

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

GOVERNING BOARD MEETING

VIA GOTOWEBINAR

July 14, 2020
9:00 a.m.

MEMBERS:

LESLIE BINGHAM, Vice Chair
PAUL A. BRADEN, Member
SUSAN THOMASON, Member
LEO VASQUEZ, Member

BOBBY WILKINSON, Executive Director

ON THE RECORD REPORTING
(512) 450-0342

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OPEN SESSION --

ADJOURN 77

P R O C E E D I N G S

1
2 MS. NORRED: Good morning, everybody. Thank you
3 for joining us this morning for the July 13th Board
4 meeting. Before we get started, we are going to be going
5 through some housekeeping items.

6 So my name is Renee Norred, and I have here with
7 me Nathan Darus. We are staff at TDHCA. And we will be
8 going over some housekeeping for the GoToWebinar. Your
9 screen may look like the slide. The GoToWebinar control
10 panel is on the right, and the view is on the left. The
11 viewer is where you can see the agenda and what is being
12 discussed. The control panel is where you can track your
13 audio controls or enter your questions.

14 This is an up-close look at your control panel.
15 During the course of this presentation, your control panel
16 will collapse automatically when not in use. To open the
17 control panel, select the orange arrow.

18 We will go over the audio and the questions box
19 after the next few slides. When you open your control
20 panel, you can select whether you want to call in to the
21 dial-in number or use the computer's audio. Choose
22 computer audio to use your computer's audio features.

23 Choose phone call to use your phone and dial in.
24 Once you fill out the phone option, GoToWebinar will show
25 you a phone number and access code. Use this information

1 to call in.

2 If you hang up and wish to call in again, you
3 may need to wait for a few minutes so that the system
4 recognizes that you are no longer logged in, and allows you
5 to complete your call. If you hang up, and call back in
6 right away, you may get a busy signal or some other error.

7
8 Also, if you called in for the webinar with a
9 dial-in number but did not register online, you will not be
10 able to participate. You must use the link to register if
11 you wish to speak. If you are having issues with your
12 computer microphone, you can use the sound check button in
13 the audio control to help troubleshoot.

14 Public comment for today's meeting can be
15 submitted in two ways. Written statements by those
16 attending the meeting, but not wishing to speak, can be
17 submitted using the question box in the GoToWebinar
18 dashboard. If submitting a comment in the questions box,
19 please include the agenda item, your name, any organization
20 you are representing, and your position for or against.

21 Also, the web cam. If you would like to use the
22 web cam when you are speaking, please indicate such in the
23 questions box, so we know to turn it on for you.

24 All speakers, when you want to ask a question or
25 add a comment by speaking, please request to do so in the

1 question box when your agenda item is being discussed.
2 When it is your turn to speak, a moderator will call on
3 you. All speakers will introduce themselves by name, and
4 any organization they are representing with their comments,
5 and time may be limited by the Board Chair.

6 If you wish to add a comment by speaking, please
7 request to do so in the question box when your agenda item
8 is being discussed. When it is your turn to speak, a
9 moderator will call on you.

10 If you have a web cam and would like to present
11 a video of yourself during comments, please indicate this
12 in your request to speak as well. You will be given the
13 ability to share your web cam, but must follow the
14 instructions given to you by the moderator or you will be
15 disconnected.

16 All speakers will introduce themselves, again,
17 by their name, and any organization they are representing
18 with their comments. You will have up to three minutes to
19 speak, by the discretion of the Board Chair.

20 Registering a position on an item by those
21 attending a meeting, but not wishing to speak, can be
22 submitted using the question box in the GoToWebinar
23 dashboard. When submitting a comment in the question box,
24 again, please include the agenda item, your name, any
25 organization you are representing, and your position.

1 Written statements other than your position are for or
2 against, will not be read or considered public comment.

3 If there are any disruptions to the Board
4 meeting, such as an internet outage or other technical
5 issues, the protocol on your screen will be followed.
6 TDHCA will issue continuation instructions through an email
7 announcement to all registered attendees of this meeting, a
8 posting on the TDHCA Board website and TDHCA social media
9 outlets. The meeting will then resume at the appropriate
10 point, prior to the disruption.

11 Again, we would like to thank you for your
12 participation. And we will move on to the meeting.

13 MS. BINGHAM: Good morning. And thank you,
14 Renee. Welcome to the July 14th meeting of the Texas
15 Department of Housing and Community Affairs Governing
16 Board.

17 We will start with calling to order, and roll
18 call. I see everyone, but just for the sake of everyone
19 out there listening, Mr. Braden?

20 MR. BRADEN: Here.

21 MS. BINGHAM: Ms. Thomason?

22 MS. THOMASON: Here.

23 MS. BINGHAM: Mr. Vasquez?

24 MR. VASQUEZ: Here.

25 MS. BINGHAM: And this is Leslie Bingham. I am

1 here, and we do have quorum certified. Would you like to
2 lead us in the pledges?

3 MR. WILKINSON: Yes, ma'am. Board members,
4 please remain seated.

5 (Whereupon, the Pledge of Allegiance was
6 recited.)

7 (Whereupon, the Pledge to the Texas Flag was
8 recited.)

9 MS. BINGHAM: Thank you very much. The first
10 item of business would be the consent agenda. Before we
11 entertain a motion on the consent agenda, are there any
12 items that staff or Board need to pull off of the consent
13 agenda or table?

14 (No response.)

15 MS. BINGHAM: Hearing none, we will entertain a
16 motion.

17 MS. THOMASON: I move to approve the consent
18 agenda.

19 MS. BINGHAM: Okay. Ms. Thomason moves to
20 approve the consent agenda. Is there a second?

21 MR. VASQUEZ: Second.

22 MS. BINGHAM: Mr. Vasquez seconds. If there is
23 no further discussion?

24 (No response.)

25 MS. BINGHAM: All those in favor, aye.

1 (A chorus of ayes.)

2 MS. BINGHAM: Any opposed.

3 (No response.)

4 MS. BINGHAM: Great. The motion carries.

5 We are going to move into the action items,
6 starting with Item 3. And I would just remind those that
7 are attending the meeting and wish to speak that as Renee
8 instructed, there will be a three-minute timer provided for
9 public comment.

10 If you wish to speak, it would be great to log
11 into the web meeting, and you can see the three-minute
12 timer. If you are unable to do that, and you are dialing
13 in by phone, if you would set your own timer, we will cease
14 each speaking at three minutes.

15 The first item is Cate. Item three, Fair
16 Housing date management and reporting, (a).

17 MS. TRACZ: Good morning.

18 MS. BINGHAM: I think you are muted.

19 MR. VASQUEZ: Madam Chairman, is there an
20 Executive Session today?

21 MS. BINGHAM: So, we have the opportunity to go
22 into Executive Session? Would you prefer to do that right
23 now? I am sorry. I did not understand that that might be
24 the option. Shall we go into Executive Session, Bobby?

25 MR. WILKINSON: Yes. I think now is a logical

1 time, before we start the action agenda.

2 MS. BINGHAM: All right. Pardon me for that,
3 then. So, we will go into Executive Session. I think the
4 screen will just blank for the time being. And then,
5 Bobby, what time are you thinking that we would come back?
6 It's 9:10, right now.

7 MR. WILKINSON: 9:25.

8 MS. BINGHAM: Very good. So we will try to be
9 back by 9:25. Thank you.

10 (Pause.)

11 MR. ECCLES: Can you guys hear me? This is Beau
12 Eccles.

13 MS. BINGHAM: Yes.

14 MR. ECCLES: Okay. The Governing Board of the
15 Texas Department of Housing and Community Affairs will go
16 into closed or Executive Session at this time, pursuant to
17 Texas Government Code Section 551.071, to take and receive
18 legal advice of its attorney, or to discuss pending or
19 contemplated litigation. The closed session will be held
20 via secured teleconference. The date is July 14, 2020, and
21 the time is 9:10 a.m.

22 (Whereupon, the Board recessed into Executive
23 Session at 9:10 a.m.)

24 MS. NORRED: Hi. We have returned from the
25 Executive Session, and we are ready to move forward.

1 MS. BINGHAM: Thank you, Renee. We are -- the
2 Board is now reconvened in open session at 9:26. During
3 the Executive Session, the Board did not adopt any policy
4 position, resolution, rule, regulation, or make any formal
5 action or vote on any item.

6 At this time, we will continue with the action
7 items. Action item, we will start with Item 3(a). Cate,
8 is Cate back with us?

9 MS. TRACZ: Yes. Good morning.

10 MS. BINGHAM: Good morning.

11 MS. TRACZ: Can you hear me okay?

12 MS. BINGHAM: Yes.

13 MS. TRACZ: Okay. Great. Good morning, Board
14 members. I am Cate Tracz, Fair Housing Manager. Item 3(a)
15 is about a denial of a Reasonable Accommodation Request
16 made to the Department by a tenant of a Section 811
17 program, who has requested to be transferred between
18 properties participating in the Section 811 program.

19 As you are aware, the Section 811 program
20 provides project-based rental assistance for extremely low-
21 income persons with disabilities that are linked with long
22 term services. The Department operates this program in
23 coordination with the Texas Health and Human Services
24 agencies, and through the oversight of HUD. Department
25 staff works directly with clients and these partners to

1 help determine eligibility and to get these clients on the
2 waitlist at their preferred properties into the program.

3 In accordance with the Department's approved
4 participant selection round, once a client is stable housed
5 in the Section 811 unit, they are then removed from any
6 other waitlist, so others on the waitlist still have less
7 of a delay to secure their own housing. In general,
8 Section 811 tenants cannot transfer from one property to
9 another without being placed on the properties' waitlist,
10 because each property participating in the program has
11 executed their own property rental assistance contract with
12 the Department, and with HUD, specifying its own number of
13 designated Section 811 units.

14 In this particular case, Mr. Edward Smith
15 requested a transfer as a reasonable accommodation.
16 Through several phone calls, emails, and communications
17 with Department staff, he was advised to reapply at another
18 property in order to secure a place on the waitlist. After
19 careful consideration from staff of the Section 811
20 program, their housing section and the Legal Division, all
21 of these staff have recommended to the Executive Director a
22 denial of the reasonable accommodation request, for three
23 primary reasons.

24 First, a disability-related need for the
25 accommodation has not been provided by the requestor. By

1 definition, a reasonable accommodation is, in part, a
2 change to a program that would allow a qualified person
3 with disability to fully participate in the program. Mr.
4 Smith has not specifically defined a reason under the
5 reasonable accommodation definitions of how his disability
6 could be accommodated by moving.

7 Second, fulfilling this request would require a
8 fundamental alteration to the program administration. The
9 Department currently has no contractual vehicle by which a
10 participating property can be required to accept a transfer
11 from another property without the client first being
12 referred from a waitlist. There is no centralized
13 administration of participating properties that would allow
14 the Department to require or even permit another property
15 to accept a transfer outside of the rental assistance
16 contract and the waiting list process.

17 Third, no preference exists that allows an
18 existing tenant of a Section 811 unit to be placed ahead of
19 others on a waitlist. Even if contractually possible, this
20 change to the program would have to be negotiated with the
21 Texas Health and Human Services agencies and with HUD, and
22 likely would not be allowed to be implemented until the
23 existing waitlist is exhausted.

24 So, given these three reasons, staff recommended
25 denial of the reasonable accommodation request. And the

1 request was then denied by the Executive Director.

2 When Mr. Smith was provided notice of this
3 denial, he asked to be placed on the Board's agenda today,
4 in accordance with 10 TAC Section 1.1, which provides the
5 procedures for reasonable accommodation requests to the
6 Department. So with this item today, staff is recommending
7 that the Board deny Mr. Smith's reasonable accommodation
8 request, completing the process that is outlined in 10 TAC
9 Section 1.1(c)(4).

10 And before I conclude, I would like to let you
11 know that Mr. Smith has opted not to attend the meeting by
12 video but has indicated that he was going to dial in and
13 listen by phone. And he has not provided any additional
14 written comment.

15 Also, I believe a representative of the property
16 where Mr. Smith currently resides is available as a
17 resource, should there be any questions, although the
18 property is not directly involved with this Board item, and
19 a reasonable accommodation request between the Department
20 and Mr. Smith, the tenant. That concludes my remarks on
21 this item. Thank you.

22 MS. BINGHAM: Great. Thank you, Cate. So, I
23 don't see either person interested in making a statement
24 yet in the queue. But we will continue to keep an eye on
25 that. So, we have a recommendation from staff to deny Mr.

1 Smith's reasonable accommodation request. Is there a
2 motion at this time?

3 MR. BRADEN: I will make a motion to approve
4 staff's recommendation.

5 MS. BINGHAM: Okay. I have a motion from Mr.
6 Braden to approve staff's recommendation. Is there a
7 second?

8 MS. THOMASON: Second.

9 MS. BINGHAM: Okay. Ms. Thomason seconds. And
10 let's see, while we are waiting, does anybody have any
11 questions for Cate?

12 (No response.)

13 MS. BINGHAM: Okay. Renee, I am just watching
14 the queue to see if anyone is showing up with an interest
15 in speaking to Action Item 3(a).

16 MS. NORRED: We have no one in queue, currently.

17 MS. BINGHAM: Okay. All right. If there is no
18 further discussion, we will take a vote on the item. All
19 in favor of the motion to approve staff's recommendation,
20 aye.

21 (A chorus of ayes.)

22 MS. BINGHAM: Opposed?

23 (No response.)

24 MS. BINGHAM: Okay. The motion carries to
25 approve staff's recommendation on Item 3(a). Moving, on.

1 Thank you, Cate.

2 MS. TRACZ: Thank you.

3 MS. BINGHAM: Moving on to Item 4(a), Marni.

4 MS. HOLLOWAY: Good morning.

5 MS. BINGHAM: Good morning.

6 MS. HOLLOWAY: This is Marni Holloway. I am the
7 Director of the Multifamily Finance Division. Item 4(a) is
8 presentation, discussion, and possible action on timely
9 filed scoring appeals under the Department's multifamily
10 program rules.

11 The appeal for application 20309 Casitas Los
12 Ebanos has been withdrawn. So we will not be taking that
13 action item up this morning.

14 The one that we will be discussing is
15 application 20184, The Heritage at Abilene. So, the
16 application proposes new construction of an elderly
17 development in Abilene, 60 units. We received an RFAB
18 questioning whether the application qualifies for points
19 under concerted revitalization plan, or CRP, the rule that
20 details the requirements for a CRP to be eligible. And
21 staff found that the documentation provided did not meet
22 those requirements.

23 The application score was reduced by seven
24 points, pending the applicant's ability to appeal. A
25 comprehensive plan submitted as the CRP is a plan for the

1 entire City of Abilene. The applicant also provided
2 documentation of Neighborhood Empowerment Zone 1, which
3 appears to be a multi-neighborhood area, four miles long
4 and a mile wide, centered on downtown Abilene.

5 So, the rule states that plan must consist of
6 one or two complementary local planning documents. So, we
7 have that part. We have the two documents that together
8 create a cohesive agenda for the plan's specific area.

9 So, this is the part that we don't have.
10 Further, the concerted revitalization plan may be a Tax
11 Increment Reinvestment Zone or TIRZ, or a Tax Increment
12 Finance Zone, or TIFZ, or similar plan. So that would be,
13 potentially, the Neighborhood Empowerment Zone.

14 The rule also says that a city or countywide
15 comprehensive plan by itself does not equate to a Concerted
16 Revitalization Plan. The Comprehensive Plan describes
17 multiple Abilene neighborhoods in general.

18 It includes no documentation of a study or
19 specific recommendations for the original Town South
20 superneighborhood, which is the location of the development
21 site, or any other area included within the Neighborhood
22 Empowerment Zone. So, the rule requires the area targeted
23 for revitalization must be larger than the assisted housing
24 footprint and should be a neighborhood or a small group of
25 contiguous neighborhoods with common attributes and

1 problems.

2 The appeal states that the planning process used
3 by the City of Abilene is one that is similar to many
4 cities across the state. And we have -- staff agrees with
5 that point.

6 A Comprehensive Plan is produced to give it an
7 overview of issues faced by the City, oftentimes with
8 specific geographic areas called out for their needs, which
9 results in future goals and objectives for those areas.
10 Then, based on those initial assessments, specific
11 localized plans or policies are introduced to implement the
12 strategy/goal/objectives. These localized plans and
13 policies, in concert with the Comprehensive Plan,
14 constitute revitalization plans.

15 Staff believes that the City of Abilene has not
16 completed the process of creating localized plans or
17 policies described in the appeal. The rule requires
18 documentation of a planning process that resulted in a plan
19 document associated with the specific area. In this case,
20 that Neighborhood Empowerment Zone.

21 Documentation of the planning and public input
22 process was not provided in the application or on appeal
23 that met the clear requirements of the rule, which is, that
24 the problems of the revitalization area must be identified
25 through a process in which affected local residents had an

1 opportunity to express their views on problems facing the
2 area, and how those problems should be addressed and
3 prioritized. What has been provided is a resolution
4 creating the Zone, and excerpts from the statutory
5 requirements and a map. The map does not match the
6 boundaries of the old Town South superneighborhood from the
7 Comprehensive Plan.

8 The City Council resolution creating the Zone
9 states that it repeals a 2009 infill development program
10 and creates a new infill development incentive program.
11 Although the resolution arguably creates a framework for
12 the City of Abilene to offer building incentives in this
13 large swath of the city, it certainly cannot be said to be
14 a local planning document together with a consolidated plan
15 that creates a cohesive agenda for the plan's specific
16 area, as required by the rule. Nor does it provide a
17 history of sufficient documented and committed funding to
18 accomplish its purposes on its established timetable,
19 because all it offers is tax and fee waivers.

20 The appeal further states that because this
21 scoring item has three point components, we also request
22 that the three components be reviewed individually, and
23 that the application receive three of the total seven
24 points for the city revitalization with a solution, which
25 is two points, and the opportunity index items, which is

1 one point.

2 The rule describes the CRP plan as a predicate,
3 and then discusses the mechanics of how many points can be
4 awarded, given certain conditions and documents. In other
5 words, an applicant cannot score CRP points if they have
6 not submitted a CRP in accordance with the rules.

7 Staff recommends that the scoring appeal for
8 20184 The Heritage at Abilene be denied. I would be happy
9 to answer any questions.

10 MS. BINGHAM: Thank you, Marni. Does anybody
11 have any questions of Marni at this time?

12 (No response.)

13 MS. BINGHAM: Okay. I know that we have
14 speakers. It looks like Sarah Anderson, Jerry Martin, Mr.
15 Ainsa and John Shackelford are in the queue to speak. We
16 will entertain a motion on the item, or a motion to hear
17 testimony.

18 MR. BRADEN: I will make a motion to hear
19 testimony.

20 MS. BINGHAM: Motion by Mr. Braden to hear
21 comment. Is there a second?

22 MS. THOMASON: Second.

23 MS. BINGHAM: Ms. Thomason seconds. All those
24 in favor, say aye.

25 (A chorus of ayes.)

1 MS. BINGHAM: Great. The motion carries. All
2 right. Renee, we are ready for comment on Item 4(a),
3 Abilene.

4 MS. NORRED: Sarah Anderson. You are unmuted.
5 Can you hear us?

6 (No response.)

7 MS. NORRED: Sarah Anderson?

8 MS. ANDERSON: It looks like I am unmuted now.

9 MS. BINGHAM: Great.

10 MS. ANDERSON: Actually, if possible, could we
11 please have Frank Ainsa. It sounds like we have two on
12 each side of this issue. We were hoping Frank Ainsa could
13 speak first on this.

14 MS. BINGHAM: Okay. Renee, they are asking for
15 Mr. Ainsa to speak first.

16 MS. NORRED: Okay. We are looking for him. We
17 are looking for him right now.

18 (Pause.)

19 MS. NORRED: It looks like Frank is muted.

20 MR. JOHNSON: This is the developer Brett
21 Johnson. I know Frank is on. It says he is talking.

22 MR. AINSA: I am. I think I am unmuted.

23 {inaudible} Can you hear me now?

24 MS. NORRED: Yes.

25 MR. AINSA: [indiscernible].

1 MS. BINGHAM: I think the Board members are --
2 we are having a hard time understanding Mr. Ainsa. The
3 reception isn't very good.

4 MR. AINSA: I said I think I unmuted.

5 MR. WILKINSON: We can hear you. You are just
6 not clear.

7 MR. DARUS: Mr. Ainsa, can you try again?

8 MR. AINSA: Yes. Can you hear me now?

9 MR. DARUS: It is still coming through, very
10 difficult to hear you.

11 MR. AINSA: [indiscernible].

12 MS. BINGHAM: I think we are going to have to
13 adjust for just a minute and move to another speaker. I
14 know you hate to do that out of order, but we are not able
15 to hear Mr. Ainsa.

16 MR. JOHNSON: Madam Chairman, this is Brett
17 Johnson again. If I might suggest having Frank dial in,
18 rather than use the video conferencing.

19 MR. WILKINSON: Vice Chair, this might give
20 Member Braden some time to log back on. I think he got
21 logged off, accidentally.

22 MS. BINGHAM: Very good. Okay. Let's hold for
23 just a minute. We'll wait. If we can ask Mr. Ainsa to try
24 to dial in by phone. And then we will hold for just a
25 minute, while we are waiting for Mr. Braden to rejoin the

1 meeting.

2 (Pause.)

3 MS. BINGHAM: While we are waiting, it looks
4 like there is another speaker, also. Adrian Iglesias. So,
5 that would be Sarah Anderson, Mr. Ainsa, Audrey Martin,
6 John Shackelford and Mr. Iglesias.

7 And what we will try to do is, have somebody
8 speak that's speaking either in favor of staff's
9 recommendation or opposed to it. And then, alternate to
10 the other position. So, Renee will probably be touching
11 base with speakers, just to get a feel for if they are
12 speaking in support of staff's recommendation or opposing
13 staff's recommendation.

14 And we will need to hold anyway, until we are
15 sure we have Mr. Braden back, correct? Just because we
16 need him to take action, in order to have a quorum. Yes.
17 Very good.

18 (Pause.)

19 MR. WILKINSON: Welcome back.

20 MS. BINGHAM: Hello, Mr. Braden. Are you back?
21 Very good. Oh, now we have bumped Bobby. There is Bobby.
22 Okay. So, Renee, do we have -- did we, trying to read
23 through the notes here, have we -- did we find Mr. Ainsa on
24 a phone line?

25 MS. NORRED: Yes. We found Mr. Ainsa.

1 MS. BINGHAM: Great. All right. We are ready.

2 MR. DARUS: Mr. Ainsa, you need to enter your
3 audio PIN, so that you can be unmuted.

4 MR. WILKINSON: Nathan, I believe Mr. Braden is
5 still muted from your end. Would you fix it up, please?

6 MR. BRADEN: Thank you.

7 MS. NORRED: We are still waiting for Mr. Ainsa.

8

9 MS. BINGHAM: I have got you.

10 MS. NORRED: Let's go ahead and move on to Sarah
11 Anderson.

12 MS. BINGHAM: Okay.

13 MS. NORRED: You are unmuted.

14 MS. ANDERSON: Yes. And I don't know what's
15 going on with Frank. He says he is in, and just waiting to
16 be admitted. And so I can go ahead and go. Unfortunately,
17 my testimony is sort of predicated on the attorney going
18 first, but --

19 MS. NORRED: Okay. Sarah, we have Mr. Ainsa.

20 MS. ANDERSON: That is excellent.

21 MS. NORRED: Mr. Ainsa, can you hear us?

22 MR. AINSA: I can hear you. Can you hear me?

23 MS. NORRED: Yes.

24 MR. AINSA: [indiscernible].

25 MS. BINGHAM: No, you're not -- I can't

1 understand you.

2 MR. AINSA: Do I dial in? [indiscernible].

3 MR. BRADEN: Frank, are you on a phone line, or
4 are you on the computer?

5 MR. AINSA: I am on computer.

6 MR. BRADEN: Yes. It is really a muffled like
7 echo. I don't know. Can you call in? It might be better
8 on a phone line.

9 MR. AINSA: All right. I'll try again.

10 MR. DARUS: Mr. Ainsa, if you don't mind, could
11 you mute your computer's audio. That may solve the
12 problem.

13 (Pause.)

14 MS. BINGHAM: Renee, how about if we do this?
15 Can we not take -- so I've got Audrey Martin is in support.
16 Adrian Iglesias is in support. John Shackelford is in
17 support.

18 If they are still wanting to wait for Frank, can
19 we take somebody that is in support? And then hopefully we
20 can get the technical issues worked out with Mr. Ainsa.

21 MS. NORRED: Yes, ma'am. We can go ahead and
22 look for Audrey Martin and unmute her.

23 MS. BINGHAM: Thank you.

24 MS. NORRED: Audrey. You are unmuted. Can you
25 hear us?

1 MS. MARTIN: Can you hear me now?

2 MS. NORRED: Yes.

3 MS. MARTIN: Great. Okay. Good morning, Board
4 members, Mr. Wilkinson. I am Audrey Martin with Purple
5 Martin real estate. I am a consultant for the competing
6 application in this region, and I am speaking in favor of
7 staff recommendation to deny the appeal.

8 The appeal presents a lot of documents and
9 technical arguments, however this issue can be broken down
10 simply. For concerted revitalization plan points to be
11 awarded, there has to be an adopted plan, and a citywide
12 plan on its own is not sufficient.

13 This applicant presented one plan, which was a
14 citywide plan. And additionally, showed that a
15 revitalization zone -- the Neighborhood Empowerment Zone
16 was created.

17 But the critical point is that the
18 revitalization zone simply does not have an adopted plan to
19 accompany it. And therefore, points were correctly denied.

20 The adoption of the Neighborhood Empowerment Zone by the
21 City of Abilene certainly demonstrates intent toward
22 revitalization.

23 However, intent is not enough under the rule.
24 There must be an adopted plan to accompany the
25 revitalization zone, and there simply is not one. And for

1 this reason, under the rule, requirements for CRP points
2 have not been met.

3 Another application has been cited by this
4 applicant as support for approval of the appeal. The
5 applicant's argument is that the other application has the
6 same fact pattern and was awarded CRP points. In the case
7 of the application that was awarded points, there was a
8 Comprehensive Plan and a Neighborhood Empowerment Zone.

9 But again, there is an important distinction
10 between these two applications. The application that was
11 awarded points submitted an actual plan to accompany the
12 adoption of the Neighborhood Empowerment Zone.

13 That plan outlined an application process,
14 criteria for qualifying for incentives, and was very
15 detailed. And thus, that application met the rule
16 requirements. In fact, that application's documentation
17 was so clear that not a single deficiency was issued by
18 staff related to CRP points.

19 The item in front of you today is somewhat an
20 issue of whether a duly adopted Concerted Revitalization
21 Plan exists that is not a city-wide plan. And in this
22 case, it doesn't, because a plan document was never adopted
23 to accompany the formation of the Neighborhood Empowerment
24 Zone.

25 Further, the applicant has requested the award

1 of partial points under CRP. As Marni stated already, this
2 is not allowed for urban transactions under the rule,
3 because the baseline requirement for any CRP points is that
4 a qualifying revitalization plan exists that meets the QAP
5 requirements.

6 Staff made the correct determination here, and I
7 encourage you to support staff's recommendation to deny the
8 appeal. Thank you. I am happy to answer any questions.

9 MS. BINGHAM: Thank you. Thank you, Audrey.
10 Does the Board have any questions for Audrey?

11 (No response.)

12 MS. BINGHAM: Great. Thank you very much. So,
13 Renee, we would need somebody that is opposing staff's
14 recommendation next. It looks like that would either be
15 Mr. Ainsa again, or Sarah Anderson.

16 MS. NORRED: Okay. We will look for Mr. Ainsa
17 again, and unmute him, if we can get him on.

18 MR. AINSA: Can you hear me now?

19 MR. WILKINSON: It is still fuzzy to me.

20 MR. AINSA: I will tell you I don't --

21 MR. VASQUEZ: Can someone from staff who is
22 already connected via phone call Mr. Ainsa and just tie him
23 in?

24 MR. DARUS: Mr. Vasquez, I am not sure how we
25 would even do that, to be honest.

1 MR. AINSA: [inaudible].

2 MR. WILKINSON: So is this telephone audio or is
3 this another attempt at computer audio?

4 MS. NORRED: It sounds like it might be a
5 computer audio.

6 MR. WILKINSON: But he dropped off the call,
7 anyway.

8 MS. BINGHAM: Okay. Let's just -- Sarah. I am
9 sorry about this, but I think we are going to need to just
10 move forward with Sarah at this point.

11 MS. NORRED: Sarah is unmuted, and she is ready
12 to go. We are looking for Sarah.

13 MS. ANDERSON: I am unmuted, and I will go ahead
14 and go. Can you hear me okay?

15 MS. BINGHAM: Yes. Good morning.

16 MS. ANDERSON: Good morning. Okay, so good
17 morning. My name is Sarah Anderson, and I am the
18 consultant for the Heritage at Abilene.

19 And we are before you today with an issue, that
20 unfortunately, I and others in the development community
21 predicted would happen back when the CRP language was being
22 developed six or so years ago. Essentially, we have a
23 state level agency dictating what constitutes appropriate
24 planning for a revitalization area at the local level.

25 When the CRP language was originally brought up

1 all those years ago, I sat in front of the then Executive
2 Director and staff, and asked how they would implement
3 this, with a top down mandate on how localities should
4 undertake planning in their cities. At the time, we were
5 assured that this would not be about the requirements of an
6 individual piece of paper and staff would look at the
7 efforts of the city as a whole, where it would be the
8 narrative in its totality that would help determine whether
9 a city had an area where it one, had been prosperous and
10 subsequently gone into decline, two, that the city had
11 identified it as needing revitalization, three, had
12 undergone planning to address the issues, or four, put
13 money towards those efforts.

14 All of these items have been addressed by the
15 City of Abilene and were done and articulated in the
16 documents that were presented in the application, through
17 the Comprehensive Plan and the NEZ creation documents. Now
18 we are hearing the staff wants something more specific than
19 what is required by the QAP. And in fact, is really more
20 than what another application in similar circumstances has
21 been required to provide.

22 I will say that this year, I did two to five CRP
23 applications. I have never been turned down. I am
24 incredibly thorough and strict with the guidelines as we go
25 forward.

1 In this particular case, I did the added
2 research of looking at the 2019 application for Fain
3 Street, which is what we cited for this year as well. They
4 are using the Comprehensive Plan and the creation of the
5 NEZ.

6 And contrary to what Ms. Martin stated, there is
7 no specific plan for the Fain Street NEZ. That is why it
8 was so unique. Fort Worth has NEZs that have plans, and
9 they have some that don't.

10 And in this case, the Fain Street one does not
11 have a specific plan. What it has is reiteration of the
12 statutory requirements that are mainly for a NEZ. But
13 nothing that isn't actually in our application, as well.

14 While, yes, there were more documents, but
15 rather than restating the statutory requirements, the City
16 of Abilene simply cited them. At the end of the day, a NEZ
17 is a NEZ. It doesn't matter how it was created or how we
18 got there. They all follow the same statutory
19 requirements.

20 The City of Abilene took the exact same process
21 as the City of Fort Worth in the way that they dealt with
22 the creation of their NEZ. The documentation meets the --

23 MS. BINGHAM: Sarah, your three minutes are up.

24 MS. ANDERSON: Can I just wind up real quick?

25 MS. BINGHAM: Let me just ask. Well, if you

1 keep speaking, it looks like Frank is trying to get back in
2 again. Do you want to use his time, or do you want to let
3 him jump back in?

4 MS. ANDERSON: I want to use 15 seconds and just
5 wrap up and say at that at the end of the day, he says that
6 you can either have a TIRZ or a TIFZ or something similar.

7 And a NEZ is another statutory stage program very similar
8 to those.

9 And simply by having passed the NEZ, this should
10 have been accepted. And I will leave the rest of the time
11 for Frank to reiterate.

12 MS. BINGHAM: Great. Does staff have -- does
13 the Board have any questions for Sarah? We are actually
14 going to need to hear somebody in support of staff
15 recommendation next, and then, we will see if we can Frank
16 back on. Any questions for Sarah from the Board?

17 (No response.)

18 MS. BINGHAM: Okay. Renee, do you want to see
19 if either Mr. Iglesias or Mr. Shackelford are ready?

20 MS. NORRED: Yes. We are finding Adrian now,
21 and we are going to unmute him. Adrian, you should be
22 unmuted.

23 MR. IGLESIAS: Okay. