amendments to TAC Chapter 10, Subchapter F, 10.601(b) concerning Compliance Monitoring Objectives and Applicability; 10.607 concerning Reporting Require- ments; 10.609(5) concerning Notices to the Department; 10.612 concerning Tenant File Requirements; 10.613 concerning Lease Requirements; 10.614 concerning Utility Allowances; 10.618 concerning Onsite Monitoring; 10.620(b) concerning Monitoring for Non-Profit Participation or HUB Participation; and, 10.624 concerning Events of Noncompliance, and adoption of the repeal of 10 TAC 10.610 concerning Tenant Selection Criteria; and, 10.617 concerning Affirmative Marketing Requirements, and directing their publication in the Texas Register	
d) Presentation, Discussion, and Possible Action regarding proposed amendments to 10 TAC Chapter 1, Subchapter A, General Policies and Procedures 1.23 concerning State of Texas Los Income	

Housing Plan and Annual Report and directing their publication for public

- comment in the Texas Register.
- e) Presentation, Discussion, and Possible Action regarding an order adopting the repeat of 10 TAC Chapter 12, Multifamily Housing Revenue Bond Rules, and an order adopting the new 10 TAC Chapter 12, concerning the Multifamily Housing Revenue Bond Rules and directing their publication in the Texas Register

ASSET MANAGEMENT

- f) Presentation, Discussion and Possible Action regarding Housing Tax Credit Application Amendments
11406 Chatham Green Village Arlington
- e) Presentation, Discussion, and Possible Action to approve Material Amendments to Land Use Restriction Agreements

OFFICE OF COLONIA INITIATIVES

- g) Presentation, Discussion, and Possible Approval of a Memorandum of Understanding (AMOU@) between the Texas Department of Housing and Community Affairs and the Texas Department of Agriculture regarding the management of Community Development Block Grant (ACDBG@) funds for the Colonia Self-Help Center (ACSHC@) Program

HOUSING RESOURCE CENTER

- h) Presentation, Discussion, and Possible Action regarding the 2015-2019 State of Texas Consolidated Plan
- I) Presentation, Discussion, and Possible Action regarding approving the draft 2015 State of Texas Low Income Housing Plan and Annual Report, to be Published in the Texas Register for public comment

SECTION 811 PRA PROGRAM

- j) Presentation, Discussion, and Possible Action regarding Authority to Award a contract to one or more responsive hidden generated from a previously authorized Request for Proposal that provides assistance for the Section 811 Project Rental Assistance (APRA@) Program=s responsibilities related to the HUD required Tenant Rental Assistance Certification System

(ATRACS@)

SECTION 8 HOUSING PROGRAM

- k) Presentation, Discussion, and Possible Action regarding the 2015 Section 8 Payment Standards for Housing Choice Voucher Program (AHCVP@)

HOME Program

- l) Presentation, Discussion, and Possible Action regarding authorization of the issuance of a 2014 HOME Program Notice of Funding Availability (ANOF@) for the Single Family Development Program and publication of the NOFA in the Texas Register

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BOND FINANCE

- m) Presentation, Discussion, and Possible Action regarding Resolution No. 15-006 authorizing a Mortgage Credit Certificate Program (AMCC@) for first-time homebuyers (AProgram 83") along with related program documents to be administered by the Texas Department of Housing and Community Affairs
- n) Presentation, Discussion, and Possible Action regarding Resolution No. 15-007 authorizing application to the Texas Bond Review Board for reservation of the 2014 single family private activity bond authority carry forward from the Unencumbered State Ceiling

TEXAS HOMEOWNERSHIP PROGRAM

- o) Presentation, Discussion, and Possible Action regarding Resolution No. 15-008 authorizing programmatic changes to the To Be Announced (ATBA@) Single Family Taxable Mortgage Program (ATMP-79)

COMMUNITY AFFAIRS

- p) Presentation, Discussion, and Possible Action regarding Program Year 2014 Department of Energy Weatherization Assistance Program Awards
- q) Presentation, Discussion, and Possible Action regarding Program Year 2015 Low-Income Home Energy Assistance Program Awards
- r) Presentation, Discussion, and Possible Action regarding Program Year 2015 Community Services Block Grant Awards
- s) Presentation, Discussion, and Possible Action regarding Award of Recaptured State Fiscal Year (ASFY@) 2014

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Homeless Housing and Services Program Funds

- t) Presentation, Discussion, and Possible Action regarding State Fiscal Year (ASFY@) 2015 Homeless Housing and Services Program Awards

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- u) Presentation, Discussion, and Possible Action regarding Determination Notices for Housing Tax Credits with other Issuers withdrawn
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 14408 Fairmount Crossing Dallas
 14415 THF Palladium Midland Midland
- v) Presentation, Discussion, and Possible Action regarding Inducement Resolution No. 15-009 for Multifamily Housing Revenue Bonds and an Authorization for Filing Applications for Private Bond Authority - 2015 Waiting List
 14608 Chisolm Trace Apts San Antonio
 14609 Cheyenne Village Apts San Antonio

REPORT ITEMS

The Board accepts the following reports:

- 1. TDHCA Outreach Activities for November
- 2. Executive Report of Multifamily Program Amendments, Extensions, and Ownership Transfers
- 3. Report on the Draft Computation of Housing Finance Division Total and Unencumbered Fund Balances and Transfers to the Housing Trust Fund

ACTION ITEMS

ITEM 2: MULTIFAMILY FINANCE

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P R O C E E D I N G S

1
2 MR. OXER: Good morning, everyone. I'd like to
3 welcome everyone to the December 18 meeting of the
4 governing board for the Texas Department of Housing and
5 Community Affairs.

6 We have a special treat today that we'll
7 actually begin with. So I appreciate everybody being here
8 and ready. Any comments to start, Tim, or shall I jump
9 right into it?

10 MR. IRVINE: Jump right in.

11 MR. OXER: All right. Well, those of you will
12 notice we have with us Justice Jeff Rose, who sits on and
13 will soon preside over the Third Court of Appeals, which
14 has been branded as the most interesting court in Texas.

15 His resume is replete with accomplishment and
16 service on the bench in state government and in the
17 private sector and has included work as a state district
18 judge here in Travis County, serving as Chief of General
19 Litigation for the State of Texas and as deputy first
20 assistant attorney general -- that=s how to get out all at
21 once, Jeff -- that=s a long -- that=s worse than what I
22 have. Judge -- you know, Justice.

23 He was the first assistant attorney general
24 under Attorney General and now Governor-elect Greg Abbott
25 and as an attorney in private practice representing a

1 broad cross-section of clients in litigation matters as a
2 partner in a major Texas law firm.

3 He=s been recognized four times as a Texas
4 Super Lawyer, and his care and commitment have extended
5 beyond legal work to leadership roles in a variety of
6 organizations including Big Brothers and Big Sisters, the
7 Rise School of Austin, and the Sportsman Club of Austin.

8 Everyone who encounters Jeff comes away deeply
9 impressed. We=re honored to have him here at J.B.
10 Goodwin=s request to administer the oath of office to our
11 new -- two newest members of our Governing Board who are
12 here to my left -- and I=ll introduce each of them as we
13 go.

14 First is -- and, Justice Rose, would you care
15 to join us up front please?

16 JUSTICE ROSE: Mr. Chairman, are you going to
17 have them take the oath from their seats?

18 MR. OXER: No, we=re actually -- I=m going to
19 ask them come around --

20 JUSTICE ROSE: Okay. Very good.

21 MR. OXER: -- and stand next to you. Here=s
22 what we=re going to do for a process. I=m the ringleader
23 in this circus. I wear the big hat in the middle. I get
24 to tell everybody where to go basically. So you guys have
25 got to learn -- figure this out. I get to tell you where

1 to stand when he does the office. So, Tolbert, I'd like
2 you to go down and stand with the Justice.

3 And while he's getting there, I'll give you a
4 few words on Tolbert. Tolbert Chisum is a trustee of the
5 Modern Group. He's a member of the Southwest Benefits
6 Association, the Rotary Club of Beaumont, founder of the
7 Heartland Alliance President's Council, a founding board
8 member of the Institute for Truth in Accounting. He is a
9 founder, vice chairman, and past chairman and CEO of the
10 Abraham Lincoln Presidential Library Foundation board of
11 directors and vice chairman and past chairman of Athletes
12 Against Drugs.

13 He's also past chairman of the Chicago Sunday
14 Evening Club, the Illinois Business Roundtable, and the
15 Metropolitan Club Board of Governors in Chicago. He's a
16 past village clerk and village president for the Village
17 of Kenilworth, Illinois. He served in the U.S. Marine
18 Corps Reserves.

19 Tolbert received a bachelor's degree from Sam
20 Houston State and a Chartered Life Underwriter designation
21 from the American College of Financial Services. He has
22 been appointed for term to end -- or for a term which will
23 expires January 31 of 2019. So I wish everybody would
24 join me welcoming Tolbert.

25 And as our vice chairman would say, Semper Fi,

1 Tolbert. We=re glad to have you here. So, Justice Rose,
2 if you care?

3 JUSTICE ROSE: Okay. Yes, sir. If you would
4 please raise your right hand and repeat after me.

5 (The oath was administered to Mr. Chisum.)

6 JUSTICE ROSE: Congratulations.

7 MR. OXER: We=ll -- after this is done we=re
8 going to have a few minutes to have a couple of pictures.
9 So we=d like to welcome Tolbert.

10 Okay. Our newest member, Mr. Goodwin. J.B.
11 Goodwin is the CEO of J.B. Goodwin Realtors. And anybody
12 who=s been in this town for any length of time in real
13 estate has seen his name and face on a billboard all over
14 the place.

15 He=s a member of the national, Texas, and the
16 Austin Association of Realtors, a certified relocation
17 professional through the Worldwide Employer Relocation
18 Council, and the past president of the Lending Real Estate
19 Companies of the World.

20 He=s also past co-chair of the Greater Austin
21 Chamber of Commerce Economic Development Council and a
22 past board member of the Austin Symphony.

23 J.B. received a bachelor=s degree from The
24 University of Texas at Austin -- sorry, buddy. He is
25 appointed for a term to expire January 31, 2015, which is

1 taking up one of the terms that we have. But I have
2 confidence in my heart that he will be serving with us far
3 beyond that. So, J.B.

4 JUSTICE ROSE: Mr. Goodwin, if you raise your
5 right hand and repeat after me.

6 (The oath was administered to Mr. Goodwin.)

7 JUSTICE ROSE: Thank you. Congratulations.

8 MR. OXER: All right. If there are any
9 pictures that the two of you would like with Justice or
10 any of the rest of us we'll take those right quick.

11 JUSTICE ROSE: Nobody ever wants their picture
12 with me. It was nice meeting you. Thank you very much.

13 MR. OXER: Certainly. Thank you very much for
14 joining us today, Justice Rose. We certainly appreciate
15 the Justice.

16 All right. With that, now we'll take the
17 formal roll call since we have formally added new members.

18 So Ms. Bingham is absent today.

19 Mr. Chisum.

20 MR. CHISUM: Present.

21 MR. OXER: Mr. Gann.

22 MR. GANN: Here.

23 MR. OXER: Mr. Goodwin.

24 MR. GOODWIN: Present.

25 MR. OXER: Dr. Muñoz.

1 DR. MUÑOZ: Present.

2 MR. OXER: And I am here. I would also add
3 that, including Juan Muñoz, which would be J. Sanchez
4 Muñoz, J.B. Goodwin and J. Paul Oxer got the hooks on the
5 left side of the wall.

6 All right. With that, we=ve got five present.
7 We=re in business. We=ve got a quorum.

8 So, Tim, lead us in the salute.

9 (Pledges of allegiance were recited.)

