

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

RULES COMMITTEE MEETING

William B. Travis Building  
Room 1-111  
1701 Congress Avenue  
Austin, Texas

September 4, 2019  
6:30 p.m.

MEMBERS:

LEO VASQUEZ III, Chair  
LESLIE BINGHAM ESCAREÑO, Member  
PAUL A. BRADEN, Member

ON THE RECORD REPORTING  
(512) 450-0342

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P R O C E E D I N G S

1  
2 MR. VASQUEZ: Okay. Our third Board member is  
3 parking, we hope. So be here soon. So it is now 6:42,  
4 and I want to call to order the Rules Committee meeting of  
5 the Texas Department of Housing and Community Affairs, and  
6 the initial roll call. Leslie Bingham is not here yet.  
7 Paul Braden?

8 MR. BRADEN: Here.

9 MR. VASQUEZ: Leo Vasquez, here. Number  
10 present, two. Number absent -- okay. Thank you all for  
11 coming here today for this obviously very important part  
12 of the process that we have.

13 Apparently, there are microphones set up for  
14 the main speakers, so if you all can't hear somebody, let  
15 us know; you know, raise your hand, speak up.

16 MS. HOLLOWAY: All right. So yeah. I just  
17 turned, so hopefully --

18 MR. VASQUEZ: Yeah. Good idea. And I think  
19 the way we're going to do this is, Marni is going to start  
20 going through the changes that we made, and we'll pause  
21 periodically for asking if there's any comments or  
22 questions on those parts, so that will be your  
23 opportunity, so as it happens, we'll have you make your  
24 comments.

25 MS. HOLLOWAY: Do you want to do the usual

1 front row line-up?

2 MR. VASQUEZ: Okay. Well, I guess they have to  
3 be on the speaker -- on the microphone here. Right?

4 MS. HOLLOWAY: Right. No. They'll need to  
5 come here --

6 MR. VASQUEZ: Yeah, yeah.

7 MS. HOLLOWAY: -- if they want to speak to  
8 something. Come to the front row?

9 MR. VASQUEZ: Yeah. So if you know your  
10 topic's coming up that you want to speak on, like, save us  
11 time and please move up here to the front couple of rows.  
12 So with that, we'll throw it to Marni.

13 MS. HOLLOWAY: Thank you very much. Good  
14 evening. Our one and only item this evening is  
15 presentation, discussion and possible action to make  
16 recommendations to the Governing Board on the 2020 Housing  
17 Tax Credit Program Qualified Allocation Plan entailing the  
18 proposed repeal and proposed new of 10 TAC Chapter 11.

19 There is a lot of discussion of time line that  
20 we'll go through tomorrow. I don't know that we really  
21 need to talk about that tonight, unless you'd like to?

22 MR. VASQUEZ: Are we going to talk about --

23 MS. HOLLOWAY: Public comment period --

24 MR. VASQUEZ: -- it tomorrow?

25 MS. HOLLOWAY: We're going to talk about it

1 tomorrow.

2 MR. VASQUEZ: Okay. Let's --

3 MS. HOLLOWAY: Let's skip it.

4 MR. VASQUEZ: -- move on.

5 MS. HOLLOWAY: Okay. So we have a couple,  
6 starting with statutory changes -- there were two  
7 statutorily mandated changes, and a change that was  
8 created by the expiration of a statute originally passed  
9 in the 85th legislative session, starting with the two-  
10 mile, same-year rule.

11 Senate Bill 493 provides exemptions to the two-  
12 mile, same-year rule. Houston is the only municipality  
13 that currently meets those requirements. Yeah.

14 MR. VASQUEZ: Houston.

15 MS. HOLLOWAY: All right. Moving on.  
16 Community support from state representatives. House Bill  
17 1973 allows a state representative's eight points to be  
18 transferred to the applicable local government's scoring  
19 category.

20 We have amended this rule to include the  
21 scenarios that could transfer the points and the values of  
22 the points, depending on the resolution received from the  
23 local government. The highest possible score for  
24 financial feasibility was also increased to maintain the  
25 integrity of the hierarchy of scoring provided in statute,

1 so that if the state rep points are transferred, the local  
2 government points will not exceed feasibility.

3 Okay. Other statutory change. An opportunity  
4 index. The part of our statute that had limited the  
5 consideration of educational quality to only threshold  
6 expired on September 1. Educational quality can now be  
7 incentivized in scoring, so we have added it to the menu  
8 of items that are available under opportunity index.

9 Okay. So broadly, we have some changes in  
10 definition. We have modified -- we made actually a  
11 substantial revision to the definition of supportive  
12 housing. We sought to clarify requirements for what  
13 actually constitutes a permanent supportive-housing  
14 development, and provided an alternative so that  
15 supportive housing may carry foreclosable debt if certain  
16 conditions are met.

17 MR. MOREAU: Can I come up there?

18 MS. HOLLOWAY: Uh-huh.

19 MR. VASQUEZ: Do we have a sign-in sheet?

20 MS. HOLLOWAY: Yes.

21 MR. MOREAU: I'm Walter Moreau, the director of  
22 Foundation Communities, and we do a lot of supportive  
23 housing. I wanted to comment in favor, that I think the  
24 staff did a good job of coupling -- that you could have  
25 debt if you have the rental assistance to support it.

1           We do have some comments we'll submit in  
2 writing about some other pieces of the SRO and supportive-  
3 housing definitions that we think are just tweaks to the  
4 rules. Like, sometimes we get federal grants like a  
5 Capital Magnet Fund grant.

6           We can't grant it to the partnership because it  
7 becomes taxable revenue, so we want to do a loan, which  
8 you're not allowed to have loans. Brent and I, we've  
9 talked about -- it's complex, but we want to try to figure  
10 that out.

11           There's 75 feet of common area, and sometimes  
12 we build walkways and courtyards outside of air-  
13 conditioned space. But anyways, I'll -- in general, we're  
14 in favor of the staff changes and we want to submit a few  
15 tweaks.

16           MR. VASQUEZ: Okay. And you've been in  
17 communication with staff already, if there's --

18           MR. MOREAU: Yes.

19           MR. VASQUEZ: -- the tweaks aren't any big  
20 speed bumps?

21           MR. MOREAU: I don't believe they're things  
22 that would -- you would need to introduce into the public  
23 comment draft at this stage.

24           MR. VASQUEZ: Okay. Great, great.

25           MR. MOREAU: So thanks.

1 MR. VASQUEZ: Thanks, Walter.

2 MR. GREER: I'm Gary Greer. I'm with the  
3 Coalition for the Homeless of Houston/Harris County. We  
4 are the lead agency with the Continuum of Care, the Way  
5 Home Continuum of Care for the Houston region, including  
6 Harris County, Fort Bend County, Montgomery County.

7 We are also in support of the changes  
8 particularly around the provision allowing the carrying of  
9 debt, and more substantially, the itemized out of more  
10 robust definition of supportive housing for us. We've  
11 managed the Homeless Response System, so we feel like  
12 coordination with the services that are provided which  
13 require permanent supportive housing that makes it  
14 functional, based on evidence-based practice targeting a  
15 household whose -- the head of household are experiencing  
16 homelessness, meaning the household pays no more than  
17 30 percent of the income, provides households with a lease  
18 or sublease identical to non-supportive housing,  
19 proactively engages members of that household in  
20 voluntary, flexible and comprehensive supportive services  
21 without requiring participation in services as a condition  
22 of ongoing tenancy, effectively coordinates with key  
23 partners to address issues resulting from substance abuse  
24 disorders, mental illness and other crises, and a focus of  
25 fostering housing stability and supports households in



1 connecting with community-based resources and activities,  
2 interacting with diverse individuals, including those  
3 without disabilities, and building strong social support  
4 networks.

5 So I think the amendments go a long way into  
6 adding in the -- what we think defining more what is  
7 supportive services and creating a standard. We had  
8 offered some insight onto having a certification process  
9 for developers and to coordinate with the COC when working  
10 on housing that's going to be purposed for homeless  
11 populations so they can meet the standards, the community  
12 standards that are for coordinated access for our homeless  
13 folks into permanent supportive housing.

14 So that would be our offering.

15 MR. VASQUEZ: Okay. Great.

16 MS. HICKS: Good evening. Jennifer Hicks with  
17 True Casa Consulting. And I think I've been monkeying  
18 with this supportive-housing definition since the  
19 supportive-housing definition was part of the QAP, and I  
20 just wanted to say that I am in favor of these changes. I  
21 think the -- I want to thank the staff for their  
22 thoughtfulness in crafting this definition.

23 It reflects a deep understanding of what  
24 supportive housing truly is, and that it's less about the  
25 real estate, but more about the people. I think the --

1 all the changes with the supportive services -- I think  
2 that's great.

3 I think allowing debt is huge, and it's going  
4 to enable some projects to move forward. The only couple  
5 of things that I'd be submitting some comments on are in  
6 regard to -- it says 100 percent of the units need to be  
7 covered by vouchers.

8 Unfortunately, I wish this wasn't the case, but  
9 most housing authorities aren't going to be able to  
10 project-base all the units, and they just don't have that  
11 many project-based vouchers. It also might not be good  
12 practice to voucher 100 percent of the units.

13 So maybe give some thought to making that a  
14 75 percent or 50 percent, and maybe putting in a  
15 requirement that there is a percentage fee that goes to  
16 resident services. So ensuring that the property operates  
17 sufficiently with the right debt coverage ratio, but also  
18 that the most important thing are those services are  
19 getting funded, and so maybe requiring the percentage line  
20 item in the budget for those services, but maybe tiering  
21 down a little bit on the requirement for 100 percent  
22 vouchers.

23 That would be my only comment there. But  
24 again, I just want to commend staff for these thoughtful  
25 changes.

1 MR. VASQUEZ: Great. Thanks, Jennifer.

2 MR. DROBENARE: Good evening. My name is Neal  
3 Drobenare. I'm with The NHP Foundation. We're a national  
4 affordable housing developer, active in supportive and  
5 other housing. Here in Texas, we're actively in Houston.

6 And first of all, I'd like to say that I'm in  
7 favor of these changes that have been proposed by staff.  
8 I'd like to thank staff for having put together what is,  
9 from my perspective being active in numerous states, a  
10 very collaborative and involved process where they reached  
11 out to quite a lot of players and had quite a bit of back-  
12 and-forth with folks who submitted comments to them.

13 You know, we think that that probably should be  
14 the norm across the United States. We know it isn't, so  
15 we are quite thankful for that. We think that these  
16 changes will allow quite a few projects, including several  
17 projects we're working on in Houston involving several  
18 hundred units to go forward which might not otherwise go  
19 forward, if not for this provision along the lines of  
20 allowing the debt.

21 We support the beefing-up of the definition of  
22 what is homeless supportive services, including what's  
23 PSH. We believe that it serves a public purpose of not  
24 allowing false PSH and keeping the PSHs funded true to  
25 mission.

1           You know, I'm sure there are some tweaks that  
2           could be done, as there can be with any new provision and  
3           changes, but I'd just like to be on the record that we are  
4           very supportive of what the staff has put forward. Thank  
5           you very much.

6           MR. VASQUEZ: Great. Thanks, Neal.

7           MS. BINGHAM ESCAREÑO: I apologize for being  
8           late.

9           MR. VASQUEZ: Let the record reflect that we  
10          have a full quorum now.

11          MS. BINGHAM ESCAREÑO: Sorry I'm late. Nice to  
12          be here.

13          MR. VASQUEZ: We all -- should we slide  
14          everyone over a little bit, because --

15          MS. BINGHAM ESCAREÑO: You've got --

16          MR. VASQUEZ: -- you're not going to be able  
17          to --

18          MS. BINGHAM ESCAREÑO: Yeah.

19          MR. VASQUEZ: How far will our mics go?

20          MS. BINGHAM ESCAREÑO: A lovely side view of  
21          you. It's your profile.

22          MS. HOLLOWAY: It's not my good side. We don't  
23          have a PA system.

24          MS. BINGHAM ESCAREÑO: Got you.

25          MS. HOLLOWAY: So --

1 MR. VASQUEZ: Everyone's over here, anyway.

2 MS. HOLLOWAY: Okay.

3 MR. VASQUEZ: Okay. Let's continue.

4 MS. HOLLOWAY: The next section that we  
5 modified was the program calendar so that reflects the  
6 dates for the 2020 application round. After that is  
7 proximity of development sites. This rule prohibits two  
8 or more competitive tax credit applications from being  
9 within 1,000 feet of each other.

10 Both the 2018 and 2019 QAPs only applied the  
11 1,000-foot distance if certain conditions existed prior to  
12 the filing of an application. In an effort to simplify  
13 the rule, staff has removed those conditions, and the rule  
14 will only apply in a county with a population that is less  
15 than one million.

16 MR. MOREAU: Walter Moreau. I think this is  
17 one of the most important things in the whole QAP, and I'd  
18 like to recommend that you think not just about a 1,000-  
19 foot difference, but maybe 2,000 or 5,000 feet. The  
20 reason is that every time that the rules change -- like,  
21 four years ago, there was a spot in Georgetown, a suburb  
22 of Austin, on Williams Drive, that was sort of a magic,  
23 high-score spot.

24 So there were three projects on the same  
25 street, right in a row. This year, we've added points for

1 jobs, which is a great concept for gentrifying areas, and  
2 we've started to map those hot spots, and we found some  
3 hot spots where there's four census tracts that all come  
4 together, lots of jobs, and they're in the suburbs, and  
5 they're going to win all the projects.

6 That year that Georgetown won was also a year  
7 when Houston, San Antonio, Dallas, and Austin, like, all  
8 the big cities were shut out. So it's a case where  
9 there's really good policies in the QAP, but when they  
10 overlap, you end up -- unintended consequence -- where I  
11 think the policy is you want to spread some projects out,  
12 and so this concept of 1,000 feet is great.

13 I think you could go even further. Also, the  
14 1,000 feet doesn't differentiate between elderly and  
15 family. So you could have an elderly and a family  
16 adjacent to each other. We think you should take that  
17 out. So it's just not ideal to make a huge investment in  
18 multiple projects in the same spot.

19 Everything else in the QAP, we could live with.

20 If you could fix this one thing, we'd be thrilled.

21 Thanks.

22 MS. BINGHAM ESCAREÑO: Is that off the record?

23 MR. MOREAU: Yes.

24 MS. BINGHAM ESCAREÑO: May I ask Marni if they  
25 considered that, or --

1 MR. VASQUEZ: No. Let me --

2 MS. BINGHAM ESCAREÑO: Excuse me for just a  
3 minute. I'm going to ask one question.

4 MS. HOLLOWAY: Uh-huh?

5 MS. BINGHAM ESCAREÑO: Marni, did we consider  
6 increments like that? When we hit upon 1,000, did we  
7 think, 2,000, 3,000 was a little excessive, or --

8 MS. HOLLOWAY: So this item, you may recall,  
9 came out of a set of three applications that were  
10 originally a larger parcel of land and they were divided  
11 by a 10-foot --

12 MS. BINGHAM ESCAREÑO: Yes.

13 MS. HOLLOWAY: -- drainage easement.

14 MS. BINGHAM ESCAREÑO: Yes.

15 MS. HOLLOWAY: So we went to the 1,000 feet,  
16 and then it was -- well, you know, the 1,000 feet has to  
17 mean something or else they would have just had 1,000-foot  
18 drainage --

19 MS. BINGHAM ESCAREÑO: Uh-huh.

20 MS. HOLLOWAY: -- easements. And then that  
21 proved to be difficult. So we just stripped out all of  
22 the requirements about an economic purpose in between. We  
23 have not this year discussed a larger measurement. I  
24 think that that measurement should be what the Board  
25 believes it should be.

1 MS. BINGHAM ESCAREÑO: And then, can I ask too,  
2 was there any consideration for the different  
3 developments? In other words, what Walter was mentioning  
4 was -- it doesn't really differentiate. So you could have  
5 an elderly and a regular multifamily --

6 MS. HOLLOWAY: A general population -- yes --  
7 right next to each other. So it's developments serving  
8 the same target population separated by 1,000 feet.

9 MR. VASQUEZ: Okay. So it already addresses  
10 that part of --

11 MS. HOLLOWAY: Well, it says, serving the same  
12 population --

13 MR. VASQUEZ: Right. So --

14 MS. HOLLOWAY: -- so you could have an elderly  
15 and a general --

16 MS. BINGHAM ESCAREÑO: Could have an elderly  
17 and a --

18 MR. VASQUEZ: Right. Yeah. Uh-huh.

19 MS. HOLLOWAY: -- if it met all of the other  
20 requirements --

21 MR. VASQUEZ: Sure, sure.

22 MS. HOLLOWAY: -- you could have an elderly and  
23 a general right next to each other.

24 MS. BURCHETT: Sallie Burchett with Structure  
25 Development. So I'm seeking clarity. The way I read it,



1 or it seems as if in Harris County, you could have two  
2 right next to each other, because counties with less than  
3 a million are exempt. Is that what you want it to be?

4 MS. HOLLOWAY: Yes.

5 MS. BURCHETT: Okay.

6 MS. HOLLOWAY: Because of the statutory change  
7 to the two-mile, same-year rule that allows the City of  
8 Houston basically by resolution to allow developments  
9 closer, we didn't feel it was appropriate for us to create  
10 any other limitations, because the statute was so clear on  
11 its intent.

12 MR. BRADEN: Is -- to the Chair, is Harris  
13 County the only county in Texas?

14 MS. HOLLOWAY: Yes. All right.

15 MR. VASQUEZ: The others are important, too.  
16 Okay.

17 MR. BRADEN: I'm kind of glad I don't have a  
18 million people in my county.

19 MS. HOLLOWAY: All right. The next item is one  
20 award per census tract limitation. So this is something  
21 new. In the staff draft, we proposed limiting points  
22 under underserved area to the highest-scoring application  
23 in a given census tract.

24 This was actually -- came directly out of  
25 stakeholder input. As a result -- okay. So we -- as a

1 result of stakeholder input, we actually took it out of  
2 underserved area and moved it to -- and I don't have it in  
3 my notes -- the de-concentration.

4 Thank you. What this means is that only one  
5 award will be made within any given census tract, and we  
6 have limited the applicability of the policy to urban  
7 subregions and exempted applications in the at-risk set-  
8 aside.

9 MR. VASQUEZ: So what happens if a development  
10 straddles a census tract?

11 MS. HOLLOWAY: Then hopefully, the applicant  
12 would request a pre-determination from us, so that we can  
13 address the issue.

14 MR. VASQUEZ: Let's keep going.

15 MS. HOLLOWAY: Okay.

16 MR. VASQUEZ: Keep going.

17 MS. HOLLOWAY: Keep going. Credit amount.  
18 Applicants with applications in excess of the \$3 million  
19 cap now must notify us which one they will not pursue  
20 prior to posting the agenda for the last Board meeting in  
21 June, as opposed to the previous deadline of July 15.

22 So this pushes the deadline back a little bit,  
23 gives us a little more time to make sure that we are  
24 reviewing all the current applications before the late  
25 July meeting.

1 MS. RICKENBACKER: Donna Rickenbacker with  
2 Marque. I don't think that works.

3 MS. HOLLOWAY: No.

4 MR. VASQUEZ: No, no.

5 MS. HOLLOWAY: We don't have a PA, so you've  
6 got to speak up.

7 MS. RICKENBACKER: So I think this is a great  
8 idea, and not one that's been in the rules, you know, to  
9 this point. My question is, what happens if you have a --  
10 and this is a good place to be. I do recognize it. But  
11 if you have two applications that are in the money and  
12 have received scoring notices and -- but you have a non-  
13 priority application that's out there and has kind of  
14 risen to a priority one, and it's -- it becomes a priority  
15 potentially, after that June Board meeting, I just would  
16 like to see if there's a way that that applicant can, kind  
17 of, pick between now what will be, kind of, three  
18 applications at that point, that they wouldn't be made  
19 aware of, you know, at that June meeting?

20 MS. HOLLOWAY: I would say that -- and we're  
21 working really hard to make sure that we continue this  
22 practice -- by the late June meeting, we know which are  
23 the priority applications and which are not. You know,  
24 the -- you know, sure, if something blows up that's  
25 completely unforeseen, you know, that could happen, and it

1 could be that we should address that, but I would like to  
2 reiterate how important it is that we as staff have an  
3 opportunity to completely review and vet applications  
4 before we go to the July -- late July meeting, and if  
5 we're juggling and trying to see what's going to happen  
6 with the collapse, and we wind up not having that  
7 surety -- so your thoughts? Okay.

8 MR. BRADEN: I think we ought to try it to see  
9 what works. If there are problems, we can adjust it,  
10 but --

11 MS. HOLLOWAY: Well, and we have some  
12 applicants that have more than one, you know, or have  
13 multiple applications that go over the cap, and it's not  
14 unusual. We have some applicants that will submit five  
15 applications.

16 That's part of how they do their business, and  
17 that is in fact a risk. Moving on to credit returns  
18 resulting from force majeure events. We've strengthened  
19 the requirements to prove up that a development has been  
20 impacted by rainfall or material or labor shortages.

21 MS. RICKENBACKER: Donna Rickenbacker. This  
22 whole force majeure provision really has me very bothered.

23 You all have coming before the Board tomorrow a  
24 transaction that is now asking for a fourth placed-in-  
25 service extension on it, 2016 application.

1 I just would like to see staff and the Board  
2 put a little more teeth in this force majeure provision,  
3 such that you've looked very closely at other developments  
4 in that same region, perhaps that same city or county or  
5 whatever, and if they were able to get their development  
6 finished and placed in service in a timely manner, we are  
7 going to have hurricanes in this state, in certain  
8 portions of the region, unfortunately, now and  
9 forevermore.

10 So you know, I just truly don't believe that,  
11 you know, one developer -- no disrespect to this developer  
12 at all. You know, it's the only one out there that had a  
13 rain cloud over its development. So I just hope that, you  
14 know, if -- and I may end up in this position one day, but  
15 if that developer, you know, needs to kind of sit out that  
16 year and get that development finished, then that, to me,  
17 is a better way to kind of look at it.

18 But I just really hope that we will put some  
19 more teeth behind this force majeure provision so that  
20 people are -- get their deals done, and if they can't,  
21 again, let them sit out that next year so that they can  
22 concentrate on completion of that development.

23 MR. VASQUEZ: Okay. And maybe staff can -- I  
24 think some of these changes are intended to put more --

25 MS. HOLLOWAY: They are.

1 MR. VASQUEZ: -- teeth into the --

2 MS. HOLLOWAY: They are.

3 MR. VASQUEZ: -- force majeure. Exactly.

4 MS. HOLLOWAY: And just as a point of  
5 information --

6 MR. VASQUEZ: Yeah.

7 MS. HOLLOWAY: -- the placed-in-service  
8 extension from the 2016 application is something that's  
9 available to that development federally due to the  
10 hurricane. So that's different from force majeure, where  
11 an applicant is coming back and saying I'm not going to be  
12 done in time.

13 I'd like to refresh my credits. We've seen --  
14 I don't know if -- within the last couple of months, the  
15 development in Dallas that had been turned upside down by  
16 changes in Dallas City Council, that was awarded force  
17 majeure.

18 That was completely out of their control.  
19 There was no way that they could have gotten around that.

20 But we also see a lot of -- here's all the NOIA reports  
21 for six months, and this is why I can't -- I didn't get my  
22 deal done, or I'm not going to get it done on time.

23 And we're trying to tighten up those  
24 requirements. Okay. Moving on to pre-application  
25 requirements. In the pre-app notifications, applicants

1 will be required to provide information on how and when an  
2 interested party or a neighborhood organization can  
3 provide input to the Department.

4 And we actually will be including language in  
5 our templates for that one. Moving on to the competitive  
6 scoring criteria. Looking at income level of residents,  
7 in the past the QAP has had provisions that potentially  
8 award three extra points to supportive-housing  
9 developments, as compared to non-supportive housing  
10 developments.

11 We've moved one of those additional points from  
12 resident services to income levels of tenants. So they  
13 used to be able to get an extra one on resident services,  
14 but we've moved it to income levels. The change creates  
15 more stringent requirements for those seeking the scoring  
16 benefits of supportive housing, while reflecting the  
17 reality that supportive-housing developments generally  
18 serve populations that are extremely and very low income.

19 Okay. Moving on to underserved area. There's  
20 a new underserved area scoring item based on there not  
21 having been an award of Department funding in a census  
22 tract within the previous 20 years. Previously, we've had  
23 15 years and 30 years, but we're adding that 20 years to  
24 be able to open up some more census tracts for --  
25 potentially for scoring.

1           In this same category, we've changed the  
2 methodology for the gentrification scoring item that was  
3 new last year. The primary reason for this change is that  
4 it does not conflict with the first tiebreaker, because we  
5 had a conflict between those two items.

6           Residents with special housing needs, the  
7 Section 811 Program, has been removed from scoring in the  
8 QAP. A two-point item will remain if the applicant agrees  
9 to hold 5 percent of their units for persons with special  
10 housing needs.

11           Proximity to jobs is new for this year. We  
12 discussed this at a stakeholder roundtable and got a lot  
13 of really good input on it. So we're adding this new  
14 scoring item. This has a sliding scale for points, so  
15 distance and number of jobs.

16           These points will be exclusive from the  
17 proximity to urban core points, and will encourage  
18 development in areas near other employment centers. The  
19 addition was triggered in part by rising land prices for  
20 urban core apps.

21           In smaller cities and towns, whether on the --  
22 whether it's a suburb or just a small city that doesn't  
23 qualify for the urban core points, the proximity to job  
24 scoring item may help to locate affordable housing in  
25 desirable locations where people would like to live and



1 work.

2 MR. KROTCHTENGEL: I just have one quick  
3 comment about the proximity to jobs. In the staff draft,  
4 the proximity to jobs was a six-point scoring item versus  
5 the urban core, which was a five-point scoring item. I  
6 really enjoyed seeing that one-point advantage for the  
7 proximity to jobs because a lot of the larger urban areas  
8 get a one-point advantage for underserved.

9 They have a one-point advantage in a scoring  
10 item that's not available to every municipality. So the  
11 proximity to jobs, that could have evened that out and  
12 allowed the maximum score in both the large urban areas  
13 and the secondary markets in those same regions, I think  
14 would have been valuable to disperse housing to secondary  
15 markets.

16 I know in the write-up, it start to speak to  
17 the rising costs, and once again, we're now putting a one-  
18 point advantage to those areas that possibly have the  
19 rising costs. So I would like to see that one-point  
20 advantage for proximity to jobs restored, as opposed to  
21 having urban core and proximity to jobs equal.

22 Thank you.

23 MR. VASQUEZ: Did you sign in?

24 MR. KROTCHTENGEL: No.

25 MS. ANDERSON: My name is Sara Anderson. And I

1 have a more theoretical comment with respect to the jobs.

2 I think we all like it. We had a lot of comment on it, a  
3 lot of discussion. I think one of the things, though,  
4 that got lost in the final version is that the jobs  
5 numbers that are used are a one-size-fits-all right now.

6 The maximum scoring is at 16,000 jobs, and you  
7 go down the scale to about 2,000. What happens, though,  
8 and at the end of the day, what we're seeing in areas like  
9 Region 3, is that the only place that you have that number  
10 of jobs, puts us right back in urban core of Fort Worth,  
11 and so we could have a discussion that there be some sort  
12 of differentiation based on the size of the city.

13 If the city's 500,000, maybe your radius is  
14 larger than a mile. Maybe it's two miles. The smaller  
15 the city, maybe the larger the radius, or the smaller the  
16 number, to just allow -- I mean, the hope was that there  
17 would be a much larger dispersion of these nodes.

18 And the problem is with the particular numbers  
19 that are in the current QAP, there just isn't that  
20 dispersion. At least, we're not seeing enough of it, or  
21 as much as we had hoped. So that's food for thought. One  
22 of the other things that you're going to see is that  
23 another thing that's going to impact that is something to  
24 do with the schools that ultimately all of those areas --  
25 that some of the areas, like in Austin, that qualify

1 for -- the only place in this region that will qualify  
2 ends up being killed because they have a bad middle  
3 school, as does east Austin, as does south Austin.

4 So all of our job areas -- because the schools  
5 then drop out. So then we have even fewer of these nodes.

6 So I don't know if it's too late. I do think that, for  
7 the issue of certainty -- I think at least we would prefer  
8 whatever ends up in the QAP stays all the way through.

9 So any changes would need to be made, because  
10 otherwise, we would be facing ourselves in December with a  
11 whole new QAP and starting all over, which I think I'd  
12 rather have a bad QAP and know it earlier than a better  
13 QAP, that I have to start over in December.

14 So thank you.

15 MR. VASQUEZ: And I know we have discussed this  
16 particular issue.

17 MS. BINGHAM ESCAREÑO: It would be interesting  
18 to test your theory, though. Right? Like, in other  
19 words, I'm going to oversimplify, but you're basically  
20 saying there is a risk that the urban core and the jobs  
21 proximity end up being, for lack of a better word,  
22 redundant.

23 Right? Like, one type of location is going to  
24 end up benefitting -- we're going to find more -- and I  
25 don't know that to be true. I trust you guys --

1 MS. ANDERSON: Right.

2 MS. BINGHAM ESCAREÑO: -- because you're out  
3 there seeing there, but I think that would be important to  
4 test, because then it probably isn't -- they're great  
5 ideas. The test will be -- are we accomplishing what  
6 we're trying to --

7 MS. ANDERSON: And --

8 MS. BINGHAM ESCAREÑO: -- with those two in  
9 place.

10 MS. ANDERSON: -- Zach's point -- I'm sure Zach  
11 has already -- but I know in Region 3, we've seen that  
12 we're going back to --

13 MS. BINGHAM ESCAREÑO: Right.

14 MS. ANDERSON: -- urban core for --

15 MS. BINGHAM ESCAREÑO: Right.

16 MS. ANDERSON: -- that. Maybe some of the  
17 other areas aren't impacted as much, but I just feel like  
18 a one-size-fits-all -- and we have just so many different-  
19 sized cities is, like -- it's problematic.

20 MR. ALTER: Good evening. I'm Craig Alter.  
21 I'm with Commonwealth Development. A related issue to the  
22 jobs and distance from jobs is the urban core concept, and  
23 the jobs proposal was brought up as a offset, if you will,  
24 or an alternative to urban core.

25 Well, urban core has still languished, in my

1 opinion, in terms of the accessibility to urban core.  
2 There's approximately 450 places that are classified as  
3 urban, yet 13 in the whole state have access to urban core  
4 points.

5 So I think that disparity needs to be reviewed  
6 and adjusted, and I think the easiest way to do it is look  
7 at population and adjust what that threshold is that  
8 allows you access to the urban core, because there are  
9 ample examples of areas that are true urban areas that  
10 operate as an urban area, function as an urban area, and  
11 yet don't have that opportunity.

12 So -- and there are some important trade-offs  
13 and opportunities that can be had in urban core areas,  
14 whereas the proximity to jobs necessarily wouldn't provide  
15 the same benefit. So I'd ask for your consideration of  
16 changing the threshold for urban core.

17 MR. KROTCHTENGEL: Just to go back on what Sara  
18 said. Region 3 urban has just got a lot of problems in  
19 general because of the declared disaster area. So I like  
20 the one-size-fits-all, and it's really hard to quantify  
21 every area.

22 You know, we go and look at sites, and we put  
23 that point on the map, and we see how it works, and it may  
24 work. It may not. And it's kind of a hunt-and-peck, you  
25 know, looking site by site. But the things that worries

1 me when you start changing populations and adjusting  
2 scoring is that it waters down the scoring category to the  
3 point where if every single urban area in Urban 3 -- and  
4 you went to a 5,000-person town can get the full points  
5 for being in proximity between five miles to all these  
6 jobs and every single one has an area where you get  
7 maximum points, then you've now watered down the entire  
8 scoring category.

9           So I think that adjusting for population size  
10 is something that, to me, is worrisome, and a job is a  
11 job. So I'd like to see at least for one year be that  
12 one-size-fits-all and see how it works, because I think  
13 that if we water down what I think is probably one of the  
14 better data points that we have in this program, that  
15 actually every piece of land seems to get a different  
16 value -- if we water that down to let everybody score,  
17 then, we're back to really it not making sense.

18           So that's just my take on it.

19           MR. COMBS: Ryan Combs. And I actually -- I  
20 don't completely disagree with Zach, but I would offer is  
21 that -- and I also agree with the gentleman who was here  
22 momentarily, that urban core is not necessarily doing what  
23 it was intended to do.

24           And we've had it for several years. This new  
25 jobs thing, I think, has a lot of support with everybody,

1 and I support it as well. And so what I would propose is  
2 that the urban core points just kind of go away, and we  
3 focus on the jobs points, and maybe whether it's one-size-  
4 fits-all, or if it's a scale in cities -- I don't know  
5 where we end up with that, but I do think that right now,  
6 certainly in Urban 3, there are only two places you can  
7 go.

8           You can go to downtown Fort Worth or downtown  
9 Arlington, and that is it. And those are the only two  
10 places you can score in all of Dallas-Fort Worth, which is  
11 I don't know how many million people, but a lot. And so  
12 if you take away urban core, and you just go to jobs and  
13 you focus on -- okay -- what really is that jobs number?

14           Is it 16,000, which is what it is right now to  
15 get the maximum? I don't know. Maybe it's less than  
16 that. Maybe that opens up a half a dozen places versus  
17 two places. And so that's what I would offer, is that the  
18 urban core points are not even -- that they don't even  
19 seem to be doing what they need to be doing, that the jobs  
20 points are really more important at this point -- would be  
21 my comment.

22           MS. MYRICK: I will do this first before I  
23 forget. Good evening. My name is Laura Myrick, and I'm  
24 with BETCO Consulting. So one of the interesting things  
25 about this is that we're talking about Region 3 and

1 talking about primarily urban areas.

2           This seems that this point category is going  
3 statewide, so I'm not quite sure -- you know, when you  
4 first read it, you kind of think to yourself, well, jobs  
5 are jobs, whether it's in a rural community or whether  
6 it's in an urban community, but the more, I guess, I  
7 started thinking about it and noodling with it is -- you  
8 know, in some of these rural places, we've also seen where  
9 there are certain jobs, and where there's quite a few  
10 jobs.

11           Sometimes there are only -- let's say that it's  
12 the prison system that is the main employer there or a  
13 factory, a plant that that's the main employer, and you  
14 sometimes run into situations where those jobs are  
15 actually paying higher than the income limits for some of  
16 these developments.

17           So I'm not sure that was intended to just go  
18 statewide, or if we thought anymore about the rural area,  
19 but a lot of the comments that I guess I was hearing was  
20 urban, urban, urban, and I understand, and jobs make a lot  
21 of sense in some of these urban areas, but I'm not sure we  
22 really thought about on the rural side.

23           Or maybe we have and I just haven't paid  
24 attention or didn't hear it or -- so I think we ought to  
25 kind of look at it from -- maybe it should just be urban,



1 especially since this is the first year that we're rolling  
2 it out, to kind of see how that works and to maybe work  
3 out some kinks before it's imposed on the rural side.

4 Thank you.

5 MS. RICKENBACKER: And I'll sign in this time.  
6 I didn't sign in the first two times. Donna Rickenbacker  
7 again. If -- these people that have all the data sets and  
8 all of that, or the techies of this community and they're  
9 very valuable to how we determine where we have sites --  
10 but the nodes that Sara was speaking to make complete  
11 sense.

12 But aren't we already creating the dispersion  
13 by this, you know, one deal in this urban area, one deal  
14 per census tract? You know, in some of our larger  
15 metropolitan market areas, you've also got the two-mile,  
16 same-year rule.

17 You've got plenty of other scoring categories  
18 or thresholds that really will trigger more dispersion  
19 outside of those nodes, that those might be reached,  
20 easily reached, that aren't necessarily getting maximum  
21 points.

22 MS. MEYER: Robbye Meyer, Arx Advantage. I  
23 don't disagree with this and I like the concept of it.  
24 The only thing is that the indicator doesn't actually  
25 indicate the types of jobs that are -- that we're looking

1 at.

2 It just gives -- okay. There's X amount of  
3 jobs. And when you go to Austin, you know, you've got a  
4 lot of high-tech jobs, and so you don't necessarily have,  
5 you know, affordability. So you may be putting a  
6 development in an area that you don't necessarily need.

7 I say, in Austin. Austin, you know, we need  
8 35,000 units somewhere. But you may be going into an area  
9 where you don't necessarily need it, and we're also  
10 putting this out there for, you know -- statewide, and  
11 I'll give you a prime example.

12 Dalhart -- if you'll remember back in 2007,  
13 when we put that development on the ground, it was all  
14 about the cheese factory that was going in, and now all of  
15 those are over income, and that development is struggling.

16 So it kind of concerns me that we're putting this out  
17 statewide, and we're not actually looking at the types of  
18 jobs that are in this indicator.

19 So --

20 MR. VASQUEZ: All very good comments on this  
21 one. There's obviously a balancing act that we all try to  
22 do with jobs, rural --

23 MS. HOLLOWAY: Uh-huh.

24 MR. VASQUEZ: -- I mean, I don't know how  
25 there's going to be a --

1 MS. FINE: Can I ask a question?

2 MS. HOLLOWAY: Uh-huh.

3 MS. FINE: Tracy Fine, National Church  
4 Residences. Marni, I don't recall the language.

5 On this 1,000-foot rule, does that -- if all of  
6 the property projects and applications in one part are  
7 within the 1,000-foot site -- I'm worried that that could  
8 possibly be the case -- like would that rule go away if  
9 there are no other projects to be awarded? Like could we  
10 cancel out the entire pool for the top one?

11 MS. HOLLOWAY: So let me -- what we do -- it  
12 would be just like we do with the two-mile rule. Right  
13 now, we, you know, say, this is the highest-scoring  
14 application, and this other is within two miles, so we  
15 drop it to the bottom of the list and say it's within two  
16 miles of this one.

17 There were some this year that it was three  
18 applications deep that they were within that two miles,  
19 and what we do is, if the highest-scoring one drops off  
20 for some reason, the ones that had been too close to that  
21 one, we would go back and look at those scores, and the  
22 highest scoring would go to the top.

23 We'd do the same thing with the 1,000-foot.

24 MS. ANDERSON: Well, what happens if you run  
25 out, if there's --

1 MS. HOLLOWAY: There will always be --

2 MS. ANDERSON: If they're all within two miles,  
3 but you still have a million dollars left to give out, or  
4 2 million left to give out --

5 MS. HOLLOWAY: If -- yeah. If there are --

6 MS. ANDERSON: Investment Division.

7 MS. HOLLOWAY: -- yeah. If there aren't any  
8 more than we can award within the subregion due to the  
9 rule, then the funds would go into the collapse.

10 MR. VASQUEZ: Again, I don't know if we have  
11 any permanent solution to this at this point. I would  
12 just suggest we go ahead with what we have. My fear is --  
13 and you know, I'm the de-complexification Board member --  
14 my fear is that all these good points that y'all are  
15 bringing up about maybe scale it, and all these -- it  
16 just -- it will start making it even more complex, that --

17 MS. HOLLOWAY: Well, and we started out looking  
18 at that, and it could be that we will move to that over  
19 time, but basically came to a conclusion for this year  
20 that we really need to see how this works, what it looks  
21 like, and the minute we start saying, well, cities with a  
22 population over 300,000, you have to be this many miles  
23 from these number of jobs -- becomes even more ways that  
24 we're making it far more complicated, and it could be  
25 that, you know, looking at what happens in the next round

1 with these items, perhaps we can come up with a more  
2 elegant solution.

3 Okay. Next one is readiness to proceed in  
4 disaster-impacted counties. The period of eligibility was  
5 expanded from two years to three years.

6 MS. MARTIN: Hi, there. Audrey Martin with  
7 Purple Martin Real Estate and also the co-chair of TAPS  
8 QAP committee. I wanted to make a comment on this. This  
9 is one of those scoring items that continues to be a  
10 concern to TAAHP's membership.

11 We kind of have consensus as an organization  
12 that this is a scoring item that was helpful during its  
13 time, and that has run its course, though, perhaps, and  
14 what I think we've seen during the time that this has been  
15 in the QAP is that developments are not -- and probably  
16 overall in each round -- developments are not coming  
17 online materially faster than they would otherwise.

18 And what we do see is that there's a lot more  
19 pre-development costs at an earlier point without a  
20 certainty of an award, and while some developments are  
21 closing faster, there's this whole other group of  
22 developments that are not getting the attention from their  
23 lenders and investors and their attorneys and closing then  
24 later than they probably would have otherwise.

25 So I think that we would just ask again if this

1 could be looked at for removal from the QAP. And Marni, I  
2 was wondering if it would be okay if I could just run  
3 through TAAHP's other comments? We just had a couple  
4 others --

5 MS. HOLLOWAY: That's --

6 MS. MARTIN: -- so I don't have to --

7 MS. HOLLOWAY: -- would be up to the Chair.

8 MS. MARTIN: Would that be okay? We -- I just  
9 have three other things.

10 MR. VASQUEZ: You don't want to stick around?

11 MS. MARTIN: Well, of course, I'd love to be  
12 here all evening, as I'm sure we all would.

13 MR. VASQUEZ: If you could wait for --

14 MS. MARTIN: Okay.

15 MR. VASQUEZ: -- as it comes -- we're moving  
16 along quickly.

17 MS. MARTIN: All right. Thanks.

18 MS. HOLLOWAY: Okay. Extended affordability.  
19 The number of options for extended affordability has been  
20 increased by adding a 40-year scoring item and a 45-year  
21 scoring item. For historic preservation, working in  
22 conjunction with the Texas Historical Commission, an issue  
23 was identified that some 9-percent applicants were  
24 requesting eligibility determinations, and not within the  
25 30 days of THC's requirements.

1           They were going in, you know, a couple of weeks  
2 and wanting their eligibility. So in order to ease the  
3 burden on Texas Historical Commission, we are requiring  
4 that the application include evidence that THC received  
5 the request 30 days or more before the application  
6 delivery date in order for them to receive those historic  
7 preservation points.

8           So just working with a fellow State agency to  
9 ease the load on them a little bit.

10           MS. MARTIN: Hey, there. Audrey Martin again.

11           MR. VASQUEZ: See, look at that. Look. Just  
12 flipping right through.

13           MS. MARTIN: You guys were so -- you were so  
14 fast through affordability that I missed it. So that's  
15 the one I wanted to talk about --

16           MR. VASQUEZ: Oh.

17           MS. MARTIN: -- actually.

18           MR. VASQUEZ: Too late. Sorry. Yeah.

19           FEMALE VOICE: Too late.

20           MS. MARTIN: All right. Well, I know you're  
21 joking so I'm going to go ahead.

22           MR. VASQUEZ: I'm joking. I am joking.

23           MS. MARTIN: Okay. So related to  
24 affordability, I think that -- so TAAHP members kind of --  
25 we had a lot of discussion about this generally, more of

1 the big picture than this individual scoring item, and I  
2 think the consensus we were able to reach is that, as a  
3 membership, I think there's more support for incentives  
4 for re-capitalizing existing affordable housing  
5 developments, rather than taking the approach to extend  
6 the affordability necessarily right up-front.

7 I think we'd like to see more of a holistic  
8 approach, just again, to kind of look at what are the ways  
9 that we can keep developments in the program and get them  
10 the rehab that they'll need along the way, which does  
11 result in kind of a perpetual extension of the  
12 affordability period.

13 And then that would include things like how do  
14 we deal with our at-risk developments? And what -- and  
15 again, that holistic approach. You know, what are our  
16 approaches to rehab developments? And I didn't know if  
17 interest transactions -- again, how do we keep those  
18 existing owners incentivized to come back, re-capitalize,  
19 rehab their existing deals and extend the affordability  
20 that way. So --

21 MS. ANDERSON: Hello. Terry Anderson, Anderson  
22 Development and Construction. I just wanted to echo what  
23 Audrey was saying about the extended affordability, and  
24 just look at the typical, expected useful life of a  
25 multifamily property, and when you're financing a



1 development and you have 40-year mortgages, that tends to  
2 be the longest extent that we currently have in the  
3 commercial financing world generally through HUD.

4 And most properties will need some form of  
5 rehab, and if you're extending the affordability, then you  
6 don't actually have the opportunity to consider your  
7 property to be at-risk. And in TDHCA's re-capitalization  
8 structure, to be competitive on another 9-percent  
9 transaction.

10 So I would certainly request that the Board  
11 look at lowering the extended useful life to match the  
12 extended affordability, and in many instances, properties  
13 just will not survive and will deteriorate prior to the  
14 affordability running out in 45 years.

15 MR. VASQUEZ: Okay. So you're saying to  
16 shorten the affordability period, not --

17 MS. ANDERSON: Short. Correct.

18 MR. VASQUEZ: -- go the other way, so --

19 MS. ANDERSON: Not go the other --

20 MR. VASQUEZ: Yeah.

21 MS. ANDERSON: -- way. So if you're looking at  
22 going 45 years, and your financing typically only goes up  
23 40 years, you tend to refinance prior to that time in  
24 general, and if after your initial compliance period is  
25 over your property needs rehab, whether it's 15 years or

1 30 years, you're likely going to need to come back in to  
2 either be competitive or go through a 4-percent tax credit  
3 round.

4 The property, if you're going for 9-percent  
5 credits, will likely not be as competitive. It would need  
6 to be in an at-risk set-aside. If it's not at-risk, it  
7 wouldn't qualify. So I would, you know, request looking  
8 at shortening it to the 30 or 35 years, please.

9 MR. MOREAU: Walter Moreau. I strongly  
10 disagree. I really applaud the staff to have 40 and 45  
11 years affordability. That's the right thing to do.  
12 You're making major investments in these projects,  
13 sometimes \$15 million, and to argue that, well, we don't  
14 think our property's going to last more than 30, 35 years,  
15 or it's going to be rundown and need reinvestment.

16 Therefore, don't put anything on the deed  
17 restriction -- is just not good policy. It puts you in a  
18 position in year 35 to have a stake because the equity  
19 you've invested and what happens to that property? Look  
20 at the other states around the country, and most of them  
21 are at 40, 45, 50, 55, 60 years.

22 Texas is the outlier at 35 years. This is a  
23 great process to deliberate the rules. You get great  
24 feedback from developers and from staff. It's very  
25 transparent, very policy-based. What you don't have in

1 this room are residents.

2 You don't have the voice of consumers that need  
3 affordable housing. So it's no surprise that the  
4 developer community would prefer a 35-year affordability.

5 MR. VASQUEZ: Would --

6 MR. MOREAU: Please do 45.

7 MR. VASQUEZ: Wouldn't the resident, looking at  
8 a 35-year-old place, want it to be rehabbed?

9 MR. MOREAU: They absolutely would, but what  
10 happens at 35 years when the deed restriction goes away  
11 and the affordability goes away, then they have to move.  
12 There's no choice to stay. If you have a -- as the State  
13 still has a deed restriction on that property, then  
14 there's an opportunity to make sure that there's a workout  
15 and a reinvestment, and that property really does stay  
16 affordable for that family.

17 I just can't wrap my head around the logic that  
18 you'd want to wash your hands of the property in 35 years,  
19 and then whoever's living there is -- we're seeing that  
20 happen now. LURAs are being wiped out sooner than  
21 35 years.

22 Residents that are living at Country Club Creek  
23 and other apartments in Austin, they basically get three  
24 more years, and then they -- the rents go up 500 bucks a  
25 month or more and then they have to move, and that was

1 because the deals done in the '90s that didn't have more  
2 than 15- or 20-year LURAs.

3 So this is a really big, important policy item,  
4 and I wish you would hear more from the consumer side.  
5 Thanks.

6 MR. DROBENARE: I'd like to echo my colleague's  
7 statements on this.

8 MR. VASQUEZ: Which colleague?

9 MR. DROBENARE: From Foundation Community --

10 MR. VASQUEZ: Okay. All right. Okay.

11 MR. DROBENARE: -- Walter. We're very active  
12 in acquisition of year 15 properties here in Texas and  
13 around the country, and quite frankly, you know, we've  
14 refinanced many properties that are close to the end of  
15 their covenants, and we, just as a practical matter,  
16 haven't really seen much of a difference between the  
17 ability to refinance and re-capitalize, whether there's a  
18 LURA on it that runs for another 15 years or a LURA that  
19 runs another two or three years.

20 The only time it becomes different is when  
21 you're making a decision to go to market rate, and quite  
22 frankly, I see one of the crises coming, you know, across  
23 the country, is so many of our properties are built in  
24 good locations, places that you want to live, which you  
25 spend an inordinate amount of time defining in the QAP.

1                   When it comes to the end of the initial  
2 affordability period, are going the qualified contract  
3 route. And any one day, I have 10 brokers' packages, you  
4 know, promoting how this is qualified contract eligible  
5 property.

6                   So you know, I think that's really what you  
7 want to prevent. You don't necessarily need credits to  
8 re-capitalize, you know. Can you do conventional equity?

9                   We have a conventional equity fund that does that. Lots  
10 of other people do it as well.

11                   It does reduce the value for the current donor,  
12 and that is the effect of longer covenants, and I don't  
13 think there's much other effect, in my opinion, and as an  
14 owner and as a developer. Thank you.

15                   MS. ANDERSON: Sorry. Terry Anderson, Anderson  
16 Development and Construction. I just wanted to rebut  
17 that, just a bit. My background is as a lender. I am  
18 currently a developer. I also work with a nonprofit  
19 organization.

20                   I understand nonprofit organizations have  
21 different goals. They also have equity in donations and  
22 things that typical properties, affordable properties, do  
23 not have. So it's nice if you have people contributing to  
24 a property in particular, or you have other abilities to  
25 go out and raise private equity and/or receive 501(c)(3)

1 type of donations for your property.

2 But generally speaking, the nonprofit that I  
3 chair actually owns a property in a very desirable  
4 location, but the nonprofit is actually driven to maintain  
5 the affordability. We still have a LURA on the property.

6 We're trying to actually redevelop it, but using either  
7 9-percent tax credits or 4-percent tax credits.

8 We still have time left on our LURA. A typical  
9 transaction really does need to be rehabbed, and there's  
10 only so much that you can do from a cash flow perspective,  
11 and when you look at the rents and the restrictions on  
12 those rents, they are not growing at a same -- at the same  
13 rate that a market rate property would grow, and  
14 typically, the owner is not going to have the funding or  
15 the additional cash flow to make the types of repairs that  
16 are required in order to even compete for market rents at  
17 the end of 30 years or 40 years or 45 years.

18 Thank you.

19 MR. KROTCHTENGEL: I will say that I looked at  
20 three or four qualified contract properties this year.  
21 Over the past, I think, 12 months, probably Region 3 Urban  
22 lost 750 units to qualified contracts, and it wasn't  
23 because the numbers didn't work.

24 It was because the cities refused to give  
25 support. So I think that's a bigger issue that we need to

1 look at is -- if you have an affordable property that  
2 already had a resolution of support at one point in time,  
3 you shouldn't need a new one.

4 The city shouldn't be able to say, we're not  
5 going to help you re-capitalize. We're just going to let  
6 it go by the wayside. Because that's what Region 3 Urban  
7 did this year in Dallas and DeSoto and in other places  
8 where they said, we're not really interested in keeping it  
9 affordable.

10 So I think that there is bigger policies, just  
11 in extending in affordability period, when we're trying to  
12 keep them affordable, and a city or a politician is  
13 allowed to stand in our way of that. I think that we  
14 should be able to re-capitalize a property that's already  
15 under a LURA without having to get a resolution of support  
16 for a 4-percent or a 9-percent transaction.

17 But that's the hurdle that I saw in those  
18 situations was -- the city wasn't interested in keeping it  
19 affordable. So --

20 MS. ANDERSON: Sara Anderson, and actually, I'm  
21 not speaking on the affordability. I'm speaking on the  
22 second item that Marni got to quickly.

23 MR. VASQUEZ: The historic preservation?

24 MS. ANDERSON: Yes, the historic preservation.

25 MR. VASQUEZ: Okay. Well, let's --

1 MS. ANDERSON: The one --

2 MR. VASQUEZ: -- put this -- the affordability  
3 to rest --

4 MS. ANDERSON: Yeah.

5 MR. VASQUEZ: -- or these comments first.

6 MS. ANDERSON: I think everybody looked like  
7 they were finished on that. So I was going to hop back to  
8 the historic preservation, and I think your staff are  
9 taking some of our comments between the initial draft and  
10 this draft.

11 There's one, I think, sort of housecleaning  
12 item that probably still needs to happen with it. The --  
13 we're bringing the letter forward, proof that we've  
14 submitted to the Historic Commission, and the way it works  
15 is, we'll spend the next year working on getting it  
16 approved and finding out what we can and can't do to that  
17 property.

18 Tangential to this, there's a statement in the  
19 QAP that talks about for the historic preservation deals  
20 that we have to request, prior to or at the time of  
21 application, for the waiver of items that we will not be  
22 able to provide because of the historic designation  
23 limitations, which we won't know about for another year.

24 So I would ask for that particular item about  
25 the waiver and it having to be brought forward before the



1 application, when we won't have gotten that determination  
2 yet, be moved to 10-percent test instead.

3 MR. VASQUEZ: Staff?

4 MS. HOLLOWAY: So I think that requesting a  
5 waiver of a rule after an award has been made is --

6 MS. ANDERSON: Right.

7 MS. HOLLOWAY: -- problematic.

8 MS. ANDERSON: Right. It would be an --

9 MS. HOLLOWAY: It would be an amendment.

10 MS. ANDERSON: Yes. Right.

11 MS. HOLLOWAY: So what that would be is an  
12 amendment coming in, saying we can't do these things  
13 because of the Historic Commission. Please amend our  
14 application and move forward that way.

15 MS. ANDERSON: Yes. As opposed to, right now,  
16 it says we have to request that prior to application.

17 MS. HOLLOWAY: Okay. Off the top of my head,  
18 I'm not -- I know that there are a number of things that  
19 you have to ask prior to application. Off the top of my  
20 head, I'm not remembering exactly what that language is,  
21 but I think that, yeah, it probably makes sense that  
22 you're not going to know at application whether or not you  
23 have to keep the windows.

24 MS. ANDERSON: Right.

25 MS. HOLLOWAY: Yeah. Okay. We'll look into

1 that. And I think that if that's something that's  
2 completely impossible to accomplish, that it could work as  
3 a technical correction.

4 MR. ECCLES: If you're looking at me, then,  
5 yeah, changing the dates on that, that could be a  
6 technical.

7 MS. HOLLOWAY: That could be a technical  
8 correction between draft and final?

9 MS. SYLVESTER: Yes, but it's a little more  
10 complicated than that, so --

11 MS. HOLLOWAY: Okay.

12 MS. SYLVESTER: -- we'll work through that.

13 MS. HOLLOWAY: Okay. But I don't think anybody  
14 is even -- well, no. We do have some direct loan in  
15 historic deals. Okay. Okay. Is that enough of  
16 affordability and historic? I think part of what I heard  
17 was going far afield from the QAP.

18 Talking about qualified contract is in the  
19 asset management rule that we'll be discussing next month,  
20 and also, what I heard was qualifying for the at-risk set-  
21 aside versus having to come in on -- in the subregion as  
22 an app rehab deal.

23 So those are some larger issues that we  
24 certainly could take a look at. Again, at least the at-  
25 risk -- you know, how to get into at-risk for next year --

1 but that would have us going beyond the statutory  
2 requirements.

3 So -- all right. Moving on to Subchapter B on  
4 site and development requirements and restrictions. We've  
5 made several changes here. To floodplains, we've added a  
6 requirement that rehab deals in the 100-year floodplain,  
7 the owner must state in its tenant rights and resources  
8 guide that it is in a 100-year floodplain and encourage  
9 residents to get insurance.

10 In neighborhood risk factor -- did you want to  
11 speak to floodplains?

12 FEMALE VOICE: No.

13 MS. HOLLOWAY: Oh. Neighborhood risk factors.

14 Due to changes in how campuses are evaluated by the Texas  
15 Education Agency, corresponding changes have been made to  
16 neighborhood risk factors regarding educational quality.  
17 Applicants will be required to disclose if the development  
18 site falls within the attendance zone of a school that  
19 has -- that was rated D in 2019 and improvement required  
20 in 2018.

21 Previously, disclosure was required if the  
22 school was rated improvement required for just one year.  
23 So we've extended the look-back period on Ds. We've added  
24 a limitation that any development that falls within the  
25 attendance zone of a school that is rated F will be

1 considered ineligible with no opportunity for mitigation,  
2 with an exception for properties that are part of our  
3 portfolio now or are elderly developments.

4 We've heard tonight about some technical  
5 corrections that we need to make within those rules, and  
6 we will be taking a look at those. And they all sound  
7 like things that we can do as technical corrections  
8 between draft and final.

9 Regarding mitigation for schools, the number of  
10 options has been reduced from four to three. There is a  
11 concern that the fourth option, busing children to the  
12 school that has met TEA standards may not be realistic.

13 MR. VASQUEZ: Any comments?

14 MS. SISAK: I'll start. Good evening. I'm  
15 Janine Sisak from DMA Development Company, but I'm here  
16 tonight on behalf of TAAHP. Audrey Martin had to leave,  
17 and she asked me to take the rest of the comments. And  
18 while she wanted to jump forward, I might want to jump  
19 back a little, because I didn't realize we were kind of  
20 closing the scoring item and opening up threshold issues.

21 So just quickly on scoring, cost of development  
22 per square foot. There was no staff change here. TAAHP  
23 in its letter before the staff-issued draft was published  
24 requested an increase in cost per square foot across the  
25 board.

1           We had a roundtable several months ago where  
2 TDHCA presented to the group actual cost data from the  
3 cost cert, and the cost data showed significantly higher  
4 costs than what the cost per square foot limitation  
5 allows.

6           And we understand the reasoning behind that,  
7 and that TDHCA wants to leverage its resource and use  
8 credits efficiently, but still costs are a huge problem.  
9 They go up every year. It's not getting any better, and  
10 so we just want to see some sort of increase every year,  
11 and you're going to hear from us every year asking for an  
12 increase.

13           It would be nice to have some sort of indexing  
14 system worked out, and that's what Audrey was working on,  
15 and I won't get into the technical details, because it is  
16 in the TAAHP letter that we submitted, but we would like  
17 staff to reconsider that, or for the Board to reconsider  
18 an increase in cost per square foot.

19           On undesirable site features, you know, just --  
20 I've testified on this issue for many, many years now in a  
21 row, and this concept is a remnant of the remediation plan  
22 that came out of the lawsuit several years ago, and it  
23 still is a huge problem in particular for 4-percent deals,  
24 who still have to meet, you know, this very robust rule  
25 that goes on for pages and pages and pages.

1           I think what's primarily problematic this year,  
2 and we're going to focus on schools, and I think other  
3 people are going to talk about schools, but two concepts  
4 that TAAHP wants to bring to light -- one is that a  
5 request that senior developments are just completely  
6 removed from the school criteria.

7           It just simply makes no sense that elderly  
8 developments are held to this standard, especially now  
9 that we're looking at a whole new scoring rubric for  
10 schools. It just doesn't seem to make sense. With regard  
11 to schools that rated F, and to be honest, I haven't -- I  
12 personally haven't kind of considered what that looks  
13 like, and I think Sara's going to speak to what she's  
14 learned about what that looks like.

15           But our concern about having any sort of school  
16 that is not subject to mitigation is problematic. Again,  
17 you know, real estate is a thing that you kind of see good  
18 real estate when you -- you know it when you see it, kind  
19 of thing, and to have kind of one point out of this long  
20 laundry list of one school that performs badly one year,  
21 and you're kind of done, with no ability to mitigate, and  
22 which I think means -- it's unclear, and maybe we can talk  
23 about this, or Marni can talk about it -- does that mean  
24 you can't appeal it?

25           Probably not. I think Marni's going to say you

1 can appeal it, but then what are you appealing, if you're  
2 not allowed to present any information to mitigate? You  
3 know, there's no ability to show why this should be, why  
4 the Board should overrule staff recommendation in this  
5 case.

6 So we firmly believe that any sort of school  
7 situation should be allowed to be mitigated and should be  
8 allowed to be appealed to the Board. And I think, you  
9 know, I could probably go on, on undesirables, but I think  
10 this year we're going to really focus on the school thing.

11 Again, we're changing a whole rating system.  
12 There are going to be some unintended consequences.  
13 We know that, when things change dramatically, and so we  
14 just want some flexibility to move forward on certain  
15 sites that are otherwise really good real estate, but  
16 might have one school that performs poorly in one  
17 particular year.

18 I'll sign in, and I think that might be it for  
19 the TAAHP comments.

20 MR. VASQUEZ: The comment on senior  
21 development, not having any impact with the schools, so  
22 that I think there's a lot of agreement with that  
23 sentiment. It doesn't make sense.

24 MR. MOREAU: My comment was along those lines.  
25 We build housing for single adults that are homeless, and

1 veterans, people with disabilities, that there's not --  
2 they're not households with families with kids, so we'd  
3 like some exception on the school piece, too.

4 MR. VASQUEZ: I think we're working on putting  
5 that in somehow. Right? Yes?

6 MS. HOLLOWAY: Are you specifically meaning  
7 supportive housing?

8 MR. MOREAU: SROs --

9 MS. ANDERSON: Okay. So I get to speak about  
10 schools. Sara Anderson. The way the schools are being  
11 done this year is a pretty large departure from last year.  
12 Last year, you would have -- if you faced three years of  
13 improvement required, you were limited from being able to  
14 come in.

15 There were no mitigating factors, if you had  
16 three years of IR. What we are going to this year is now  
17 one year of IR essentially, and there's no mitigation. To  
18 me, that's a pretty substantial policy change that I don't  
19 believe we really saw until this last version came out.

20 With our conversations with TEA, the F grade is  
21 analogous to what used to be IR. So we literally have  
22 gone from three years IR to one year IR, and --

23 MR. VASQUEZ: I'm sorry. I thought that D  
24 would also be in that category.

25 MS. ANDERSON: No. According to our



1 conversations and emails we got from TEA, they say only F  
2 is analogous. So unless you guys have gotten something  
3 else --

4 MR. VASQUEZ: But there's more categories.

5 MS. ANDERSON: -- so right.

6 MR. VASQUEZ: There's the letters. There's  
7 more categories --

8 MS. ANDERSON: Yeah.

9 MR. VASQUEZ: -- than we're --

10 MS. ANDERSON: Right, right. What they're  
11 saying is they're -- at least, that's what they've sent  
12 us, so --

13 MS. HOLLOWAY: If I may?

14 MS. ANDERSON: Yeah. Okay. Sure.

15 MS. HOLLOWAY: Speaking to the improvement  
16 required question, TEA statute at -- it's probably  
17 Texas -- I don't even know where it is -- school code of  
18 some kind. Section 39.101, needs improvement rating.  
19 Notwithstanding any other law, if a school district or  
20 campus is assigned an overall or domain performance rating  
21 of D, the Commissioner shall order the district or campus  
22 to develop and implement a targeted improvement plan.

23 This comes up again later under -- it's Texas  
24 Education Code, methods and standards for evaluating  
25 performance. An overall or domain performance rating of D

1 reflects performance that needs improvement. An overall  
2 or domain performance rating of F reflects unacceptable  
3 performance.

4 And what we have sought to do in the change to  
5 the rules is split that and where previously it was one  
6 year IR -- you have to do all of this work -- now, we're  
7 actually making it two years D or IR, and the F's are  
8 ineligible.

9 Does that --

10 MR. VASQUEZ: Again, I mean, from my  
11 understanding, we're not making it more difficult. It  
12 just -- the worst of the worst --

13 MS. ANDERSON: Yeah.

14 MR. VASQUEZ: -- is being made ineligible, not  
15 done before then, all these different --

16 MS. ANDERSON: Right. And I can't speak to  
17 statute. I can just speak to the conversations we've had  
18 directly with TEA, and you know, we can provide the emails  
19 and what they've said and what they consider analogous.  
20 It still is a, you know -- I would say still going from a  
21 three-year history, because they're -- we're seeing  
22 schools that were fined under the old rating that are now  
23 Fs.

24 And we have a new rating system that, again,  
25 nobody really knows what the new rating system is.

1 There's been a lot of people that have been arguing about  
2 it, and you know, I just feel like going from looking at a  
3 three-year history to a one-year, you know, swing and  
4 you're out, seems a little drastic.

5 I'd like to at least, you know, see one-year  
6 look-back to see that there was some consistently -- some  
7 issues with the school or have a way to mitigate. I think  
8 the other concern that we have is that while overall  
9 the -- we -- the Fs that we have are 5 percent, and if you  
10 look at a macro level, that seems like not a big deal.

11 You look at a micro level, and that can be a  
12 very big deal. The attendance zones for high schools are  
13 significantly larger than those for middle schools and for  
14 elementary schools. If you have a high school that has  
15 this problem, you have now taken out in many rural areas,  
16 entire cities.

17 Same thing if -- in some of the middle schools.

18 One of the examples that we're seeing in Austin -- five  
19 middle schools in Austin came up with an F this year that  
20 did not have bad scores before, not this bad, that have an  
21 F, and now 30 percent of Austin is ineligible.

22 So again, it seems like a very large change for  
23 a new scoring system that I'm not sure anybody understands  
24 enough to do a one-and-out, and so I'd like to at least  
25 see at least a chance to mitigate or an extra year look-

1 back to make sure that it's not a one-off anomaly that is  
2 essentially in some cases redlining entire cities.

3 So I think that was it.

4 MS. BOSTON: I just wanted to just make sure  
5 you guys are getting kind of the full picture --

6 MR. VASQUEZ: And who are you? Could you  
7 introduce yourself, please?

8 MS. BOSTON: Sorry. Brooke Boston with TDHCA.  
9 From a data perspective, there isn't a total equivalent  
10 from IR last time to D or F this time. In 2018,  
11 3.5 percent of all campuses were IR. In 2019, just  
12 looking at Fs, 4.5 percent are Fs.

13 So you can't really say that one equates to the  
14 other, because they became more rigorous. So even if you  
15 were to say -- basically you could say that almost all of  
16 the IRs from last time are a subset of Fs, but there are  
17 more Fs than there were IRs in the past.

18 So I don't want you guys to feel like it was --  
19 it's just a change in definition, because it actually, you  
20 know, the whole methodology they used changed, so you  
21 can't say it's apples to apples.

22 MR. VASQUEZ: Is -- would it be possible to do  
23 a -- for the first -- this transition year, do a two-year  
24 look-back on -- did not meet standards, and F? I mean,  
25 I'm not saying --

1 MS. HOLLOWAY: So --

2 MR. VASQUEZ: -- absolutely that. I mean, I'm  
3 not convinced either way.

4 MS. HOLLOWAY: Well, so --

5 MR. VASQUEZ: Is that --

6 MS. HOLLOWAY: -- the same look-back that we're  
7 using for the D grade. So D in 2019 and improvement  
8 required last year, and also at least for this year, F in  
9 2019 --

10 MR. VASQUEZ: And does not --

11 MS. HOLLOWAY: -- and improvement required the  
12 year previous. That would --

13 FEMALE VOICE: Yeah.

14 MS. HOLLOWAY: -- be the easiest thing for us  
15 to implement.

16 MR. VASQUEZ: I mean, at least that takes a  
17 step towards --

18 FEMALE VOICE: Yeah.

19 MR. VASQUEZ: -- so it's not just that one-year  
20 anomaly that -- no. That's --

21 FEMALE VOICE: Tough crowd.

22 MR. VASQUEZ: Wake up.

23 MS. FINE: If we could make that change by -- I  
24 still think -- I haven't --

25 MR. VASQUEZ: Okay.

1 MS. FINE: -- but a couple other little  
2 changes.

3 MR. VASQUEZ: Yeah. Come on.

4 MS. FINE: I want to echo the exclusion of  
5 elderly developments, and at the very, very least, the  
6 exclusion of at-risk elderly developments, so these  
7 projects are already existing. We primarily work on  
8 what's called the HUD 202.

9 This was a type of property that is  
10 specifically built for seniors under a HUD program. We  
11 cannot, by fair housing laws, explicitly exclude children,  
12 but the reality is, our units are no larger than about 500  
13 square feet in studios and one-bedrooms.

14 We have just under 1,400 units in the state of  
15 Texas of these HUD 202s. We have zero children living in  
16 them. And I just don't want this to prohibit my seniors  
17 from being able to live at a renovated community that will  
18 help them age in place.

19 MR. VASQUEZ: I think staff is --

20 MS. HOLLOWAY: Yeah. If I --

21 MR. VASQUEZ: -- on board, I mean, with --

22 MS. FINE: Okay.

23 MR. VASQUEZ: -- that --

24 MS. HOLLOWAY: -- if I may? I --

25 MR. VASQUEZ: Yeah.

1 MS. HOLLOWAY: -- we -- as I mentioned, when we  
2 first got started, there are a couple of glitches in  
3 drafting, and this elderly piece is one of them, that it's  
4 in one part and not in another part.

5 MR. VASQUEZ: Yeah, yeah, yeah. We are in  
6 agreement, Tracy.

7 MS. FINE: And then to stress with everyone  
8 else, allow for mitigation of -- if you fall in this trap,  
9 to allow us to mitigate it.

10 MS. HOLLOWAY: Okay. All right. Moving on to  
11 Subchapter C, filing of applications for tax exempt bond  
12 developments. Staff has made changes to facilitate  
13 reviews of applications for bond funds and 4 percent  
14 credits, aligning with the Texas Bond Review Board, and  
15 their changes in statute out of the last session.

16 Under deficiency process, we somehow wound up  
17 with parts of our deficiency process all over the QAP, and  
18 we've tried to bring them all together in one place now,  
19 so you only have to look in one place. We've also added  
20 causes for termination of 4 percent for a direct loan  
21 application.

22 We've clarified those. Feasibility report.  
23 We've modified the requirements to assist applicants in  
24 performing due diligence, given their site constraints and  
25 local jurisdictional requirements. On appraisal, we'll

1 require appraisals for adaptive reuse developments.

2 Did you want to -- okay.

3 MS. FINE: I'm not sure if I missed this  
4 section, but this has to do with a disclaimer saying that  
5 if you missed an email, you're out of luck. Is that per  
6 this Subchapter C -- or B? C?

7 MS. HOLLOWAY: No. It's C.

8 MS. FINE: Are we -- is this the appropriate  
9 time?

10 MS. HOLLOWAY: Yeah. Sure.

11 MS. FINE: Okay. So I'm terrified of this  
12 happening. I know it happened this last session. You  
13 know, someone missed an email. It got lost in their  
14 server. I don't know what happened, but I hate that it's  
15 so definitive that if, God forbid, your email has a quirky  
16 deficiency, that your application's in the garbage, like,  
17 is there any way we could say, like, within 24 hours, you  
18 don't get a received email back, that you could make a  
19 phone call or is there a way to post online --

20 MS. HOLLOWAY: We have a plan.

21 MS. FINE: Oh, okay, okay.

22 MS. HOLLOWAY: Actually, as a result of what  
23 happened this past year, we've been working with IS, and  
24 what we'll be doing is, as we issue deficiencies or  
25 terminations or scoring notices or whatever else, we'll be



1 entering into a log, application number, application name,  
2 and it will update over night, just like the applicant --  
3 like all the applications do, as we're doing reviews.

4 So check the list regularly. The volume of  
5 stuff that we send out, you know, trying to continue our  
6 work and make sure that we're getting -- yes, I received  
7 this back, is --

8 MS. FINE: I get it. I just --

9 MS. HOLLOWAY: -- would be problematic.

10 MS. FINE: -- don't want to lose an email and  
11 lose my application.

12 MS. HOLLOWAY: Yeah. Well, and the other piece  
13 of it is, everybody should make sure that there are a  
14 number of people listed on the application to receive  
15 those notices.

16 MR. VASQUEZ: But we'll -- so the system will  
17 be set for --

18 MS. HOLLOWAY: We're providing --

19 MR. VASQUEZ: -- blasting out or you know --

20 MS. HOLLOWAY: -- a public notice --

21 MR. VASQUEZ: Yeah.

22 MS. HOLLOWAY: -- that will be updated  
23 overnight, every night.

24 MR. BRADEN: We're not blasting it out, just  
25 sending on our website.

1 MS. HOLLOWAY: Right, right. Moving on to  
2 Subchapter D under acquisition costs, we have clarified  
3 how the acquisition costs will be determined for USDA  
4 developments and identity of interest transactions. We've  
5 made some changes in developer fee.

6 The provision that allowed a 20 percent  
7 developer fee on rehab transactions with 4 percent credits  
8 has been removed. The developer fee on acquisition costs  
9 has been limited to 5 percent for identity of interest  
10 sales.

11 And for multifamily direct loan only  
12 developments, the developer fee will be limited to  
13 7-1/2 percent. Scope and cost review guidelines. So the  
14 name of the property condition assessment has been changed  
15 to scope and cost review to better reflect the number of  
16 changes in this section.

17 The requirements have been expanded with the  
18 goal of clear articulation of the capital improvement  
19 requirements of a development undergoing rehabilitation or  
20 adaptive reuse. So we've gone from a PCA to this, sort  
21 of, broader picture.

22 MS. BINGHAM ESCAREÑO: Do you have a nice  
23 acronym for it already --

24 MS. HOLLOWAY: Well, it's --

25 MS. BINGHAM ESCAREÑO: -- since y'all --

1 MS. HOLLOWAY: -- sort of SCAR, but --

2 MS. BINGHAM ESCAREÑO: SCAR, sucker?

3 MS. HOLLOWAY: Brooke says SCAR. You say  
4 sucker.

5 MR. ALTER: Craig Alter. An issue related to  
6 the topic of adaptive reuse is the points that you can get  
7 for the cost of adaptive reuse. Adaptive reuse has been  
8 pulled out and put back to a category that has new  
9 construction and reconstruction, which allows a much lower  
10 cost, eligible basis cost, to get a certain number of  
11 points.

12 So it doesn't seem appropriate at all to go put  
13 it in a lower cost category, when adaptive reuse is an  
14 expensive proposition as acq rehab is. So I don't -- I  
15 would propose that we keep with acq rehab, and allow it to  
16 access the points at a higher cost.

17 MS. HOLLOWAY: Okay. So our definition of  
18 adaptive reuse is, and has been for quite some time, that  
19 this is new construction. That happens for a number of  
20 reasons. You know, we're taking this structure and that  
21 is not housing and turning it into housing.

22 It's not really rehab. We are seeing more and  
23 more adaptive reuse developments coming in. I think this  
24 is a topic that we're going to have to take up and have a  
25 very detailed, serious conversation about. We had an

1 application in this last round that all end costs were  
2 \$327,000 a unit for an adaptive reuse.

3 So you -- as we are seeing these developments  
4 come in, and more and more of them, you know, and it  
5 talks -- speaks to urban core, and it speaks to all of  
6 these other things, I think we need to have a much broader  
7 conversation, maybe next year, this coming year.

8 MR. ALTER: The category that's getting  
9 overlooked is the historic rehabilitation. So there's a  
10 policy priority to look at adaptive reuse of historic  
11 buildings. Historic buildings have an additional point  
12 value.

13 They are a priority, and yet the cost factor  
14 takes away from that priority. So it's difficult to meet  
15 the objective of the priority when you can't meet the cost  
16 that you face to rehabilitate an historic building, and  
17 they're most often adaptive reuse.

18 You're taking something and converting it into  
19 housing.

20 MS. FINE: I have a question. I have a  
21 question on -- under identity rules. I hope this is the  
22 appropriate time. But this might be more for you. I  
23 actually emailed you this question. There is a new part  
24 under identity of interest that talks about needing a  
25 second appraisal or a second appraisal opinion, and I was

1       unclear when that is triggered.

2                   Is that -- my sort of understanding was, if you  
3       want to have an acquisition price higher than the  
4       appraised value, was that the only instance that that  
5       would be triggered? When is that triggered? Because I  
6       would comment against that second appraisal.

7                   MR. STEWART: Yeah. So conceptually, you  
8       know -- so I think what's new in the rule is an ability --  
9       if you have owned property greater than 60 months, that  
10      you are basically re-syndicated. Prior to this proposed  
11      change, you would not be eligible for certain credits on  
12      that transaction as an identity of interest transaction.

13                   And what this is doing is opening up the door a  
14      little bit for hopefully incentivizing developer -- or  
15      owners who have properties that could, at the end of the  
16      day, opt out of our marketplace, reenter the program, and  
17      the owner could earn a developer fee and get acquisition  
18      basis -- get a developer fee on the acquisition basis  
19      portion of that transaction.

20                   But what we've said is, is that appraisals are  
21      funny things, and so what we would like in those  
22      circumstances is to have a third party review that  
23      appraisal to set that value that we use. It's just simply  
24      a way for us to confirm what we're doing and what we're  
25      using without having to pretend like we're appraisal

1 reviewers.

2 MS. BINGHAM ESCAREÑO: We need to think about  
3 that.

4 MR. STEWART: Does that answer?

5 MS. FINE: I'll comment on that.

6 MR. STEWART: Okay.

7 MS. FINE: Thank you for clarifying. So I  
8 would request that we don't have the second appraisal  
9 review. I get where Brent's going, but appraisals have to  
10 be licensed. They have a rigorous training. They have to  
11 meet excessive standards within their own industry.

12 With TDHCA, that is going to require me to pay  
13 for two appraisals. I can't get an appraisal review  
14 without paying for a second appraisal to put in my  
15 application. That just raises my development cost.

16 MR. STEWART: So the short answer is yes, you  
17 have to pay for that. You're getting additional credits  
18 on a property that otherwise you would not have. That's  
19 the tradeoff there. Appraisals -- if TDHCA ordered the  
20 appraisal and paid for the appraisal, then the appraisal  
21 review wouldn't be important.

22 With an owner applicant submitting any  
23 document, market study, appraisal, what have you, there is  
24 a desire on our part to make sure that that information is  
25 right, licensed or not. Appraisals, you know, licensed or

1 not.

2 MS. FINE: Have you seen people taking  
3 advantage of their appraised value or --

4 MR. STEWART: All I'm saying is, for me to get  
5 behind doing this, I want an appraisal review. I -- and  
6 you know, that's just --

7 MS. FINE: This is the 5 percent addition --

8 FEMALE VOICE: Uh-huh.

9 MS. FINE: -- that's in there?

10 MS. BURCHETT: Hi. Sally Burchett. I want to  
11 paint a little bit clearer picture of the historic stuff  
12 Craig was talking about. My background is in community  
13 and regional planning, and the benefit of restoring a  
14 derelict building in a central city has a huge impact on  
15 the community, which I think is important to the Texas  
16 Department of Housing and Community Affairs.

17 And I, you know, was excited about the  
18 legislature when they approved the historic preservation  
19 being a priority, and I think this does kind of contradict  
20 that statute which is what Craig was saying. But also,  
21 yes, that's a lot per unit, but it's not all housing tax  
22 credits.

23 You have other people participating. You have  
24 your state historic tax credit. You have your federal  
25 historic credit. So you have those three pieces of pie

1 coming in a funding it. So it's not as horrible as it  
2 sounds.

3 It's three different people or entities coming  
4 in to fund it, and it's -- you really can do a lot for the  
5 community.

6 MR. VASQUEZ: You're not saying that it's  
7 government funded, so let's -- who cares what it costs.  
8 Right?

9 MS. BURCHETT: No. I'm saying it's --

10 MS. BINGHAM ESCAREÑO: There's a method.

11 MS. BURCHETT: -- yeah. And it's -- like, it's  
12 a good use of funds. There are benefits that aren't  
13 measured exactly, and it shouldn't be in the same cost per  
14 square foot as new construction because it's not new  
15 construction, and there are other caps, like with the  
16 leveraging, I believe, and maybe needs to be tweaked, but  
17 I don't think the way it's proposed right now is -- will  
18 get the job done, to get another historic deal built.

19 MS. HOLLOWAY: Okay. And one last section.  
20 The fee schedule. The commitment and determination fees  
21 have been reduced to 2 percent as opposed to the previous  
22 4 percent for 2020 only. In the compliance section,  
23 properties with both a direct loan and tax credits will  
24 only pay the tax credit fee for their compliance fees.

25 The public comment -- did you want to speak to



1 that one, Laura?

2 MS. MYRICK: No, ma'am. Well, wait --

3 MS. HOLLOWAY: Okay. I'm about to close, so if  
4 any --

5 MS. MYRICK: Well, then, yes. So is this --

6 MR. VASQUEZ: We will now accept some general  
7 comments.

8 MS. MYRICK: We're in Subchapter E. Right?

9 MR. VASQUEZ: Yes.

10 MS. MYRICK: Fees?

11 MS. HOLLOWAY: Yes.

12 MS. MYRICK: All right. Very good. Thank you  
13 very much. I'm still Laura Myrick, still with BETCO  
14 Consulting. There were a lot of changes at the beginning  
15 of this draft. There was some discussion about how there  
16 were substantial changes to 11.902, which is the appeals  
17 process, and we are very appreciate of those changes.

18 We certainly appreciate staff tightening some  
19 of that up for us. I think that what I would ask is under  
20 11.902, under C, where it begins that an applicant for a  
21 development, owner must file its appeal in writing with  
22 the Department not later than the seventh calendar day  
23 after that little section there -- that we kind of add  
24 "the earlier of," the date the Department publishes the  
25 results of any stage of the application or otherwise

1 notifies the applicant.

2 I think just will provide a little clarity, but  
3 I think, for the most part, it does capture what we were  
4 looking for this last time around. I think in that same  
5 vein, when we talk about the appeals process, I think that  
6 when we publish, perhaps, the application log, there is a  
7 date that goes with it, and some of the correspondence  
8 that we received during an issue with the appeal  
9 process -- it was mentioned that a log was posted after  
10 hours.

11 Perhaps just like we have an application log  
12 date, maybe we have one that is date-stamped. I don't  
13 know how difficult that is, or we just make sure that it  
14 is published during the work hour, if that's something  
15 that's going to be looked at.

16 Again, in some correspondence that we received,  
17 there was mention about how it was -- an application log  
18 was posted after hours. So if that's going to be an issue  
19 that's going to be looked at, perhaps we try to publish it  
20 during business hours.

21 MR. VASQUEZ: What's the problem of coming in  
22 the next morning and seeing it published?

23 MS. MYRICK: Well, information on an  
24 application log is something that could trigger an appeal,  
25 so if it came in at seven o'clock on 5/15, it shouldn't

1 matter that it was -- the way I was reading the rules, it  
2 didn't matter that -- whether it happened at eight o'clock  
3 in the morning or seven o'clock at night.

4 It was still the date.

5 MR. VASQUEZ: So you're saying when the clock  
6 starts?

7 MS. MYRICK: Right, right. So if we're  
8 going -- I mean, if -- in the correspondence that we  
9 received, it said this was published after hours. You  
10 really can't use that, so if that's the case, then maybe  
11 we ought to publish the log during the work hours.

12 MR. VASQUEZ: If it's published after hours, it  
13 triggers the next --

14 FEMALE VOICE: The next day.

15 MR. VASQUEZ: -- yeah.

16 MS. MYRICK: So maybe we ought to do it.  
17 Right.

18 FEMALE VOICE: Yeah.

19 MS. MYRICK: Maybe what we also do or consider  
20 is having a designated form for an appeal. That way, we  
21 can all rely on a form or something that kind of gets us  
22 moving. We see it in a scoring notice. We see it in a  
23 notice that comes with your underwriting report.

24 Maybe for some of these other things that don't  
25 have a specific form, maybe we think about that, so that

1 there's a uniform method in which appeals are received by  
2 the Agency, and there isn't that -- I guess, that  
3 confusion or that is an email.

4 Does that suffice? Or maybe if there is a more  
5 formal, standardized format, that may help also. But we  
6 do appreciate the change that was made in 11.902. We  
7 thank staff very much for that. Thank you.

8 MR. VASQUEZ: Excellent.

9 MS. RICKENBACKER: Yeah, because once y'all are  
10 done, I'm done. So I'm going back to a scoring category  
11 that wasn't made part of staff summary, so I thought there  
12 would be some opportunities at the end of staff's summary  
13 of changes to speak to some changes that weren't  
14 recognized in the summary.

15 By the way, Donna Rickenbacker. Want to send  
16 the QCP scoring category, which by the way, I've really  
17 wanted to compliment staff for these changes. In the QCP  
18 scoring category, an applicant has the right to challenge  
19 a neighborhood -- qualified neighborhood organization that  
20 goes on record in opposition to their application.

21 And if it's deemed that the statement is found  
22 to be contrary -- I'm reading the rules -- to the findings  
23 or determination of the local government entity, then the  
24 application is eligible to receive four points in that  
25 scoring category, and points that are similar to those

1 applicants that are not within the boundaries of a  
2 qualified neighborhood organization.

3 And that's a good thing. What they also did is  
4 make a change in the input from community organization to  
5 where they included -- if there is a qualified  
6 neighborhood organization that has given no statement or a  
7 statement of neutrality, then that applicant can also  
8 secure four points under the input from community  
9 organization in the same manner that the -- an applicant  
10 that wasn't within the boundaries of a qualified  
11 neighborhood organization could score.

12 What I would suggest that we also include is  
13 that -- or the letter of opposition has been found to be  
14 contrary to findings of determination of a local  
15 government entity described in Clause 4D, so that they can  
16 qualify for those four points.

17 Does that make sense, Marni?

18 MS. HOLLOWAY: Yeah. I'm sorry.

19 MS. RICKENBACKER: Did you understand?

20 MS. HOLLOWAY: Yes.

21 MS. RICKENBACKER: Anyway, and I do very much  
22 appreciate the changes that were made to those scoring  
23 categories.

24 MR. VASQUEZ: Good. And, Donna, you've  
25 submitted that last comment to staff already, or --

1 MS. RICKENBACKER: I have not, I have not. So  
2 I can certainly do so --

3 MS. HOLLOWAY: I've got it.

4 MS. RICKENBACKER: -- but she's got it figured  
5 out.

6 MR. VASQUEZ: Okay.

7 (Discussion away from microphone.)

8 MR. MOREAU: I have two more policy items that  
9 I think are really important for you to consider. The  
10 first is to try to put more emphasis on green building.  
11 You're investing over \$700 million to build -- you have a  
12 big carbon footprint, a lot of water use, electricity use.

13 When the staff -- TDHCA did a survey of  
14 residents' issues, and one of the top three issues was  
15 lower utility bills, which is a big part of affordability.

16 In 2017, the QAP required that at least two of the points  
17 for unit requirements came out of this menu of green  
18 requirements.

19 I don't -- somehow, that got turned into a  
20 voluntary thing. So you can still meet all your unit  
21 requirements and not be incentivized or required to do any  
22 green building. We think you could make some minor tweaks  
23 to that, to just require that one or two of the points off  
24 that menu come from the green building list, like water-  
25 wise water fixtures, which you can buy at Home Depot, and

1 they don't cost any more.

2           They just -- they should be just standard. So  
3 I'd hope you'd look at that, and encourage staff to look  
4 at ways to improve the green building of this program.  
5 It's just important on so many levels.

6           MR. VASQUEZ: So remind me. I don't care who  
7 reminds me. But the whole -- the menu of all these  
8 different items that could qualify for two points, it  
9 just -- you can use any of them, and they could have  
10 nothing to do with green --

11           MR. MOREAU: Exactly. And it used to be that  
12 you had to pick at least two of the points from the --

13           MR. VASQUEZ: Yeah.

14           MR. MOREAU: -- limited green items.

15           MR. VASQUEZ: Sounds like a good idea. We like  
16 the environment.

17           MR. MOREAU: Yeah. Thank you. The other  
18 policy item, maybe trickier to implement this year, but I  
19 at least want to put it on the table so you start thinking  
20 about it -- the program's producing fewer units. A lot of  
21 that is a lot of different reasons.

22           Land costs, construction costs. What we're  
23 also seeing, though, is that there's outlier projects that  
24 are scooping up a huge amount of credits per unit, over  
25 \$200,000 in value in credits per unit. There's no cap

1 right now.

2 Most states have a cap. So if you drew a bell  
3 curve of all the projects you award on -- just on amount  
4 of credits per unit, at one standard deviation, way out  
5 there on the high end, you've got a dozen projects that  
6 are getting 19,500 in credits per unit last year.

7 If you just capped it at that amount and said,  
8 look, if you have a really wonderful project, and it's  
9 very, very expensive, like the historic preservation  
10 project, that's fine. We're just not going to give you  
11 more than 19,500 in credits.

12 That was the standard deviation out there as an  
13 outlier. You would find one or two more projects  
14 statewide. I think it's in the interest of the Department  
15 and the developer community to just put some very high cap  
16 on the amount of credits per unit so that nobody's gaming  
17 it and getting more money than they -- makes sense.

18 Thanks. That's trickier, but really would --  
19 you'd get two or 300 more units.

20 MR. VASQUEZ: For my personal opinion, I mean,  
21 I agree, despite all the positives about redeveloping  
22 preservation, you know, historical places, but trying to  
23 get the most number of units that we can across the state  
24 is --

25 MR. MOREAU: Exactly.



1 MR. VASQUEZ: -- yeah. How can we use our  
2 dollars to maximize that?

3 MR. MOREAU: Thank you.

4 MR. VASQUEZ: Wait. Marni, one more.

5 MS. LASCH: I just have two kind of small  
6 items. One of them is --

7 MR. VASQUEZ: Could you introduce yourself?

8 MS. LASCH: Yes. Sorry. Megan Lash. And I'll  
9 sign in. One of the items is requiring that a plat or  
10 vacation process being started at application. That can  
11 require quite a bit of engineering. There's some  
12 unforeseen that come up, like the city will turn around  
13 and require an appraisal.

14 I just think to have this requirement at  
15 application can be very problematic and very expensive, so  
16 I'm not sure what was kind of the thought process for  
17 adding this in. Do you want to address that?

18 MS. HOLLOWAY: Certainly. We actually are  
19 creating a path for applications, two applications, that  
20 were not able to make it through this past year because  
21 they need -- they required re-platting and vacation --  
22 vacating dedicated roads, and our thought process was  
23 let's treat this like zoning, the same day we do with  
24 zoning.

25 You're not required to come in with your

1 zoning. You're not required to come in with your re-plat.  
2 You just have to show us that you've started the process  
3 and then prove it up, a commitment that you've had it  
4 done.

5 MR. VASQUEZ: It's going to have to be done if  
6 the project --

7 MS. HOLLOWAY: In order for the project to move  
8 forward, yes. And recognizing that it may not work well  
9 for larger cities. City of Austin will take forever to do  
10 a re-plat. I recognize that, but you know, this is about  
11 folks all over the state.

12 MS. ANDERSON: So a requirement just that  
13 you've started --

14 MS. HOLLOWAY: Yes.

15 MS. ANDERSON: -- and it doesn't -- there's not  
16 like a -- it has to have been approved by X?

17 MS. HOLLOWAY: I think it's half-started. Show  
18 us you've started.

19 MS. LASCH: It's just an additional cost at the  
20 application. I mean, it's -- that can run us an extra  
21 five to 10 grand.

22 FEMALE VOICE: But you're saying it has to be  
23 completed --

24 MS. HOLLOWAY: Yes, just like -- just as  
25 zoning, completed by approval.

1 MS. LASCH: And my other one -- this was kind  
2 of a small one. What was the change for the experience?  
3 Or previously, it was 2014 to 2018?

4 MS. HOLLOWAY: Uh-huh.

5 MS. LASCH: I think most of us in this room are  
6 going to have to reapply now, and so that's going to cause  
7 a lot of extra work on staff and all of us to go through  
8 this process again, and if we were eligible last year, we  
9 should be eligible this year.

10 MS. HOLLOWAY: So we changed it to 2017. So if  
11 you have an experience certificate, 2017, 2018, 2019,  
12 you're good for 2020. We're just bringing the years up  
13 because 2014 was a long time ago, 2015 was a long time  
14 ago.

15 If that's the last time you did a deal, how can  
16 we say that you actually have that experience?

17 MS. LASCH: Is there another way you can solve  
18 that? Because folks that have been doing deals year after  
19 year are just --

20 MS. HOLLOWAY: Well, so if you had -- yes. And  
21 what I recognize that if you've been relying on a 2014  
22 experience cert, you may have to redo it. You know, if  
23 you're relying on a 2017, then you're good.

24 MS. LASCH: Okay. So are you suggesting that  
25 experience expires, that you no longer have that

1 experience?

2 MS. HOLLOWAY: I'm suggesting that this is  
3 something that needs to be refreshed.

4 MS. LASCH: So just recertified?

5 MS. HOLLOWAY: Yes.

6 MS. LASCH: And it's not a huge item. I'm just  
7 saying it's going to be --

8 MS. LASCH: Can you restart certification --

9 FEMALE VOICE: Yeah.

10 MS. LASCH: -- so we can reduce your work, so  
11 documentation could be done however many deals in the last  
12 two cycles will pump up your experience for many years?

13 MS. HOLLOWAY: That would require redrafting  
14 a -- you know, a big change to how this was drafted. I  
15 think that, you know, if you've -- it's what -- 150 units?

16 MS. LASCH: Uh-huh.

17 MS. HOLLOWAY: So I think for most developers,  
18 it's not difficult to prove up 150 units, and especially  
19 for those of you who've done 150 units with us. So I  
20 don't think that just bumping it up a few years is  
21 creating a big burden.

22 MS. LASCH: Okay. And then my last one, just  
23 to kind of follow with Walter's comments on the green  
24 build, we are all for that, but I want to be cautious with  
25 how we are writing that into the QAP, and I'll be honest.

1 I didn't check how it was exactly drafted in this last  
2 cycle, this last round.

3 But the one earlier this year specifically  
4 said, Energy Star. It didn't mention LEED, and I think we  
5 just want to cautious with not going after a brand  
6 specifically. There's lots of ways to solve energy  
7 conservation, and I think we need to have a broad approach  
8 to that, versus just calling out one of those items,  
9 because that's -- Energy Star is a brand. So --

10 FEMALE VOICE: Definitely.

11 MALE VOICE: Yeah. They have equivalents.

12 MS. LASCH: They have equivalents. Right.

13 MS. HOLLOWAY: Open mike. Going to drop it any  
14 second now. So with that, staff recommends that the  
15 Committee make a recommendation to the Board to accept the  
16 proposed repeal of 10 TAC Chapter 11, and a proposed new  
17 10 TAC Chapter 11, thereby approving it for public  
18 comment -- or for publication in the *Texas Register* for  
19 public comment.

20 MR. VASQUEZ: So do we have to vote as a  
21 committee to put this forth to the full Board?

22 MR. ECCLES: Well, if there are -- if there's a  
23 motion you'd like to make, that includes --

24 MS. HOLLOWAY: Sir, please?

25 MS. BINGHAM ESCAREÑO: Good one.

1 MR. VASQUEZ: No one is above the law.

2 MS. BINGHAM ESCAREÑO: And introduce yourself.

3 FEMALE VOICE: Introduce yourself and sign in.

4 MR. ECCLES: Beau Eccles, general counsel of  
5 TDHCA. At this point, since this is the lone action item,  
6 and it is not to adopt. It is merely to make the  
7 recommendation of 10 TAC Chapter 11 substitution to the  
8 full Board, if there are suggestions or if there are  
9 recommendations to staff that you would like to see as  
10 what it will be presented to the Board tomorrow, like some  
11 changes that you heard and you say, I'd like for -- to  
12 make a motion that it be adopted with staff's changes on  
13 the -- and then describe the changes, then that can be  
14 presented orally tomorrow as the changes being put  
15 forward, and when you give your report to the Board, you  
16 can say that those were the changes that were recommended.

17 So do you have a motion --

18 MR. VASQUEZ: So --

19 MR. ECCLES: -- that includes those changes?

20 MR. VASQUEZ: -- I was going to say -- and I've  
21 been looking at -- Brooke's been keeping track of --

22 MS. BOSTON: Well, Marni had --

23 MR. VASQUEZ: -- changes that we've --

24 MS. BOSTON: But yes, yes. I mean, I have a --  
25 what I think from facial reactions and stuff like that, is

1 what you were wanting to do.

2 MS. HOLLOWAY: Right. I think that we would --

3 MR. ECCLES: Well, you know the --

4 MR. VASQUEZ: I wish you had mentioned this a  
5 little earlier there, Beau.

6 MR. ECCLES: No, the -- those -- the axiom that  
7 facial expressions are nine-tenths of the law. No.  
8 That's not an expression. This can inform the Board's  
9 motion.

10 MR. WILKINSON: You want to talk to staff?

11 MS. BOSTON: Do you want me to --

12 MR. VASQUEZ: I think --

13 MR. BRADEN: Yes. Do you want to make a  
14 motion --

15 MR. VASQUEZ: Can you summarize the change --  
16 let's have her summarize the changes --

17 MS. BOSTON: Sure, and Patrick and Marni, tell  
18 me if I --

19 MR. VASQUEZ: -- that looks like the discussion  
20 here.

21 MS. BOSTON: Sure.

22 MR. VASQUEZ: Would you --

23 FEMALE VOICE: Yeah, yeah, I did.

24 MS. BOSTON: Okay. So what I have -- and this  
25 is kind of going in the order of the conversation -- is

1 that changes that I think you are contemplating were under  
2 the historic preservation item, specifically that --  
3 regarding waiving an item, you would not need to do the  
4 waiver.

5           You could come in and do that as an amendment  
6 at 10 percent test, or Megan, if it were MFDL at some  
7 other measurable point that we would come up with in our  
8 draft, because for MFDL, of course, which is the loan  
9 activity, they don't do 10 percent test.

10           So we'd have to come up with some time.

11           MS. SYLVESTER: With also deals that are  
12 layered with the -- they actually are MFDL with how we  
13 have to take the property standards in the contract, if  
14 the contract --

15           MS. BOSTON: We'll work it out.

16           MS. SYLVESTER: Right.

17           MR. MOREAU: Right. Thank you.

18           MS. SYLVESTER: It's more complicated.

19           MS. BOSTON: I had that for the educational  
20 quality item -- the exception that we had had for our  
21 portfolio would also now be an exception for seniors and  
22 SRO supportive housing.

23           MS. SYLVESTER: I also -- there's a distinction  
24 or two between efficiencies and SROs. Are you sure you  
25 mean SROs?



1 MS. BOSTON: SROs and efficiencies.

2 MR. VASQUEZ: Well, why not both?

3 MS. SYLVESTER: Both?

4 MR. VASQUEZ: Okay.

5 MS. SYLVESTER: Well --

6 MS. BOSTON: Okay. The idea is that it's  
7 very -- I mean, the premise of it is the idea of it --  
8 it's very unlikely there would be children in those  
9 units --

10 MS. SYLVESTER: Yes.

11 MS. BOSTON: -- on the whole at the property.  
12 So I think --

13 MR. VASQUEZ: Yes.

14 MS. BOSTON: -- saying SRO and efficiency would  
15 be fine. Then also in category -- instead of it being  
16 that F makes you ineligible, it would be that if it's IR  
17 2018 plus F 2019, that would make you ineligible.  
18 Under -- and that's all I had in like that scoring and  
19 threshold stuff.

20 MR. BRADEN: Paul. On that one --

21 MS. BOSTON: Yeah?

22 MR. BRADEN: -- didn't we just decide, you  
23 know, the D and F were the same category?

24 MR. VASQUEZ: No.

25 MS. HOLLOWAY: Huh-uh.

1 MS. BINGHAM ESCAREÑO: No.

2 MS. HOLLOWAY: No.

3 MR. VASQUEZ: Because D is -- they can --

4 MS. BOSTON: It's up to you guys.

5 MR. BRADEN: So we're not mitigating that?

6 MR. VASQUEZ: No. I think -- and --

7 MS. BINGHAM ESCAREÑO: Not going to mitigate in

8 F --

9 MR. VASQUEZ: The IR requirement.

10 MS. BINGHAM ESCAREÑO: -- if they were IR the  
11 year before.

12 MR. BRADEN: Okay. I'm okay with --

13 MR. VASQUEZ: Yeah.

14 FEMALE VOICE: Do we have any opportunity to  
15 mitigate?

16 MS. BINGHAM ESCAREÑO: No, not --

17 MR. VASQUEZ: Not with --

18 MS. BINGHAM ESCAREÑO: -- with those two.

19 MR. VASQUEZ: -- an F and an IR. That's two  
20 years, not just a one-year -- arguably a one-year thing.

21 MS. BINGHAM ESCAREÑO: Yeah.

22 MS. BOSTON: Okay. And then in the appeal  
23 section, we would clarify that it's the earlier of the  
24 posting of a log, or when you receive something.

25 And then let's see. Doing something to say

1 that if it's posted at night, that it would trigger the  
2 next day or something about that.

3 MR. VASQUEZ: After business hours --

4 MS. BOSTON: Something. Yeah.

5 MR. VASQUEZ: -- one day, it goes to the next  
6 day.

7 MS. BOSTON: Right. And then I think, because  
8 you said, yeah, we like eco stuff, that maybe a few of the  
9 points would be required.

10 MR. BRADEN: I'd be okay with that. Does  
11 anybody recall why that changed? I mean --

12 MS. BINGHAM ESCAREÑO: I don't --

13 MS. BOSTON: Yeah. I don't know why it  
14 changed.

15 MS. BINGHAM ESCAREÑO: -- and I remember LEED.

16 MS. HOLLOWAY: I'm sorry? I'm sorry.

17 MR. VASQUEZ: Well, just taking --

18 MS. BINGHAM ESCAREÑO: LEED was --

19 MR. VASQUEZ: -- two items out of the eco list  
20 for credit.

21 MS. BINGHAM ESCAREÑO: The green --

22 MS. BOSTON: That we used to require some of  
23 the eco items to be used.

24 MS. ANDERSON: It was a mistake two years ago.  
25 There was a citation mistake that took it out, and

1 then -- and we all missed it, and then -- so it wasn't  
2 relevant, and then it just stayed in error.

3 MS. BINGHAM ESCAREÑO: Got you.

4 MS. HOLLOWAY: Well, and limited green features  
5 have become sort of this big, long list of things --

6 MR. VASQUEZ: Yeah, so there's more options to  
7 choose from now.

8 MS. HOLLOWAY: -- and we actually -- what we  
9 have in this section now under green building features is  
10 the result of some work that we've done with stakeholders  
11 in a roundtable to get down to this list, but there isn't  
12 a requirement that anything come off of this list, when  
13 you're looking at the menu of potential options for those  
14 development features.

15 But I would say -- I would add, like, EPA water  
16 sense or equivalent toilets is not in green building.  
17 It's in just regular features. Sixteen SEER HVAC is not  
18 in green building. It's in regular features. The green  
19 building at this point is certifications.

20 So if what we're looking for is a section that  
21 says you must have water sense toilets or choose between a  
22 list of water sense toilets and rainwater harvesting and  
23 all of that, that would be creating a different category.

24 MR. VASQUEZ: I think that's what we're looking  
25 for --

1 MR. BRADEN: Yeah.

2 MR. VASQUEZ: -- but there's not already a list  
3 of -- a checklist of potential items --

4 MS. HOLLOWAY: So -- but also --

5 MR. VASQUEZ: -- that a developer could put in?

6 MS. HOLLOWAY: -- on that same list with the  
7 water sense toilets right now is a kitchen pantry, a  
8 kitchen island, walk-in closets --

9 MS. BINGHAM ESCAREÑO: Yeah. That's what  
10 Walter was saying. Those aren't really what we're talking  
11 about. Right? So they're all mixed in together. In  
12 other words --

13 MS. HOLLOWAY: Right.

14 MS. BINGHAM ESCAREÑO: -- you can choose them,  
15 and you don't necessarily have to choose efficient or  
16 green items.

17 MS. HOLLOWAY: Right. As it sits right now.

18 MR. VASQUEZ: How --

19 MS. BINGHAM ESCAREÑO: What if --

20 MR. VASQUEZ: -- or I'm sorry. Go ahead.

21 MS. BINGHAM ESCAREÑO: -- what if you moved  
22 some of the ones that do indicate green building into that  
23 category that just has the certifications?

24 MS. HOLLOWAY: My proposal would be that a --  
25 that this certifications are a much more complicated

1 process than going out and buying some faucets --

2 MS. BINGHAM ESCAREÑO: Yeah, yeah.

3 MS. HOLLOWAY: -- so you know, there would need  
4 to be some point differentiation, and not -- so like the  
5 certifications could be one part, and the actual  
6 development features would be another section.

7 MS. BINGHAM ESCAREÑO: In the old one, it was  
8 the --

9 MS. ANDERSON: That's how it was.

10 MS. BINGHAM ESCAREÑO: -- certifications.  
11 Right?

12 MS. ANDERSON: There was four points for the  
13 certifications, and then one or two in the others. I  
14 think if you looked at the drafting three years ago, you  
15 could almost copy it, and just cut and paste it in.

16 MR. VASQUEZ: Okay. Well, I think for the  
17 purposes of a motion tonight, it's to incorporate that  
18 kind of features selection into the scoring criteria.

19 MS. HOLLOWAY: Okay. Huh?

20 MR. VASQUEZ: I think this Committee's  
21 unanimous on that. Yeah. So --

22 MS. ANDERSON: The threshold --

23 MR. VASQUEZ: Okay.

24 MS. ANDERSON: -- that threshold criteria.

25 FEMALE VOICE: Just the threshold.

1 MR. VASQUEZ: Okay. Yeah. In whichever  
2 section it's on.

3 MS. ANDERSON: Yeah, yeah.

4 MR. VASQUEZ: It's the threshold. Yes.

5 MS. BOSTON: But it's that within --

6 MR. VASQUEZ: Is it threshold?

7 MS. BOSTON: -- the threshold, as they're  
8 picking among the scoring items, they need to pick some  
9 that are green?

10 MR. VASQUEZ: Yes.

11 MS. BINGHAM ESCAREÑO: Yes. That's the intent.

12 MS. ANDERSON: Right.

13 MS. BOSTON: Right.

14 MR. VASQUEZ: Two? At least two.

15 MS. HOLLOWAY: To start with.

16 MS. BOSTON: Okay.

17 MS. ANDERSON: If --

18 MR. VASQUEZ: Yeah. If someone chooses all the  
19 green items --

20 FEMALE VOICE: [inaudible] two items.

21 MR. VASQUEZ: Two items.

22 FEMALE VOICE: Two items.

23 MR. VASQUEZ: At least two.

24 FEMALE VOICE: Okay.

25 MS. BOSTON: Okay.

1 MR. ECCLES: This concept is in a draft that  
2 goes out for public comment.

3 MR. VASQUEZ: Yeah, exactly.

4 MS. HOLLOWAY: Well, because we're doing a  
5 repeal/replace rather than an amendment, I think that we  
6 could just strike something? Correct? That we couldn't  
7 change it? And this would be creating another category  
8 within.

9 MR. ECCLES: Well, and that's classic. It  
10 needs to go into the proposed arena.

11 MS. HOLLOWAY: Uh-huh. Okay.

12 MR. ECCLES: We can't create a new thing --

13 MR. VASQUEZ: I see y'all will get it handled.

14 MS. BOSTON: We will. And then the only other  
15 thing I have besides that was the clarification that Donna  
16 mentioned, which would be in item 6 relating to input from  
17 community organizations, and it just specifies that right  
18 now there's an exception so that they can get those points  
19 if there's a qualifying neighborhood organization that's  
20 given no statement or a statement of neutrality, and she  
21 was pointing out that if in fact they -- on the QCP  
22 letter, they had actually done the challenge to the  
23 opposition, so they -- let's say, the owner -- or excuse  
24 me -- the applicant had -- a letter had come in.

25 It was negative. They challenged that, and it



1 was decided by the Department that that challenge was  
2 legitimate, i.e., the letter from the neighborhood was not  
3 okay, based on some of the reasons that are in the QAP,  
4 that that would then let them fall into these other  
5 points, and that's what she'd been explaining.

6 And so I think the clause we'd add is something  
7 along the lines of -- or the letter has been successfully  
8 challenged under D -- 4D of that section. And that will  
9 address that issue. It's just kind of putting them on  
10 equal footing, that if they've successfully challenged.

11 And that's all I have. Do you have other  
12 stuff --

13 FEMALE VOICE: [inaudible].

14 MS. BOSTON: Oh, no, I didn't.

15 MS. BINGHAM ESCAREÑO: That was --

16 MR. ECCLES: One quick caveat. As we're  
17 talking about Ds and F and school rating, the way it is in  
18 the draft that came today was if it is IR previous year  
19 and a D in 2019, then it can be mitigated --

20 MR. VASQUEZ: Yes.

21 MR. ECCLES: -- and then F in 2019 was  
22 ineligible. If we want to say that if it is --

23 MS. BINGHAM ESCAREÑO: Oh.

24 MR. ECCLES: -- IR last year and F --

25 MR. VASQUEZ: It's ineligible.

1 MS. BINGHAM ESCAREÑO: No mitigation.

2 MR. ECCLES: -- then it is ineligible.

3 However, what if it is an F in 2019 and it was not IR? If  
4 it is this one-time unicorn, then what happens? Is there  
5 mitigation or not?

6 MR. VASQUEZ: Yes.

7 MS. BINGHAM ESCAREÑO: Yes.

8 MR. ECCLES: Okay. Then it's --

9 MR. VASQUEZ: If it --

10 MR. ECCLES: -- treated like a D?

11 MR. VASQUEZ: Yes.

12 MR. ECCLES: Okay.

13 MS. BOSTON: Okay. So go through the  
14 scenarios --

15 MR. VASQUEZ: Okay. Now, that's --

16 MS. BOSTON: -- again, just to --

17 MR. ECCLES: Okay.

18 MS. BOSTON: -- make sure I have it right.

19 MR. VASQUEZ: Yeah. No. That's a -- and it's  
20 a valid point.

21 MS. BOSTON: Yeah.

22 MR. VASQUEZ: It's --

23 MS. BOSTON: Yeah. The distinction --

24 MR. VASQUEZ: It could happen.

25 MS. BOSTON: -- between mitigation versus --

1 MR. ECCLES: If --

2 MS. BOSTON: -- ineligibility.

3 MR. ECCLES: -- it is a 2019 F --

4 MS. BOSTON: Uh-huh.

5 MR. ECCLES: -- but was not IR in 2018 --

6 MS. BOSTON: Uh-huh.

7 MR. ECCLES: -- it's treated like a D is, but

8 it is --

9 MS. BOSTON: Right.

10 MR. ECCLES: -- able to mitigate.

11 MS. BOSTON: Okay.

12 MR. VASQUEZ: Okay.

13 MS. BOSTON: A good point. Yeah. Okay.

14 MR. ECCLES: And that goes to Megan. She

15 caught that one.

16 MS. BINGHAM ESCAREÑO: Go, Megan. Yay.

17 MS. FINE: Mitigation is to say that they would

18 provide for a D versus an F.

19 MR. VASQUEZ: Correct. It's treated as a D.

20 MS. BINGHAM ESCAREÑO: Yes.

21 MR. ECCLES: In that circumstance.

22 MR. VASQUEZ: A D and an IR.

23 MR. ECCLES: Okay. Is -- does this encapsulate

24 the guidance that this Committee would like to give staff

25 in order to -- what to bring before the Board tomorrow?

1 MS. BINGHAM ESCAREÑO: I can make a motion that  
2 we should --

3 MR. VASQUEZ: Yes.

4 MS. BINGHAM ESCAREÑO: Mr. Chair, I would move  
5 staff's recommendation, with the additional points that  
6 have been made at the end, summarizing what appear to be  
7 support for some modifications to the proposed draft. I  
8 move staff's recommendation for that to be presented as a  
9 recommendation to the Board tomorrow morning for the  
10 repeal and replacement of --

11 MR. ECCLES: 10 TAC Chapter 11.

12 MS. BINGHAM ESCAREÑO: -- 10 TAC Chapter 11.

13 MR. BRADEN: Second.

14 MR. VASQUEZ: Motion's been made and seconded.  
15 Anyone dare to have more discussion?

16 (No response.)

17 MR. VASQUEZ: Okay. All in favor?

18 (A chorus of ayes.)

19 MR. VASQUEZ: Motion carries. But as we wrap  
20 up the meeting here, I want to thank all of you for  
21 participating in this, working with staff. Again, this  
22 isn't the U.S. Constitution. This is a living, changing,  
23 evolving document that we're going to -- we're trying to  
24 make it better every cycle.

25 So please work with us. Don't give up. Don't

1       despair. We're going to make it -- I think this is better  
2       this year. It's going to be better next time. Thank you  
3       for participating. It's 8:50 and this meeting is  
4       adjourned.

5                       (Whereupon, at 8:50 p.m., the meeting was  
6       adjourned.)

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MEETING OF: Rules Committee of TDHCA Board

LOCATION: Austin, Texas

DATE: September 4, 2019

I do hereby certify that the foregoing pages, numbers 1 through 102, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Elizabeth Stoddard before the Texas Department of Housing and Community Affairs.

DATE: September 9, 2019

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(Transcriber)

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