10 MR. IRVINE: Just an informational note, the
11 tradition of the Texas salute is something that I obtained
12 from my brief service at the Real Estate Commission and
13 for which I thank realtors such as Mr. Goodwin and Mr.
14 Gann.

15 MR. OXER: Okay. Well, Mr. Goodwin and Mr.
16 Chisum are actually replacing our former board members,
17 Mr. Mark McWatters -- Professor McWatters -- and Robert
18 Thomas. So I think we=ve got a little recognition for
19 these guys. So, Mark, I think you=re up, buddy.

20 MR. IRVINE: If I might read this first from
21 the Governor of the State of Texas. To all to whom these
22 presence shall come, greetings. Know ye that this
23 official recognition is presented to J. Mark McWatters in
24 recognition of and appreciation for his years of
25 meritorious service to the State of Texas as a member of

1 the Texas Department of Housing and Community Affairs
2 Governing Board 2012 to 2014. Signed, Rick Perry,
3 Governor.

4 And we have with it a flag that is presented to
5 you that it was flown over the Texas Capitol and --

6 MR. McWATTERS: Thank you.

7 MR. OXER: It=s not like I never had to ask you
8 if you wanted to say something. But if you have something
9 you want to say now would be a good time. Your typical
10 acerbic wit was something that we will all miss. So
11 anything you have to say have at it.

12 MR. McWATTERS: I do not have an acerbic wit.
13 Hey, folks, this was a great pleasure to do this job for
14 however long I did it, which I can=t remember because I=m
15 getting to be a certain age. But a great pleasure.

16 I remember the first time I talked to J. Paul.
17 He called me when I was vetted for the job and I said,
18 You know, I really don=t know much about this business.
19 And he said, You know, you=ll learn; just be patient. And
20 through his leadership and the phenomenal staff of TDHCA I
21 was able to learn.

22 I tell you, I spent a fair amount of time in
23 D.C. -- in the bureaucracy of D.C. over the last few years
24 and I have seen nothing like the TDHCA staff. It is
25 simply extraordinary.

1 MALE VOICE: Hear, hear.

2 MR. McWATTERS: If I could clone these folks
3 and bring them to D.C. we would have a much better federal
4 government. So thank you very much.

5 MR. IRVINE: And I=d like to read another
6 certificate, also from the Governor. To all to whom these
7 presence shall come, greetings. Know ye that this
8 official recognition is presented to Robert D. Thomas in
9 recognition of and appreciation for his meritorious
10 service to the State of Texas as a member of the Texas
11 Department of Housing and Community Affairs Governing
12 Board 2013/2014. Signed, Rick Perry, Governor. And a
13 flag flown over our beloved State Capitol.

14 MR. OXER: Same courtesy.

15 MR. THOMAS: I=d just like to say thank you.
16 I -- truly. I want to start with you, the constituency
17 that makes up -- everything makes affordable housing and
18 community affairs in the State of Texas so successful.
19 The passion to that you bring to our community and to this
20 board to make sure that we do God=s work for our community
21 is unbelievable.

22 To our staff, I cannot begin to tell -- I echo
23 Mark=s comments. Your brilliance, your passion, your
24 willingness to answer the tough questions, your
25 willingness to deal with the tough issues, your

1 willingness to make a difference for all of us.

2 To the board, you guys are just simply amazing.

3 This has been an amazing experience. Unfortunately, the
4 voters of Austin did not get the memo, but I'll forever
5 appreciate this opportunity. Thank you all for being so
6 supportive of me this whole time.

7 MR. IRVINE: Got a moment for a testimonial?

8 MR. OXER: Sure.

9 MR. IRVINE: I'd just like to offer a
10 testimonial. These two guys ready embody servant
11 leadership. They gave tirelessly and unstintingly, not
12 only of the energy to read our books and digest our laws
13 but to really wrestle with hard problems and to provide
14 policy guidance and insight that was well thought out and
15 firmly grounded and to share it in a really open and
16 productive way. You guys are what I really look for in
17 government leadership, and I appreciate you leading this
18 agency. Thank you.

19 MR. OXER: Okay. Well, with the formalities
20 out of the way to our new members, let's get to work.

21 All right. With respect to the consent agenda,
22 is there anything?

23 MR. IRVINE: Mr. Chairman, we have three items
24 we'd like to pull -- Item 1(l), (q), and (r).

25 MR. THOMAS: Mr. Chairman, with all due

1 respect --

2 MR. OXER: We understand you have now -- that
3 our former members have commitments they have to manage,
4 so we'll allow them to escape through the hatch here if
5 they'd like.

6 MR. IRVINE: Please come back.

7 We'll present the consent agenda first, and
8 then we'll take those items as --

9 MR. OXER: Right.

10 MS. LATSHA: Jean Latsha, Director of
11 Multifamily Finance. One item on the consent agenda,
12 1(u), Fairmount Crossing --

13 MR. IRVINE: Okay.

14 MS. LATSHA: -- that application was withdrawn.

15 MR. OXER: So that's no longer a part of the
16 consent. Is that correct, Jean?

17 MS. LATSHA: Correct.

18 MR. OXER: Okay. So 1(u) is out. Do any
19 member wish to pull any other items besides Item 1(l),
20 1(q), and 1(r)?

21 MS. LATSHA: I'm sorry. I was -- not all of
22 1(u) has pulled. Only one of those applications, the
23 Fairmount application.

24 MR. OXER: Let's make sure we've got that
25 right. So we still want to take -- so 1(u) -- but --

1 MS. LATSHA: There were --

2 MR. OXER: Park at Cliff and the THF Palladium
3 are still active on the --

4 MS. LATSHA: Yes, sir.

5 MR. OXER: Okay. So Fairmount=s the only one
6 that=s being pulled out of that.

7 MS. LATSHA: Yes, sir.

8 MR. OXER: Okay. All right. Any member care
9 to pull anything from the consent agenda?

10 (No response.)

11 MR. OXER: Okay. Then entertain a motion to
12 consider.

13 MR. GANN: I=ll so move with the exceptions
14 noted.

15 DR. MUÑOZ: Second.

16 MR. OXER: Okay. Motion by Mr. Gann to approve
17 consent agenda with exceptions noted, second by Dr. Muñoz.
18 No public comment. All in favor?

19 (A chorus of ayes.)

20 MR. OXER: Opposed?

21 (No response.)

22 MR. OXER: There are none. It=s unanimous.
23 All right. Let=s take 1(1) first.

24 MR. DORSEY: Good morning. Cameron Dorsey,
25 Chief of Staff.

1 MR. OXER: No longer interim -- just like Chief
2 of Staff. Huh?

3 MR. DORSEY: Well, I don=t know actually. I
4 just cut the interim off because I=ve had --

5 MR. OXER: That=s all right.

6 MR. DORSEY: -- more titles and it=s a pain.

7 MR. OXER: Hey, put the stars up there and take
8 it.

9 MR. DORSEY: One --

10 MR. OXER: Hey, the way I usually introduce
11 myself, Cameron, is deputy assistant, junior vice
12 assistant technician. So that usually catches more of it.
13 So go for it, pal.

14 MR. DORSEY: All right. Item 1(1) is staff is
15 seeking the authorization to issue 2014 Notice of Funding
16 Availability for the HOME Single Family Development
17 Program. It=s a \$1 million amount of funding for single
18 family development -- so development of single family
19 homes by community housing development organizations.

20 Really, all we wanted to do with this item --
21 we have -- just in the event that for whatever reason
22 there=s an under-subscription to this particular NOFA we
23 would like to add to our recommendation that staff has the
24 ability in the event of an under-subscription to make any
25 changes necessary to improve the subscription rate.

1 So I'll give you a quick example. The NOFA
2 comes attached with some CHODA operating funds, and CHODA
3 operating funds can help the organization that the
4 community housing development organization that=s
5 administering the program just with their operational
6 costs.

7 Right now it reads that you can only access
8 those funds if you get three reservations for single
9 family development -- that would be three individual
10 single family homes. There may be some instances in which
11 they only have the desire to do two single family home
12 development and we may, in the event that there=s an
13 under-subscription, allow some CHODA operating expenses in
14 that kind of instance.

15 There could be some other types of changes that
16 would kind of fall into that, you know, category that
17 staff wants -- would want to be able to make only in the
18 event that we put this out and we=re not getting the
19 response we expect. So staff recommends approval of --
20 with the addition of staff having the ability in the event
21 of an under-subscription to make changes -- necessary
22 changes.

23 MR. IRVINE: And this is because of the
24 importance of meeting our CHODA set aside requirement.

25 MR. DORSEY: That=s correct, yes.

1 MR. OXER: So the implication is you need to be
2 able to get that money out and rolling. So whatever is
3 necessary you need the latitude to do it to implement
4 that.

5 MR. DORSEY: That=s right. There=s a specific
6 requirement that we spend a certain amount of funding on
7 CHODA eligible activities. And to the extent we do not
8 spend that funding it can result in our overall amount of
9 non-CHODA funding also being capped and reduced. So it=s
10 a really important thing that we=re able to facilitate the
11 use of these CHODA funds.

12 MR. OXER: So we don=t -- we want to reduce the
13 amount of self-imposed limitations certainly.

14 MR. DORSEY: That=s right.

15 MR. OXER: Yeah. Okay. Any questions?

16 (No response.)

17 MR. OXER: Okay. Motion to consider?

18 DR. MUÑOZ: So moved.

19 MR. OXER: Okay. Motion by Dr. Muñoz to
20 approve staff recommendation on 1(1).

21 MR. CHISUM: Second.

22 MR. OXER: Second by Mr. Chisum. Okay. No
23 public comment. All in favor?

24 (A chorus of ayes.)

25 MR. OXER: Opposed?

1 (No response.)

2 MR. OXER: There are none. Thanks, Cameron.
3 Okay. Michael?

4 MR. DEYOUNG: Good morning. Michael DeYoung,
5 Community Affairs Division Director. Mr. Chairman,
6 members of the Board, both new and old, Items 1(q) and
7 1(r) have been provided copies to each of you on your
8 computer.

9 And we are revising the Board items in order to
10 accommodate a meeting that went on yesterday afternoon.
11 The members of the ERAC committee met with the
12 subrecipient and reached consensus on a potential decision
13 which is now reflected in these revised items.

14 Item 1(q) is the LIHEAP awards; item 1(r) is
15 the CSBG awards. The entity we met with yesterday would
16 be affected by those awards.

17 Additionally, the item in -- the funding table
18 in Item 1(r) has been modified to reflect current census,
19 as there was an error in that spreadsheet. So you have
20 been provided the revised writeups. There are copies
21 available out at the front table for anybody in the
22 general public who=s interested.

23 Staff now is of the opinion that an agreement
24 can be reached so that no gap in services would result
25 from the decision reached yesterday. So this approach is

1 now reflected in this revised writeup and we recommend --
2 staff recommends your approval.

3 MR. OXER: What was the principal change in it
4 again. Michael?

5 MR. DEYOUNG: The writeup as posted in the
6 Board book originally reflected one of the entities,
7 Northeast Texas Opportunities, as having issues with their
8 compliance and monitoring findings which resulted in staff
9 recommending an award to another agency.

10 After the meeting yesterday staff feels like
11 the path forward is to continue with Northeast Texas
12 Opportunities and try and work on an agreement that can
13 provide services. We are not bringing that as a
14 recommended funding -- or funding recommendation at this
15 meeting. We would -- we may come back in January with a
16 revised funding recommendation --

17 MR. OXER: Okay.

18 MR. DEYOUNG: -- for Northeast Texas
19 Opportunities. But we feel like over the next 15 to 20
20 days we can work on an agreement which will continue
21 services in the area with the same service provider and
22 not reach a gap in services. Our concern was that we
23 could possibly have a time period where there would be
24 no --

25 MR. OXER: Be a gap.

1 MR. DEYOUNG: -- services provided.

2 MR. OXER: Okay.

3 MR. DEYOUNG: And this is the cold part of the
4 year.

5 MR. OXER: Okay. All right. Any questions
6 from the Board?

7 (No response.)

8 MR. OXER: Motion to --

9 MR. IRVINE: For the benefit of the new Board
10 members, although you went through this in your training,
11 I'll reiterate it. We have a statewide event of entities
12 that administer certain formula-funded programs, and those
13 include CSBG and LIHEAP. And it's not like a typical
14 competitive award situation where people choose if they
15 will or will not compete for these funds.

16 And because this is an established structure
17 and this particular organization is the established
18 provider in that area, we think it's incumbent that
19 whenever it's at all possible, that we work with them to
20 facilitate continuity and stability, because it's all,
21 frankly, about providing passthrough services to low-
22 income households.

23 MR. OXER: Okay. Any other questions from the
24 Board?

25 (No response.)

1 MR. OXER: Motion to consider?

2 MR. GANN: I=ll make a motion to approve 1(q)
3 and 1(r) as revised in printed form.

4 MR. OXER: Okay. We=ll take these two
5 together. All right? Okay.

6 MR. GOODWIN: Second the motion.

7 MR. OXER: Okay. Motion and second by -- let=s
8 see -- Gann and Goodwin. Motion by Mr. Gann and second by
9 Mr. Goodwin. No public comment. All in favor?

10 (A chorus of ayes.)

11 MR. OXER: Opposed?

12 (No response.)

13 MR. OXER: There are none. Thank you, sir.
14 Okay. To the action agenda -- got a little circus here.
15 Michael, do we have anybody we=d like to recognize here
16 today?

17 MR. LYTTLE: Not that I=m aware of.

18 MR. OXER: Okay. Thank you. Jean?

19 MS. LATSHA: Good morning.

20 MR. OXER: Good morning.

21 MS. LATSHA: Jean Latsha, Director of
22 Multifamily Finance. Item 2(a) is actually -- this is a
23 recommendation for the issuance of \$13 million in tax
24 exempt bonds, as well as the issuance under a
25 determination notice of 888,752 in overspent housing tax

1 credits.

2 This would typically be on the consent agenda.

3 I think ERAC just -- it didn=t quite make it to an ERAC
4 meeting early enough to get it to a consent agenda, but a
5 pretty typical, straight up 4 percent bond development,
6 160 units in south Dallas, that is actually general
7 population but catering to veterans. So staff recommends
8 approval.

9 MR. OXER: Good. Any questions of the Board?

10 (No response.)

11 MR. OXER: I like the idea of the veterans
12 getting taken care of. And I believe the vice chairman
13 would have a comment on that too, would they not? And Mr.
14 Chisum as well.

15 DR. MUÑOZ: So moved.

16 MR. OXER: Okay. Motion by Dr. Muñoz to
17 approve staff recommendation. Second?

18 MR. CHISUM: Second.

19 MR. OXER: Second by Mr. Goodwin. Okay.

20 MR. CHISUM: Mr. Chisum.

21 MR. OXER: Oh, okay. Mr. Chisum, second. Our
22 two veterans that I know of for sure.

23 Is there any public comment?

24 (No response.)

25 MR. OXER: Appears to be none. All in favor?

1 (A chorus of ayes.)

2 MR. OXER: Opposed?

3 (No response.)

4 MR. OXER: There are none. Okay. 2(b).

5 What=s you got, Jean?

6 MS. LATSHA: I think Cameron=s going to take
7 this one.

8 MR. DORSEY: Pinch hitter. All right. That=s
9 right; pinch hitter. Jean only understands sports or
10 gambling analogies.

11 (General laughter.)

12 MR. OXER: Or, as it turns out, racing.

13 MR. DORSEY: That=s right. Now add racing to
14 that.

15 MR. OXER: All right.

16 MR. DORSEY: Okay. This particular item
17 concerns the sufficiency of a letter that was submitted by
18 an applicant for a 9 percent housing tax credit award
19 for -- it was -- the letter to submitted to meet a
20 condition placed on this award.

21 I=m going to give a brief history before I give
22 a little bit more specifics about the letter that was
23 provided.

24 We -- on July 31, 2014, the application in
25 question, to a development calls Tays, was awarded 9

1 percent tax credits with a particular condition. Staff
2 had terminated the application based on the site not
3 meeting the required neighborhood characteristics. In
4 other words, there were some adverse kind of
5 characteristics that staff observed related to crime and
6 blights and things like that.

7 They presented some revitalization efforts that
8 were going on in the area to improve the area, and staff
9 wasn't certain that those efforts were sufficiently
10 substantive to warrant not terminating that, allowing it
11 to continue moving forward. So it was terminated. It was
12 appealed to the Board at the July 31 Board meeting.

13 The Board chose to reinstate that application;
14 ultimately it got an award, but the reinstatement came
15 with a condition, and the condition is as follows.

16 Its award is conditioned upon the applicant
17 obtaining a letter from the appropriate officials at HUD
18 with authority to speak for fair housing and equal
19 opportunity -- that's a division within HUD -- stating
20 that this specific proposed transaction fully complies
21 with the Fair Housing Act. Okay? So that's a really key
22 statement that I'm going to come back to here in a moment.

23 That letter was due at the time of carryover,
24 which happens on November 1. That's generally when
25 carryover must be met. However, we brought this item back

1 to the November Board meeting, and the Board chose to give
2 them an extension into December, and they met that by
3 getting the letter in.

4 The question that remains is whether or not the
5 letter is sufficient to meet this condition. The letter
6 wasn't quite as straightforward as we had seen in another
7 instance in which the Board placed this type of condition
8 on a transaction, the Galveston situation. It's not quite
9 as straightforward. There's more backup documentation to
10 kind of support the conclusion.

11 The specific letter itself reads -- there's a
12 statement -- I'm going to read just a piece of the letter:

13 "There does not appear to be any indication
14 that the proposed redevelopment of the Tays property poses
15 a violation of Title 6, Title 8, or Executive Order
16 11063."

17 I'll just tell you real quick that Title 8 is
18 the Fair Housing Act, Title 6 is a provision -- or is a
19 portion of the Civil Rights Act of 1964 that deals
20 specifically with nondiscrimination in HUD programs, as
21 does Executive Order 11063, which was a Kennedy executive
22 order prior to the 1964 Civil Rights Act.

23 So it covers a little bit more broadly than the
24 Fair Housing Act itself and deals with Title 6 HUD
25 nondiscrimination HUD programs.

1 That does not say complies fully. But if --
2 you know, Jean and I were talking about this before we
3 came. If I had a question from a developer that said, Is
4 this red?, and I wrote, Yes, this is red, and then routed
5 that through legal, this is what would come back.

6 (General laughter.)

7 MR. OXER: So it doesn't say --

8 MR. DORSEY: Right. So --

9 MR. OXER: There=s a word -- there=s a couch
10 that all the words live on over there.

11 MR. DORSEY: Right. Initially the letter
12 caused a bit of concern on our part. The underlying kind
13 of path that got -- that led them to this conclusion was a
14 little perplexing for staff initially, because we=re
15 familiar with the site and neighborhood process.

16 The site and neighborhood evaluation process
17 was understood by our staff to be a more limited in scope
18 kind of review that relates to fair housing but does not
19 generally lead to a broad conclusion that something is
20 compliant with the Fair Housing Act.

21 It seems that this may be a bit of an instance
22 of do as we say not as we do kind of thing, because I
23 think the agency is generally held to a standard that
24 exceeds that which was applied by HUD. Nonetheless, it
25 includes that kind of required statement with the slight

1 legal hedge --

2 MR. OXER: Slight? Slight?

3 MR. DORSEY: -- noted previously.

4 MR. OXER: Sounds like they didn=t -- sounds
5 like it said -- that they did not say it fully complies;
6 they just said it doesn=t violate.

7 MR. DORSEY: That=s right. That=s right.

8 MR. OXER: Okay.

9 MR. DORSEY: Yeah. Which is -- I mean, I've
10 learned not to even route it through it legal. I just
11 write it that way nowadays. So there was some opposition
12 that arose --

13 DR. MUÑOZ: Cameron --

14 MR. DORSEY: Yes.

15 DR. MUÑOZ: -- can I stop you --

16 MR. DORSEY: Sure.

17 DR. MUÑOZ: -- before you go too far and I lose
18 my train of thought?

19 MR. DORSEY: Sure.

20 DR. MUÑOZ: So you describe some of the
21 statutes in the Civil Rights Act and what have you that
22 may not, you know, sort of laser-target this specific
23 question. But does it necessarily not encompass
24 addressing our purpose?

25 I mean, because, you know, if it, in terms of

1 spirit and approximate letter, accomplishes what we
2 need -- I mean --

3 MR. OXER: Do you suppose there=s anything
4 better that we have gotten out of HUD?

5 MR. DORSEY: I=m not sure we could have gotten
6 anything --

7 DR. MUÑOZ: And -- okay.

8 MR. DORSEY: -- better.

9 DR. MUÑOZ: Okay. Well, that=s my -- okay.
10 And then, secondly, I mean, did you -- did our staff
11 provide very explicit guidance to say, This is exactly
12 what the letter has to say? Because if it mostly says
13 what we want it to say and we didn=t provide very
14 explicit, direct, unequivocal guidance --

15 MR. DORSEY: Yeah. We -- I was provided a
16 draft letter, revised that draft -- it was provided by the
17 applicant themselves. It hadn=t been run by HUD at that
18 point -- provided that draft. I looked at it, revised it,
19 ran it by Barbara, got comfortable with it, and sent it
20 back to them. That is not what HUD signed.

21 Now, I will tell you I=ve been sent letters
22 from developers asking me to sign them, and I=ve never
23 signed one without pretty significant modifications to it.

24 So, I mean, it=s not unusual to have that kind of
25 modifications. We did provide more explicit language. It

1 didn=t come back with that same explicit language.

2 DR. MUÑOZ: All right.

3 MR. DORSEY: There was some opposition. The
4 Housing Authority of the City of Laredo is the next
5 transaction in line. So to the extent that the Board
6 determines that this letter did not meet -- was not
7 sufficient to meet the condition and doesn=t address their
8 concerns fully, the credit would be returned and we would
9 go to the next 2014 deal in line.

10 The next one in line is Laredo=s deal. They
11 weighed in in opposition. They also had their legal
12 counsel weigh in with their belief that it does not meet
13 the requirements of the Fair Housing Act. So just want to
14 make sure that=s clear.

15 I=m not sure I=ve seen any of them here to
16 speak. Oh, okay. We do have one of them here to speak.
17 You might want to come on up to the front, or J. Paul will
18 get onto you.

19 MR. OXER: If you don=t get up to the front,
20 you don=t get a chance to speak. That=s all.

21 DR. MUÑOZ: So, Cameron -- so, you know, what=s
22 our -- you know, what=s your general interpretation? I
23 mean, does this -- you know, does this satisfy, you know,
24 our requirements for fair housing? I mean --

25 MR. DORSEY: I think it includes the statement

1 that the Board was looking for with a slight modification.

2 DR. MUÑOZ: Right.

3 MR. DORSEY: It remains a bit perplexing as to
4 how the site and neighborhood standard as the primary tool
5 gets them there. But HUD is -- regardless of that, HUD is
6 the authorized entity to enforce the Fair Housing Act.
7 And there -- you know, Gary Sweeney has -- is authorized
8 to speak on behalf of fair housing --

9 DR. MUÑOZ: Are they saying that it --

10 MR. DORSEY: -- and equal opportunity --

11 DR. MUÑOZ: Are they saying that it doesn=t,
12 you know --

13 MR. DORSEY: No.

14 DR. MUÑOZ: Okay.

15 MR. OXER: So HUD is essentially saying that it
16 doesn=t violate fair housing. Laredo basically saying it
17 does violate fair housing.

18 DR. MUÑOZ: I mean, but that --

19 MR. OXER: That=s -- which is a predictable
20 case. But essentially -- well, finish your presentation
21 on the information then we=ll go from there.

22 DR. MUÑOZ: Let me ask a question --

23 MR. DORSEY: Uh-huh.

24 DR. MUÑOZ: -- Cameron. So -- but we asked for
25 a letter from HUD -- okay -- saying that, you know, fair

1 housing was being, you know, not violated, being
2 protected. And they essentially said it=s not.

3 MR. DORSEY: Right.

4 DR. MUÑOZ: We asked for a letter --

5 MR. DORSEY: Uh-huh.

6 DR. MUÑOZ: -- by a date in December.

7 MR. DORSEY: Uh-huh.

8 DR. MUÑOZ: They procured a letter --

9 MR. DORSEY: Uh-huh.

10 DR. MUÑOZ: -- that essentially stated what we
11 asked for.

12 MR. DORSEY: It includes that statement, yes.

13 MR. OXER: Anything else?

14 MR. DORSEY: At that -- I mean, we didn=t have
15 a staff recommendation. Like I said, it was just -- it
16 was a little bit short, I think, of getting us fully
17 comfortable. We wanted to make sure you all were
18 comfortable since you all made the condition. That=s why
19 we brought it here.

20 Tim, did you have something you wanted to ask?

21 MR. IRVINE: No. I would say that when we
22 imposed a similar condition on another transaction, we
23 obviously got a custom-drawn letter signed by three
24 assistant secretaries.

25 In this particular case the way that the issue

1 was addressed was through the site and neighborhood
2 clearance process. And in that process Gary Sweeney in
3 the Fort Worth office has delegated authority to sign off
4 on fair housing issues, because it=s a clearance involving
5 HUD funding under public community housing.

6 MR. DORSEY: That=s right.

7 MR. OXER: So essentially we got what we asked
8 for and on time.

9 MR. DORSEY: Yes.

10 MR. OXER: Good. Any questions from the Board?

11 (No response.)

12 MR. OXER: Okay. We=ll need a motion to
13 consider on this. And it will be not a staff
14 recommendation but an origination by us.

15 DR. MUÑOZ: Motion to consider.

16 MR. OXER: Okay. Motion by Dr. Muñoz to
17 approve --

18 DR. MUÑOZ: To accept.

19 MR. OXER: -- to accept the letter from HUD on
20 behalf of this particular applicant.

21 MR. DORSEY: As meeting the conditions.

22 MR. OXER: As meeting the conditions imposed by
23 the last meeting. Is that correct?

24 MR. DORSEY: The July 31 meeting.

25 MR. OXER: Is that good enough, Barbara?

1 MS. DEANE: Yes.

2 MR. OXER: Okay. All right. Motion by Dr.
3 Muñoz.

4 MR. GOODWIN: Second.

5 MR. OXER: Okay. Second by Mr. Goodwin. This
6 is going in a direction you probably are looking for,
7 Representative Gonzalez. If you=d like to say anything
8 we=ll offer you the courtesy. I=m happy to have you say,
9 anything you=d like.

10 REPRESENTATIVE GONZALEZ: I just really
11 couldn=t --

12 MR. OXER: Okay. Please come.

13 REPRESENTATIVE GONZALEZ: I=m all the way in
14 town from El Paso, might as well

15 MR. OXER: Came on over here. Come on up and
16 say something. We=re happy to have you.

17 REPRESENTATIVE GONZALEZ: I just want to say
18 first and foremost I=ve been working with your agency a
19 lot the last couple of months as we prepare for
20 legislative session. Your staff is amazing. I mean, I --
21 we work with lots of agencies. This is probably the
22 agency we enjoy working with the most. I=m in town; we=re
23 changing offices.

24 And when I heard this was on the agenda --
25 myself and the entire delegation is very supportive of

1 this project. We believe this is great for our people,
2 great for El Paso. And I just wanted to physically be
3 here and watch it, make sure everything -- all your
4 questions were answered. And staff, again, has done a
5 great job, and I'm just here on behalf of the delegation
6 to show our support.

7 MR. OXER: Okay. We're happy to have you, and
8 we'll always offer you that courtesy to speak.

9 REPRESENTATIVE GONZALEZ: I appreciate it. And
10 your meetings are very interesting, more interesting than
11 our committee hearings.

12 MALE VOICE: Stick around.

13 MR. OXER: We actually try to get them to be
14 pretty boring where we come in and do it and leave pretty
15 quick, but sometimes that doesn't happen. All right.
16 Then I assume correctly that everybody over here is in
17 favor of where this -- you can tell this is going? Okay.
18 Do you have a comment from Laredo?

19 MR. VOELKER: Good morning, Mr. Chairman and
20 Board, and happy holidays to you all. My name is Bob
21 Voelker. I am an attorney out of Dallas. I've been
22 involved in affordable housing for 25 years and in fair
23 housing for 20 years as an attorney, a developer, and
24 again as an attorney.

25 I testified before the Texas Legislature back

1 in 2002 on concentration in fair housing issues. The last
2 four years I've served as special counsel to the Texas
3 General Land Office on fair housing issues associated with
4 distribution of federal disaster recovery funds from the
5 hurricanes.

6 In that role I've reviewed over a hundred
7 applications for funding to the Texas GLO, including by
8 local housing authorities and including several that had
9 received HUD site and neighborhood standards clearance.

10 There's no way to really kind of sugarcoat the
11 El Paso site. Along with a housing authority project that
12 I looked at in Beaumont on behalf of the Texas GLO earlier
13 this year that had both site and neighborhood clearance
14 and TDHCA tax credits and that ultimately the GLO rejected
15 for fair housing concerns, this is the worst site I've
16 seen in ten years from a fair housing standpoint.

17 Simply stated, this is the lowest income area
18 in El Paso. There are 650 public housing units directly
19 adjacent to this site, 1941 and 1973 construction. That's
20 11 percent of all the public housing units in the City of
21 El Paso that are directly adjacent to the property.

22 There's very high poverty, some of the highest
23 poverty in El Paso, some of the highest poverty ratios in
24 the state of Texas in a small area; very high
25 unemployment, high vacancy in the area, high crime,

1 including drug- and gang-related crime.

2 My conclusion as a fair housing attorney -- and
3 Mr. Dorsey pointed out, the TDHCA has their own
4 obligations from a fair housing standpoint to consider,
5 not just whatever HUD says -- this site does not pass any
6 level of federal fair housing scrutiny.

7 HUD=s clearance for site and neighborhood
8 standards, which is what they -- their letter says that
9 they cleared it based on that -- just simply indicates
10 that it can move forward with the HUD process and that HUD
11 won=t take them to task for having done this project.

12 And that really has to do with demolishing some
13 units, moving some units out of the area, and then
14 reconstructing some units in that particular area. So
15 they=re just saying based on those evaluations that they
16 do that this isn't violative of their process.

17 It=s not really a clearance from a fair housing
18 standpoint. That=s why they state it in the negative and
19 they didn=t give you a positive statement. If we=re
20 really serious about affirmatively furthering fair
21 housing, the El Paso application should be rejected. And
22 I thank you for your time. If you have any questions --

23 MR. OXER: Thank you, Mr. Voelker. Is there
24 any questions from the Board?

25 (No response.)

1 MR. OXER: Don=t forget to sign in here so we
2 can record it for Penny.

3 The -- all right. We have a -- I=d like -- I=m
4 going to pull the Chair=s privilege here because there=s a
5 motion by Dr. Muñoz, a second by Mr. Goodwin to approve
6 the acceptance of this letter.

7 For purposes of receiving some legal guidance
8 from our fair housing attorney, Megan Sylvester, I want to
9 wait until we=re into executive session. So we=re going
10 to hold this -- we=re going to table this until after we
11 have an opportunity to meet in executive session and then
12 come back and vote on that. So for those of you who are
13 in a hurry to get out, you=ll have to sit tight for a few
14 minutes. Okay?

15 With that, we=re going to move to the next
16 item, Number 3. Am I still between the lines, Barbara?

17 MS. DEANE: Yeah.

18 MR. OXER: Okay. I try to keep us --

19 MS. LATSHA: Jean Latsha --

20 MR. OXER: I try to keep us between the ditches
21 on this road.

22 MS. LATSHA: Yes -- Director of Multifamily
23 Finance. I=m actually going to have Kathryn Saar present
24 this item, but I wanted to come up here really quickly
25 just to say that I think she did a pretty phenomenal job

1 on this. I basically took that role of director and I
2 directed and I said, Go do this, and I didn't do any of
3 it. So thank you to Kathryn, and I'll let her have it.

4 MS. SAAR: All right. Good morning. Kathryn
5 Saar. I run the 9 Percent Housing Tax Credit Program.
6 The last item on your agenda -- although we've skipped
7 over one now -- is a request to waive a specific paragraph
8 with a QAP related to the method by which the 9 percent
9 pre-application are delivered to the Department.

10 So the QAP Section 11.8(a)(2) reads, The pre-
11 application shall consist of one CD-R containing a PDF
12 copy and an Excel copy submitted to the Department in the
13 form of single files, as required in the multifamily
14 programs procedures manual. So this is the specific
15 paragraph that we're asking to be waived. And this waiver
16 is needed because of a conflict with a statutory
17 requirement.

18 In 2001 the Texas Legislature revised statute
19 to require the Department to evaluate the feasibility of
20 an online application system. And it further requires
21 that once an online application system is operational,
22 that it be required for use in the following application
23 year.

24 So we now have an operational online
25 application for our pre-apps for the 9 percent program.

1 And over the last six months staff has evaluated multiple
2 options for having this online pre-application. And after
3 extensive research and spec testing, a decision was made
4 to go with a third-party service called JotForm. JotForm
5 is an online tool that allows users to create a form that
6 can be seamlessly integrated into your online
7 architecture.

8 Staff set about testing this service and
9 designing a pre-app. We also performed an agency-wide
10 stress of the system after the design was complete. The
11 system performed exactly as anticipated. And that was to
12 simulate the volume of traffic we anticipate receiving on
13 January 8, which is the date pre-apps are due.

14 So the development community has been largely
15 supportive of this effort. They were trained at the
16 application workshops earlier this month on the new
17 system. And the multifamily programs procedures manual
18 has been updated with this new information. We're also
19 going to be publishing a webinar and some FAQs on the
20 system as well.

21 So I know we just went through our rulemaking
22 process, and you probably want to know why we didn't ask
23 for this change at that time. And the simple answer is we
24 simply weren't sure that the system would be ready. So
25 out of an abundance of caution we left the requirement in

1 place -- the existing requirement. And now that we know
2 that the system is up and running, we are asking for the
3 waiver.

4 So staff recommends a blanket waiver of
5 11.8(a)(2), and it=s just that one paragraph. And, with
6 that, I=m happy to answer any questions you might have.

7 MR. OXER: And that applies, Kathryn,
8 exclusively to the pre-applications.

9 MS. SAAR: To the 9 percent pre-app --

10 MR. OXER: Pre-application -- not to the --

11 MS. SAAR: Correct.

12 MR. OXER: -- full application, just for the
13 pre-application.

14 MS. SAAR: Correct.

15 MR. OXER: Okay.

16 MS. SAAR: The procedures for the full
17 application are in 11.9.

18 MR. OXER: Right. Okay. Any questions from
19 the Board? Sounds like we=re getting -- being dragged
20 kicking and screaming into the 21st century here. Right?

21 MS. SAAR: That=s right.

22 MR. OXER: I love it. I love it. Any
23 questions from our new members?

24 (No response.)

25 MR. OXER: Okay. Well, in that case, motion to

1 consider.

2 MR. GANN: I'll move staff recommendation.

3 MR. OXER: Okay. Motion by Mr. Gann to approve
4 staff recommendation on Item 3.

5 MR. GOODWIN: Second.

6 MR. OXER: I hear a second from Mr. Goodwin.

7 Is there any public comment?

8 (No response.)

9 MR. OXER: I should think that all the
10 developers here would think this is going to be an
11 improvement over our prior system. Is that correct?

12 (No response.)

13 MR. OXER: Okay. No public comment.

14 Motion by Mr. Gann, second by Mr. Goodwin to
15 approve staff recommendation Item 3. All in favor?

16 (A chorus of ayes.)

17 MR. OXER: Opposed?

18 (No response.)

19 MR. OXER: There are none. Congrats, Kathryn.

20 All right. We're down to the bottom of the
21 agenda here. We're going to take a brief break for
22 some -- for an exec staff. You guys out there can think
23 of it as our typical mid-morning break. But everybody sit
24 still, because we've got to do this officially.

25 The governing Board of the Texas Department of

1 Housing and Community Affairs will go into closed session
2 at this time pursuant to the Texas Open Meetings Act to
3 discuss pending litigation with its attorney under Section
4 551.071 of the Act, to receive legal advice from its
5 attorney under Section 551.071 of the Act, to discuss
6 certain personnel matters under Section 551.074 of the
7 Act, to discuss certain real estate matters under Section
8 551.072 of the Act, and to discuss issues related to
9 fraud, waste, or abuse under Section 2306.039(c) of the
10 Texas Government Code.

11 Closed session will be held in the anteroom
12 immediately behind us. The date is December 18 and the
13 time is 10:22.

14 I expect this will be fairly quick. We=re
15 going to take some issues on this, and I=d like have Megan
16 join us. And we=ll be back here -- let=s be back in our
17 seats at 10:45.

18 (Whereupon, at 10:22 a.m., the Board went into
19 Executive Session.)

20 MR. OXER: Okay. The Board has now reconvened
21 in open session at 10:52. We heard advice form our legal
22 counsel on a couple of issues and are back in the saddle.
23 We made no decisions.

24 All right. Regarding Item 2(b), which has been
25 held until now, I understand there are some folks here

1 that would like to make another comment. Is that correct?

2 Okay. And I will remind -- to advise the Board that we
3 have a motion by Dr. Muñoz and a second by Mr. Goodwin to
4 accept a letter that was being recommended that we had
5 requested. And the motion is to accept that letter as
6 satisfying our requirements.

7 MR. MARKS: Good morning. My name is Scott
8 Marks. I'm with the Coats Rose law firm. I've been
9 practicing law for 20 years with an emphasis on fair
10 housing throughout my career.

11 I've served as counsel in four public housing
12 desegregation cases, including the Gautreaux case in
13 Chicago, where I was part of a team that negotiated civil
14 rights approvals for the redevelopment of Cabrini-Green
15 and sites in Chicago for redeveloped public housing.

16 I've represented plaintiffs in public housing
17 desegregation cases at HUD in the nineties in a civil
18 rights position. And I've served for five years as a
19 board member of the Austin Tenants Council, which is our
20 local fair housing organization. I have worn a lot of
21 hats in this rodeo and have a few battle scars from that.

22 You know, fair housing obligations are
23 confusing. I know you get a lot of different advice,
24 depending on who you turn to. This is a time of real
25 uncertainty. You have a case going to the highest court

1 in the land next month because of that uncertainty. And,
2 you know, it=s kind of -- HUD had issues a lot of
3 regulatory guidance. The courts have pushed back on HUD.

4 And so it is a confusing time in the fair housing arena.

5 Let me just talk about a few definitions,
6 though, and some of the cases that are out there to give
7 you my perspective on it.

8 First of all, what does this term of
9 affirmatively furthering housing mean? It=s actually in
10 the Fair Housing Act, and the Fair Housing Act says, The
11 Secretary of HUD shall administer the programs and
12 activities related to HUD in a manner affirmatively to
13 further the policies of the Fair Housing Act.

14 Courts have wrestled with that. There was a
15 case in 1970, two years after the Fair Housing Act was
16 passed, called the Shannon case, wherein the Third Circuit
17 said that HUD needs some standards, they need some
18 regulations for looking at sites.

19 And, you know, HUD had defended the Chicago
20 case, the Gautreaux case, by saying that when they sent
21 hundreds of millions of dollars to Chicago, they had no
22 idea that it was being used to build segregated public
23 housing on the south side and the west side of Chicago.

24 And so what -- you know, what these courts have
25 said is this affirmative duty requires HUD to take a look

1 at the racial data, take a look at the socioeconomic data.

2 That idea, you know, as Judge Justice said in an East
3 Texas case, you know, you were given eyes so that you can
4 see, you were given ears so that you can hear, and cited
5 the Bible, cited Job in terms of, you know, what this
6 obligation is.

7 And that=s what site and neighborhood standards
8 are. The site and neighborhood standards came from those
9 cases. Site and neighborhood standards say, You have to
10 provide this racial data on your site. You have to
11 provide socioeconomic data and give HUD a chance to review
12 it and determine whether or not it affirmatively furthers
13 fair housing, whether it complies with fair housing.

14 The way those site and neighborhood standards
15 work -- of course, if the rule was that you can=t go into
16 a neighborhood which is an area of minority concentration,
17 which HUD defines as more than 50 percent minority -- the
18 entire Texas border would be redlined. Okay? So that=s
19 not the rule.

20 The rule is that you can certainly go into
21 areas of minority concentration if you fit within an
22 exception. And those exceptions are in the HUD
23 regulations on site and neighborhood standards. There are
24 two exceptions that apply here, and HUD has determined
25 that those two exceptions apply here.

1 The first exception is if you're in a
2 revitalizing area that appears that the area has an
3 economic activity and is revitalizing, and it's consistent
4 with the city's plans, then you fit within an exception to
5 the site and neighborhood standards.

6 HUD has determined that we fit within that
7 exception here. It's called overriding housing need. And
8 there's overriding housing need in this area, and the
9 person who is responsible for making that determination is
10 Gary Sweeney at HUD, and he's made that determination.

11 A second exception is, in the nineties, when I
12 was working in Chicago, there were a lot of questions.
13 Well, you know, if we're knocking down housing -- 3,500
14 units at Cabrini-Green -- and this is an area of minority
15 concentration -- is the fair housing obligation not to
16 build any housing back there because it's an area of
17 minority concentration?

18 And Congress weighed in and said, No, we want
19 you to knock down legacy public housing. That is a good
20 fair housing thing because, of course, there's a terrible
21 history associated with the public housing program. And
22 so the very fact that you're knocking down legacy public
23 housing is a -- that is something we want to encourage as
24 long as you're only building enough housing back to house
25 the people who want to return. So, again, you know, HUD

1 mentions that in this letter.

2 And I want to talk about the specific language
3 of the letter because we were -- when we were asked to get
4 a letter from HUD, it says that we are consist with the
5 Fair Housing Act or we comply with the Fair Housing Act.

6 The first page of the memo says that -- this is
7 from Gary Sweeney to Sue Wilson, and she says, I=ve
8 reviewed available information pertaining to Tays and have
9 concluded that the proposal satisfactorily meets the
10 subject site and neighborhood standards as provided below.

11 The site and neighborhood is suitable to facilitating and
12 furthering full compliance with the Fair Housing Act.

13 That=s on the first page of the memo. And
14 then, of course, on the last page, as Cameron pointed out,
15 it says that there is no indication that there is any
16 violation of the Fair Housing Act.

17 There=s another case that I want to mention,
18 which I sent to the Department this week, which is a case
19 that reviewed HUD=s approval under site and neighborhood
20 standards for a site in west Philadelphia. And HUD was
21 sued because advocates felt that HUD didn=t make the right
22 determination.

23 The court said, No, HUD is the agency that was
24 charged with making these decisions, and HUD made that
25 decision that the west Philadelphia site complies with

1 site and neighborhood standards, and that affirmatively
2 furthers fair housing. They made that clear in that case.

3 And the only way that that decision would be
4 overturned is if it was an abuse of discretion -- if it
5 was, you know, an abuse of discretion by HUD. And
6 that=s -- you know, whether it was arbitrary, capricious,
7 and abuse of discretion. That=s a very, very high
8 standard.

9 So HUD has -- you know, in terms of do you
10 believe Scott Marks, do you believe Bob Voelker? You
11 know, HUD is the agency that has been charged by Congress
12 with making these determinations. So we have that
13 approval from HUD.

14 I think, you know, I=d just like to also point
15 out that the fair housing obligations are confusing.
16 They=re probably most confusing along the Texas border.
17 You know, that definition of more than 50 percent
18 minority; that probably covers all the way from
19 Brownsville to El Paso along the Texas border. So, you
20 know, we -- there=s a reason why there are exceptions in
21 the site and neighborhood standards. And, again, HUD has
22 found that we fit within that standard.

23 And it=s very different from a situation like
24 Galveston, for example, where there appeared to be some
25 racial dimension to people who are opposed to public

1 housing on the island and just saying, You know, we don=t
2 want any public housing on the island.

3 And that=s a very different situation from what
4 we have in the redevelopment of Tays. And, you know, the
5 Fair Housing Act does not mean that you redline areas
6 because they're areas of minority concentration.

7 So we think HUD has given us the letter that
8 you asked us to get. It satisfies the condition. And I=d
9 be happy to answer any questions.

10 MR. OXER: Thanks, Scott. Any questions from
11 the Board?

12 (No response.)

13 MR. OXER: Any questions? Okay. Thanks.

14 Barry, did you have a comment or did you want
15 to --

16 MR. PALMER: Well, I guess I=d just like to
17 say --

18 MR. OXER: Time out, time out.

19 MR. PALMER: This is Barry Palmer --

20 MR. OXER: That=s the first thing you have to
21 say.

22 MR. PALMER: -- with Coats Rose. That=s what I
23 wanted to say.

24 MR. OXER: There you go. Nice recovery.

25 MR. PALMER: But, you know, really the only

1 issue before the Board today is the satisfaction of a
2 condition that you imposed on us getting a letter from
3 HUD.

4 The whole issue of reexamining the site and
5 talking about there=s -- you know, there=s too many poor
6 people there, there are too many minorities there, you
7 know, that=s already been gone through.

8 You know, the staff spent a lot of time back in
9 June and July looking at the site and went through all of
10 the issues related to this site -- blight, crime,
11 everything -- and came to the conclusion then, and this
12 Board approved the site subject only to getting this
13 letter from HUD, which we have now received and, as
14 Cameron pointed out, was not exactly what the agency may
15 have wanted, but it=s pretty darn close.

16 And it certainly says that the project does not
17 violate fair housing, and so we would ask you to approve
18 the motion on the floor.

19 MR. OXER: Okay. Thanks, Barry.

20 Any questions from the Board?

21 (No response.)

22 MR. OXER: Okay.

23 MR. CICHON: Good morning. Gerry Cichon,
24 Housing Authority for the City of El Paso. Just want to
25 let you know that when you all asked us for this, we

1 didn't know how hard it was going to be. You know, with
2 our relation with HUD with the chance to go down and meet
3 with the secretaries when I got to D.C. all the time, I
4 thought it was going to be an easy ask just to get a
5 simple letter.

6 Unfortunately, you're dealing with a massive
7 bureaucracy that, like any government bureaucracy, being
8 one of them, it's difficult to have anybody try to
9 alleviate any obligation -- or give you some complete
10 immunity.

11 Getting this letter satisfied a lot of --
12 basically everything that we could ask for. I mean, it
13 was a yeoman's effort to get to this point. The
14 conversations I had were at the highest levels. I
15 mentioned this to the Secretary when I met with him
16 approximately two months ago at the -- assistant
17 secretaries that were there -- with the changeovers that
18 were going on, with the issues that we had with HUD staff,
19 with issues that happened with their families when they
20 were out for months at a time.

21 And we are very satisfied with this letter and
22 we think that it takes that obligation that you put upon
23 us, and only upon us, to the level that you asked for us.

24 And so from the Housing Authority's
25 perspective, we respectfully ask for this. I will say

1 that when everything started, we had three awards. We're
2 now down to two. We are in the middle of an \$800 million
3 reconstruction that has to be done in the next 36 months.

4 We are going to move 20,000 people once, if not twice. 4
5 percent tax credits are coming before you at a rapid pace
6 as we start the process with the bonds and everything
7 else.

8 I cannot impart upon you the need for this
9 award. I can't impart upon you the need for this award
10 within this particular area of El Paso as we revitalize
11 100 percent of our housing stock in the next 36 months.

12 And I know, being from public housing, it's
13 easy to talk about from perspective of an administrator.
14 But we also have Ms. Leona Vasquez, who's the president of
15 the jurisdiction-wide resident council. She does
16 represent all 20,000 public housing residents in El Paso.

17 She has taken her time to fly out today to let
18 you also know, as well as many of the representatives who
19 have written letters or have shown up to speak today,
20 about the significance of this decision.

21 And so I'd like to introduce Ms. Vasquez.
22 She's a Spanish speaker. I believe we do have a
23 translator.

24 MS. VASQUEZ: Good morning, Board members.
25 *Buenos días a todos.*

1 MR. OXER: *Buenos días.*

2 MS. VASQUEZ (through interpreter): My name is
3 Liliana Vasquez. She lives very proudly with great pride
4 in the El Paso housing authority. I represent more than
5 30 public housing communities.

6 I'm here filled with emotion asking you about
7 the decision that you have in your hands that is so very
8 important, the ability you have in your hands to change
9 the lives of more than 350 families. They're under a
10 conversion. They've had many meetings with the residents.

11 You can imagine the happy faces of the children and
12 residents in the housing authority of El Paso when they
13 think of a completely remodeled community.

14 You can imagine us, the public housing
15 authority residents, walking down the street with the
16 police every week. They have after-school programs. They
17 have day care, the GED program for Mission High School,
18 citizenship class for the seniors.

19 So we are already working hard in every
20 community. So please, Commissioners, please, Board
21 members, we need your help greatly. Our communities are
22 poor, but we're very hard-working residents. And our
23 director and staff are working hard to change the quality
24 of life for more than 600 families living in the public
25 housing authority in El Paso.

1 The decision=s in your hand and, we hope that
2 you make the decision that is best for our families. All
3 we want to do is improve our quality of life and that of
4 our children. Thank you.

5 MR. OXER: Thanks, Leona.

6 DR. MUÑOZ: (Speaking Spanish with Ms.
7 Vasquez.)

8 MR. OXER: Penny=s having a heart attack over
9 here.

10 (General laughter.)

11 DR. MUÑOZ: I just asked the question, Well,
12 how do you respond to those that might say it would be
13 better for you to live somewhere else, that the condition
14 of your homes are in such disrepair, really what=s in your
15 best interest is to be somewhere else. How would you
16 respond and how would the people that were there respond
17 to that?

18 MS. VASQUEZ (through interpreter): I would say
19 this is our community. This is where our day care is, our
20 elementary school, our high school, the police station,
21 our jobs, our lives. So we want this area remodeled.
22 This is our community. We want it to be remodeled. And
23 when you see the worry on some folks when there=s some
24 concern regarding the movement to the remodeling, they
25 have meetings where they have asked the youth and asked

1 them what they want, and they want to stay there. There
2 is also some units for the elderly, and it=s a concern for
3 them to have to move.

4 MR. OXER: *Gracias.*

5 DR. MUÑOZ: (Speaking Spanish.) Let me
6 translate for the Chairman. What he said --

7 MR. OXER: Okay. Have at it, Juan. (Speaking
8 Spanish.) I asked if there was anybody else -- tell them
9 what I said, Juan, since you=re the --

10 DR. MUÑOZ: He just asked if there was anybody
11 else that wanted to comment related to what was said
12 already.

13 MR. OXER: That we would need to translate.
14 Okay. All right.

15 Mr. Voelker, I understand you want to make a --
16 60 seconds, please. You=ve had your shot at it.

17 MR. VOELKER: I want to be short. First of
18 all, this is a fascinating discussion and one that the --

19 MR. OXER: The part that you understood anyway.
20 Right?

21 MR. VOELKER: You know, I actually speak
22 Spanish --

23 MR. OXER: Good.

24 MR. VOELKER: -- so it=s helpful too. But I
25 won=t try and speak it; I won't do it very well.

1 This is the kind of discussion the agency needs
2 to have about fair housing issues. I've been around this
3 circus for a long time and I have seen a lot of issues.

4 HUD -- we wish they were a good arbiter of this
5 issue. They're actually a horrible arbiter of this issue,
6 unfortunately. We've had to take HUD to task. As you all
7 know they've been taken to task since the mid-1980s over
8 fair housing issues in the state of Texas.

9 They make decisions that don't necessarily
10 follow fair housing laws, and the courts ultimately tell
11 them that, and they have to kind of back up and go a
12 different direction.

13 On a very, very similar site in Beaumont,
14 Beaumont Housing Authority had the tax credit allocation.

15 They had HUD site and neighborhood approval. We looked
16 at that site on behalf of the Texas General Land Office,
17 which is another state housing agency. We did our duty
18 separately and apart from HUD and determined that that
19 particular project did not qualify as affirmatively
20 furthering fair housing.

21 So the difficult part is that you have HUD kind
22 of going in one direction looking at what they're doing
23 for their purposes -- and they have their reasons for
24 doing it. And I do appreciate the fact that people have
25 their neighborhoods they want to live in and that we need

1 to continue to provide affordable housing opportunities in
2 those areas.

3 Unfortunately, where you have this much
4 concentration of public housing, I would suggest to you
5 that one of the reasons this neighborhood is so poor and
6 so -- in such dire straights, from looking at all the
7 statistics that I provided in my letter, is because HUD
8 made some really bad decisions a long time ago and allowed
9 600 units of public housing to be put in one middle school
10 and one high school.

11 And so sometimes the duty goes beyond the
12 desires of the housing authorities. It goes beyond the
13 desires of the neighbors. It=s an overarching thought
14 process that we ultimately want to desegregate
15 neighborhoods and provide better opportunities.

16 It=s what the opportunity indexes are all about
17 and the educational opportunity indexes are all about that
18 are now in the QAP. QAP still doesn=t go far enough,
19 really, to ultimately address these issues and I=m sure
20 there are going to be more tweaks to it going forward to
21 try to address these issues.

22 I can just tell you that if this particular
23 application came before us at the Texas General Land
24 Office, which I even think maybe it did when I was looking
25 at -- because I went down and spent some time in El Paso

1 and looked at some of the sites down there. We saw too
2 much overconcentration of public housing in El Paso.

3 And to put any amount back until you=ve really
4 taken a lot of it out really doesn=t help that
5 neighborhood in the short term or the long term. And so I
6 continue to think there are better housing concerns with
7 this particular -- and I know we could sit and have, you
8 know, discussions about this probably all day long, but
9 you guys ultimately need to make a decision. But I=m just
10 telling you I think there are still some fair housing
11 concerns with this deal.

12 MR. OXER: Thanks for your comments, Mr.
13 Voelker. So if -- and this is a reconstruction. Barry?

14 MR. PALMER: This is a --

15 MR. OXER: Barry Palmer, Coats Rose.

16 MR. PALMER: This is Barry Palmer from Coats
17 Rose again. And the housing authority is tearing down
18 300 -- 81 units of public housing and is building back
19 fewer units in a mixed-income community. 25 percent of
20 the new units will be public housing, and the rest will be
21 workforce housing. So we=re actually deconcentrating
22 poverty by building back in a mixed-income context with
23 fewer subsidized units.

24 MR. OXER: Okay. Thanks. Any questions from
25 the Board?

1 (No response.)

2 MR. OXER: All right. Just in process of
3 thinking through this, if you have a neighborhood and
4 somebody there -- a member of the minority community or a
5 economic strata that we're concerned with, and they tear
6 down one house and rebuild their house, that=s one thing.

7 If you tear down 300 houses and build back 300 more, did
8 we add to that concentration or do we simply replace what
9 was there and upgraded the quality of life that those
10 people had?

11 That=s the -- Gerry, you don=t have to answer.

12 It=s a question I already know the answer to. I=m
13 making -- I understand what your position is. I=m just
14 talking through the thought process here which, you know,
15 is mine and mine alone.

16 I represent my thought process. The other
17 members of the Board can weigh in if they would care to.

18 But there is a revitalization effort that=s ongoing there
19 apparently.

20 Cameron, do you have a comment?

21 MR. DORSEY: I just wanted to clarify really --

22 MR. OXER: And you are?

23 MR. DORSEY: Cameron Dorsey, Chief of Staff.

24 The -- Barry started to say 300 and then corrected to -81
25 and it came off sounding like 381. There=s actually --

1 currently the Tays development is 359 units. This
2 redevelopment piece is just a piece of the Tays site.
3 They=re going to demolish 81 units, and they=re going to
4 build back 189 units.

5 Not all of those will be your classic more
6 public housing style subsidized units. They all will be
7 affordable units, and the non-public housing units will
8 have another type of HUD subsidy associated with them.

9 That=s not to detract from anything anyone
10 said. I just want to make sure that it=s clear.

11 MR. OXER: Gets the numbers right.

12 MR. DORSEY: That right.

13 MR. OXER: Gerry, did you want to add to that?

14 MR. DORSEY: I believe that Gerry can probably
15 elaborate a little bit, and it would be helpful because it
16 is tearing down 81 and building 189 back on this 5.5 --

17 MR. OXER: That=s in their application.

18 MR. DORSEY: -- piece of Tays.

19 MR. OXER: Let=s hear it.

20 MR. DORSEY: That=s right. Gerry can speak to
21 the rest of the development plan. I think that may help
22 clarify what the overarching kind of -- is there an
23 increase, is there a decrease -- what the deal is.

24 MR. OXER: Give us numbers, Gerry, please.

25 MR. CICHON: Okay. So what you=re looking

1 at -- you=re tearing down 89 --

2 MR. OXER: And you are?

3 MR. CICHON: I=m sorry. Gerry Cichon, Housing
4 Authority, City of El Paso. We=re tearing down 89, we=re
5 building back about 185 units, more or less. It=s -- one
6 aspect of the site is probably going to be two more
7 developments on that to revitalize that particular area.

8 It is in a unique development zone, as we
9 talked about before, in that it=s a section that used to
10 be right on the border with Mexico before Kennedy pushed
11 it back. It=s an immigrant population.

12 The section that we=re tearing down is
13 predominantly elderly only. The -- when you look at
14 public housing, it=s 30 percent or less of adjusted median
15 income. We=re actually increasing the adjusted median
16 income, but the numbers that we=re bringing back would now
17 be 60 percent. So it will actually be increasing the
18 socio-demographic in the area and not decreasing it.
19 So --

20 MR. OXER: Okay. So -- to qualify on the
21 earlier ones, it was 30 percent of AMI.

22 MR. CICHON: With -- as public housing.

23 MR. OXER: As public housing. So this one=s
24 qualified as a 60 percent.

25 MR. CICHON: That=s right. There=s -- I mean,

1 I think there=s a strata, but predominantly it=s coming in
2 at a higher AMI than what we=re going to be demolishing
3 and rebuilding. So it=s actually not increasing -- we=re
4 going to have to use --

5 MR. OXER: You=re not concentrating. You=re
6 actually offering up housing to folks in a --

7 MR. CICHON: Correct. So you=re --

8 MR. OXER: You=re adding.

9 MR. CICHON: You=re actually going to be
10 bringing families in that are actually making more money
11 in that area than are currently making.

12 MR. OXER: Or at least make it available to
13 them.

14 MR. CICHON: That=s correct.

15 MR. OXER: Right. Because it=s a not a
16 limitation. It=s not -- it=s a limitation, not a
17 requirement.

18 MR. CICHON: Correct.

19 MR. OXER: Okay. Any questions? Juan?

20 DR. MUÑOZ: Well, I just -- you know, I=d like
21 to amplify some of your observations. I appreciate the
22 discussion, too, and providing the broader context. I
23 think it=s important. I think Mr. Voelker said about the
24 importance of having this conversation. It=s important to
25 also have it in this kind of transparent way.

1 I think it=s important to note that this is,
2 you know, existing -- these are existing properties; that
3 this letter -- I mean, we asked for a letter that
4 indicated that we weren=t in violation of our
5 responsibilities of furthering affordable housing and fair
6 housing specifically.

7 And the letter states that there is evidence --
8 or that there is, you know, evidence that we are not
9 violating it. In some areas apparently more strongly full
10 compliance. That=s what we wanted to ask. It seems to me
11 that that=s what was provided, as well as an observation
12 by HUD that there was evidence of the revitalization.

13 So, you know, these things are part of our
14 calculus in carrying out our responsibility to
15 affirmatively further fair housing, you know, as part of
16 this agency.

17 So I just wanted that to be also part of the
18 final deliberations on the matter.

19 MR. OXER: Any other questions from the Board?

20 (No response.)

21 Michael, do you have a letter to add?

22 MR. LYTTLE: Yes. We actually have received
23 three letters from state-elected officials about this
24 matter. The first is from -- and all three have asked to
25 have letters read into the record.

1 The first is from Senator Jose Rodriguez. It
2 reads, "I hope this letter finds you well, Chairman Oser.

3 I write to you today regarding the allocation of the 9
4 percent tax credit for the Tays community.

5 "As you may recall, Tays is a public housing
6 community constructed in 1941 in one of El Paso=s most
7 culturally important, yet economically challenged zip
8 codes. Located at 2174 Magoffin, El Paso, Texas 79901,
9 Tays is in the middle of Chamizal neighborhood
10 revitalization strategy area.

11 "It is critically important for my constituents
12 that the housing authority for the City of El Paso obtain
13 full authorization to utilize this tax credit and help the
14 City of El Paso accomplish Section 6 of its Plan El Paso
15 2012 relating to infill housing redevelopment.

16 "I understand that TDHCA approved Application
17 14130 on July 31, 2014, on the condition that HACEP obtain
18 a letter from the appropriate officials in the U.S.
19 Department of Housing and Urban Development with authority
20 to speak for fair housing and equal opportunity, stating
21 that this specific proposed transaction complies fully
22 with the Fair Housing Act.

23 "In a letter dated December 9, 2014, Gary L.
24 Sweeney, director of the Fort Worth Regional Office of
25 Fair Housing and Equal Opportunity for Region 6 of the

1 U.S. Department of Housing and Urban Development, stated
2 that this application 'satisfactorily meets the subject
3 site and neighborhood standards.'

4 "Investing 9 percent tax credits to rebuild the
5 Tays community in the heart of El Paso will provide upward
6 economic opportunities to the Chamizal neighborhood that
7 is now possible pending a form of financing. I strongly
8 urge you and your Board to move forward with this
9 allocation. Please feel free to contact me or my staff
10 any time. Sincerely, Jose Rodriguez."

11 The next letter is from State Representative
12 Marisa Marquez. It reads, "As State Representative for
13 the 77th District in the Texas House of Representatives, I
14 want to express my admiration for you and your fellow
15 Board members of the Texas Department of Housing and
16 Community Affairs for diligently overseeing the allocation
17 of our state=s low income housing tax credits.

18 "These tax credits are the only funding
19 mechanism by which developers, both private and public,
20 can construct new affordable housing developments as the
21 Congressional appetite to fund affordable housing agencies
22 like the Housing Authority of the City of El Paso
23 dwindles.

24 "As you may know, the City of El Paso, in which
25 my district entirely resides, is a proud hard-working and

1 growing city that consistently earns the reputation as the
2 safest large city in the United States by CQ Press. Each
3 year more than 500 billion in trade flows through our four
4 ports of entry with Ciudad Juarez in Chihuahua, Mexico.

5 "A new Triple A minor league baseball stadium,
6 a voter-approved \$470 million quality-of-life bond in
7 2012, and an expanding university medical center with a
8 standalone Texas Tech University Health Sciences Center
9 and a new children=s hospital are just some of the major
10 initiatives underway in the Sun City.

11 "As you may also know, El Paso falls in the
12 lower end of the per-capita income spectrum among other
13 cities in Texas. The 2010 U.S. Census states that 24.1
14 percent of our population lives at or below the poverty
15 line. The population of 650,000 is 81 percent Latino. El
16 Paso is one of the largest cities with a minority
17 population in the United States.

18 As the elected representative of House District
19 77, in which the 359 families of Tay are my constituents,
20 I find it dispiriting that today=s hearing is centered on
21 a unique request by TDHCA for HACEP to furnish a fair
22 housing letter from the U.S. Department of Housing and
23 Urban Development, in which no other applicant in the
24 calendar year 2014 funding cycle was required.

25 "Nevertheless, HACEP and HUD provided this

1 requested letter in good faith. It clearly states that
2 Application 14130 for the Tays community satisfactorily
3 meets the subject site and neighborhood standards.

4 "Even in the cover letter from Sue Wilson of
5 HUD it states that, The attached FHEO approval of site and
6 neighborhood standards is all that is necessary from FHEO.

7 Even with this letter, which is not, by the way, a
8 requirement of the qualified allocation and may exceed the
9 TDHCA Board=s purview by which it allocates tax credits to
10 the highest-scoring applicants, we still find ourselves in
11 a situation in which we must appeal to you today.

12 "After the TDHCA Board approved Application
13 14130 in July 2014 to tear down 81 old public housing
14 units and construct 198 new units, El Paso was abuzz with
15 excitement that we finally had the chance to execute an
16 important part of the City's strategic plan known as Plan
17 El Paso 2012 to renovate and rebuild our existing
18 residential buildings in the the city=s urban core rather
19 than constructing new units way out in the city=s fringe,
20 where access to public transportation, health care, and
21 gainful employment are more difficult.

22 The very first time public support by way of
23 the 9 percent low income housing tax credit makes it
24 possible for El Paso to increase the economic diversity of
25 the Chamizal neighborhood, which is one of two

1 neighborhood revitalization strategy areas in El Paso, by
2 creating mixed-income units in a neighborhood where there
3 is currently only one type of income.

4 "If you ask me, investing the 9 percent tax
5 credit at Tays will affirmatively further fair housing
6 and, if I may borrow the catchphrase, rather than penalize
7 these residents for being low income, many of whom are
8 first-generation Americans, since today=s conversation is
9 focused on fair housing I would like to say that the Fair
10 Housing Act is not intended to steer federal financing
11 away from areas such as the Texas border simply because
12 the people who live there happen to be Latino or happen to
13 be low income. The Fair Housing Act was intended to
14 improve the housing chances of minorities, not punish them
15 for their minority and low-income status.

16 "In conclusion, I am confident that the TDHCA
17 Board will continue to view Application 14130 to rebuild
18 the Tays community as the most competitive application you
19 received based on all of the requirements of the QAP and
20 that this project will provide economic mobility within
21 the heart of El Paso, in the heart of the historical House
22 District 77.

23 "It should be held with strong merit that HACEP
24 has chosen to reinvest in their community rather than
25 relocate to seemingly more appealing areas. My office is

1 more than happy to continue supporting this project, and
2 we will continue to work on strengthening our community.
3 It is a true honor to represent El Paso in Austin. If my
4 office can be of further assistance, please don=t hesitate
5 to contact me.

6 And I have one more letter, which is short.

7 This is from State Representative Joe Moody:

8 "I=m writing in support of Application 14130
9 covering the Tays Apartments in El Paso, which you=ll be
10 considering as agenda Item 2(b) at your December 18, 2014,
11 meeting.

12 "Tays is the oldest public housing community in
13 El Paso and a significant residential hub in its Chamizal
14 neighborhood. The redevelopment of Tays is an important
15 step in revitalizing historic part of our city.

16 "TDHCA has been given a lot of information
17 after an initial challenge to the application. And in
18 response to the concerns that were raised, TDHCA asked for
19 a letter from officials at Housing and Urban Development
20 certifying the applicant=s compliance with fair housing
21 standards. The applicants provided TDHCA with just such a
22 letter within the December 10, 2014, deadline imposed by
23 TDHCA.

24 "Beyond that, Application 14130 was the most
25 competitive application when applying the points-based

1 criteria of the Qualified Allocation Plan that guides
2 decision making in low-income housing tax credit
3 proposals.

4 "I'm certain you agree that the objective QAP
5 metrics promote the fair, consistent approach to tax
6 credit awards I know that this Board is committed to. I'm
7 confident that because the applicants exceeded QAP
8 standards and responded promptly and completely to TDHCA's
9 request, the Board will reach a favorable decision on the
10 application.

11 "However, if there are any lingering issues or
12 if you'd simply like to discuss the matter in more detail,
13 I urge you to reach out to my office. Thank you for your
14 attention and consideration."

15 MR. OXER: Okay. Any other comments?

16 (No response.)

17 MR. OXER: Any other questions from the Board?

18 (No response.)

19 MR. OXER: All right. Somewhere back in the
20 dark history we have a motion by Dr. Muñoz and a second by
21 Mr. Goodwin, I believe, to approve the acceptance of the
22 letter regarding the Tays application.

23 Is there any other public comment?

24 (No response.)

25 MR. OXER: All in favor?

1 (A chorus of ayes.)

2 MR. OXER: Opposed?

3 (No response.)

4 MR. OXER: There are none. Congratulations.

5 All right. (Speaking Spanish.)

6 All right. We seem to have come to the end of
7 the written agenda today. Do we have anything else to add
8 to this, Tim, that you can think of?

9 MR. IRVINE: Public comment.

10 MR. OXER: Okay. We have public comments.

11 We have some people who wish to make public
12 comment. We=re at the point in the agenda where we take
13 public comment for those folks who want to add information
14 to be added to future agendas.

15 We are not able -- we can only take comments.
16 We can take your -- listen to you. We can=t make any
17 decisions on them today, but we=ll be happy to accept any
18 public comment.

19 Is there any other public comment?

20 (Pause.)

21 MR. OXER: If that=s a yes, then you need to
22 jump up. Okay?

23 MS. LAVALLE: Thank you.

24 MR. OXER: Okay.

25 MS. LAVALLE: My name is Tanya LaValle. I=m

1 with Easter Seals Central Texas.

2 MR. OXER: Okay. And we're on the clock here,
3 so you have three minutes' time.

4 MS. LAVALLE: Absolutely. I wanted to briefly
5 go over something that Easter Seals recently did in
6 partnership with the Hogg Foundation for Mental Health at
7 University of Texas as well as the Texas Center for
8 Disabilities at UT.

9 It's called the Mental Health and Housing
10 Report. It was included in your Board book for this
11 meeting. And I want to briefly go over it with you guys
12 and to talk about some changes that the Board could make
13 to some processes and programs within TDHCA to better
14 serve this population.

15 So the report is called the Integrate Housing
16 Project, and it was a project done in three phases. The
17 first phase was the Texas Housing Survey, and that was
18 conducted in partnership between Easter Seals Central
19 Texas and the University of Texas Center for Disabilities
20 Studies.

21 It was an online survey that was distributed
22 widely across the state to individuals experiencing mental
23 illness. It was done through local mental health
24 authorities, agency representatives, and peer support
25 groups.

1 Second, we had a round of in-person interviews
2 that we did with individuals experiencing mental illness
3 across the state so that we could learn more about their
4 specific housing needs as well as barriers and challenges
5 they face when trying to secure housing as an individual
6 experiencing mental illness.

7 Finally, we came up with a list of policy
8 recommendations that we could use to try and improve the
9 outcomes for this vulnerable population when they're
10 trying to secure housing.

11 I'm just going to kind of jump straight to the
12 end since I'm sure you guys did the reading. So just to
13 highlight a couple of things we found through our
14 survey -- and this, again, was a survey of individuals
15 experiencing mental illness -- the online survey -- we got
16 about 200 valid responses back from across the state, and
17 there are couple of things I wanted to highlight.

18 First of all, a lot of the things that we
19 looked over include things like affordability, housing
20 satisfaction, perceived barriers, and possible
21 discrimination that people felt when they were trying to
22 find a place to live as an individual experiencing mental
23 illness.

24 First off, affordability was a huge barrier.
25 68 percent of all survey respondents across income ranges

1 were living under the federal poverty line. And those who
2 were lucky enough to have secured some sort of housing
3 assistance still felt like their housing was unaffordable,
4 so they were unable to do things like afford food and
5 clothing and medication, which is a huge barrier for
6 individuals experiencing mental illness.

7 Other things, including housing satisfaction --
8 those who are most satisfied with their housing were the
9 individuals able to live on their own in their own
10 apartment, often receiving housing assistance so that they
11 could afford the other things that they needed to exist in
12 their lives, including food and clothing, as I mentioned.

13
14 And, finally, the last thing I wanted to
15 highlight from the survey data was ideal housing. The
16 ideal housing for the majority of the individuals that we
17 spoke to, both in person and as well as the data we
18 collected online, was being able to own their own home.

19 As grateful as people were to have housing
20 vouchers and be part of things like Section 8 and Section
21 11, they really didn't want it. They wanted to be able to
22 live independently. They wanted to be off social services
23 and to be living independently and supporting themselves.

24 And so I wanted to highlight one thing that we
25 feel like the Board can make a recommendation for to help

1 this population, and that=s to make a small change to the
2 HBA program -- is that the end?

3 MR. OXER: That=s three minutes, but finish up
4 if you could.

5 MS. LAVALLE: Okay. I=ll be quick. So
6 currently the HBA program does not have a preapproval
7 process, unlike the Tenant Based Rental Assistance
8 program, which is funded in the same pot of money for
9 individuals with disabilities.

10 There is a preapproval process for TBRA which
11 allows a household to be approved and then we sort of stop
12 there. They don=t have to go and find an apartment
13 immediately.

14 With the HBA program, currently as it=s
15 written, individuals have to go through the entire
16 homebuying process before they can receive any sort of
17 down payment assistance.

18 And if by chance the reservation system is
19 empty at that time they are not able to secure housing,
20 and they end up, you know, spending years of their lives
21 saving money, going through a lot of housing finance
22 courses, and working with our folks within the HBA
23 program, and they end up losing thousands of dollars and
24 not having a place to live.

25 And so a way to solve this would be a very

1 small change to the program. We request that the Board
2 consider an action item of changing the project setup
3 requirements for the HBA program to allow for a
4 preliminary approval process that will prevent individuals
5 with disabilities from being denied after investing years
6 of time and energy as well as a lot of money into
7 realizing their dream of homeownership.

8 I=am happy to take any questions.

9 MR. OXER: We can't take questions today. We
10 can only take your input.

11 MS. LAVALLE: Okay.

12 MR. OXER: But we'll be happy to add that to
13 the -- great. Thanks for your comments.

14 MS. LAVALLE: All right. I appreciate it.
15 Thank you.

16 MR. OXER: Uh-huh. Gerry, do you have a public
17 comment?

18 MR. CICHON: I do. And I know you're probably
19 tired of hearing from me. I just wanted to let you know
20 kind of some things that are coming down the pike. We
21 have submitted approximately \$125 million in 4 percent tax
22 credits for the new construction that's beginning in March
23 in El Paso.

24 MR. OXER: So this is not the last time we're
25 going to see you here? Is that what you're saying?

1 MR. CICHON: This is not the last time, no.
2 And, in fact, it=s probably not the last time you=re going
3 to seeing housing authorities. It looks like in the
4 CRomnibus that was just passed, the cap for RAD units --
5 of which the housing authority had 10 percent of the
6 60,000 allocated for the whole United States -- has been
7 now lifted to 185,000 units.

8 I know that many other housing authorities in
9 Texas are working towards RAD, and so you=ll probably be
10 seeing a lot more housing authorities applying.

11 I wanted to take a moment to thank you and your
12 staff. These 4 percents are hitting right about now when
13 the 9 percents are coming through. I know staff is
14 working hard trying with the preapps and everything as
15 everything starts to move forward. And they=ve been a joy
16 to work with because, as you know, we have a finite burn
17 time for us to do all our construction.

18 And so my hat is off to you and to your staff
19 for all your hard work for the 4 percents. I just wanted
20 to say thanks in advance.

21 MR. OXER: We always appreciate hearing good
22 words about our staff. And I have to tell you, everything
23 good that you say is only half of it, because they are so
24 much better than anybody in this room really knows. So
25 thanks -- my hat=s off to them. Thanks, guys, we

1 appreciate that.

2 Okay. Is there anything else that the -- any
3 other public comment? Any other comment from the staff?
4 Any other comment from the Board? Any other members of
5 the staff here?

6 MALE VOICE: J. Paul, actually Elizabeth Yevich
7 has something she wanted to say.

8 MS. YEVICH: Very brief.

9 MALE VOICE: Very brief.

10 MR. OXER: Come on up, Liz.

11 MS. YEVICH: You won't even notice the
12 feedback.

13 MR. OXER: As long as it=s positive feedback,
14 we=re okay with it.

15 MS. YEVICH: It is positive. Good morning,
16 Board, members, and members who are left in the audience.

17 My name is Elizabeth Yevich, and I am Director
18 of the Housing Resource Center, known as HRC.

19 And I have with me my four staff -- outstanding
20 TDHCA staff members this morning, because as fate would
21 have it two of the largest and lengthiest documents that
22 my division ever puts out were both on the agenda this
23 morning. And I am very happy to say both passed on
24 consent, and I thank you all.

25 But on the subject of fate, as we were walking

1 here this morning -- and TDHCA offices, as most of you
2 know, are on the corner of 11th and San Jacinto -- my
3 staff and I -- all five of us -- were coming out of the
4 building on the side door.

5 And, as most of you also know, there is a bus
6 stop there, usually quite crowded. Bus was emptying and
7 gentleman got off, and he got off with a suitcase.

8 And you could see that he was in his finest,
9 with a older sport coat over a T-shirt. And he passed
10 right in front of us. And as he did he stopped, and he
11 had no idea who we were at all. And he looked east and he
12 looked up and he beamed. And he said, I am about to move
13 into my first home in seven years.

14 Now, for those of you who don=t know what is
15 directly east of the offices, it=s called Capital Studios,
16 and it=s getting ready to open. And it was brought by
17 Foundation Communities under the direction of Walter
18 Moreau receiving TDHCA housing tax credits.

19 And so we passed him, and once we got our
20 composure -- because he just stunned us -- and one of us
21 thought to look back and say, We actually work here, and
22 this happens to be the Department of Housing. We kept on
23 walking. We=re in the middle of the street heading north.

24 He=s going east. He stops and he calls back to us and he
25 says, Well, then, I need to thank y'all.

1 So that, my friends, is my story, and it=s why
2 we are all here, I think we can agree.

3 MR. OXER: I think you=re right. So thanks for
4 that.

5 MS. YEVICH: Okay.

6 MR. OXER: And those of you who haven=t had a
7 chance to go by that facility there that Walter Moreau=s
8 group has put together, I think it would be worth the time
9 just to go through a walkthrough and do a tour on it if
10 you could.

11 All right. Any other comments?

12 (No response.)

13 MR. OXER: To our new members -- hold on a
14 second.

15 Tim's got -- I think you ought to say something
16 about our success with HUD formally, please.

17 MR. IRVINE: Yeah. I=d like to talk about a
18 happy ending to a long saga. Many, many years ago we had
19 some home developments that were put on the books, and
20 they didn=t work out the way that we had hoped that they
21 would work out.

22 And, as is often the case, HUD said, Gee, these
23 didn=t work out, and you need to do something about them.

24 And we really did not have the tools to resolve them, so
25 HUD said, You really need to repay us. And so that was

1 difficult because, although we are often compared to a
2 bank, we don't have a lot of capital.

3 And then you fast-forward to the American
4 Recovery and Reinvestment Act, where we developed a tax
5 credit assistance program that involved repayable loans.
6 And Tom Gouris was instrumental in the development of that
7 program, and, boy, were we glad he was, because these TCAP
8 loans have been repaying.

9 And Tom took on responsibility for asset
10 administration, and he persevered and persevered and
11 persevered and got clearance from HUD to use the program
12 income off the TCAP program to repay our HUD home
13 liability.

14 So that means that the money basically moves
15 out of the TCAP PI and over into the home local account.
16 So that is win, win, win, and my hat is off to Mr. Gouris.

17 MR. OXER: Thank you, Tom.

18 (Applause.)

19 MR. OXER: Would the two new members of our
20 Board care to say anything today? I would point out --
21 I'm just off of the subject -- don't get used to getting
22 finished before lunch. Okay?

23 We haven't pounded enough into dust today to
24 give you a real sense of what it's like when we really get
25 into the hard part of what we do. But I personally am

1 very glad to have you on board and offer you the
2 opportunity to make any comments you=d like.

3 MR. GOODWIN: Well, it=s very humbling to hear
4 the business of this agency and the staff and the
5 wonderful, wonderful results that come from it. So, thank
6 you, and I consider it to be a blessing to be a part of
7 this.

8 MR. OXER: We=re glad you=re here, too, J.B.
9 Tolbert? Use his mic, will you?

10 MR. CHISUM: Yes, I am. Well, first of all,
11 it=s an honor and privilege to be sworn into this Board.
12 Back in the 1970s my mother=s first home was through HUD
13 and this agency. My service as part of this organization,
14 this agency will be in her honor and memory. And I look
15 forward to working with you, and I=m so, so impressed with
16 the mission of this organization and, of course, the staff
17 and the leadership. Thank you.

18 MR. OXER: Great. Thanks very much. Any other
19 comments?

20 (No response.)

21 MR. OXER: All right. Entertain a motion to
22 adjourn.

23 DR. MUÑOZ: So move.

24 MR. GOODWIN: So move.

25 MR. OXER: Okay. Everybody=s moving to get out

1 of here. So motion by Dr. Muñoz; second by Mr. Goodwin to
2 adjourn. All in favor?

3 (A chorus of ayes.)

4 MR. OXER: Opposed?

5 (No response.)

6 MR. OXER: There aren=t any.

7 See you next year, folks. Be safe.

8 (Whereupon, at 11:50 a.m., the meeting was
9 concluded.)

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C E R T I F I C A T E

MEETING OF: TDHCA Board of Trustees

LOCATION: Austin, Texas

DATE: December 18, 2014

I do hereby certify that the foregoing pages, numbers 1 through 87, 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) 12/20/2014
(Date)

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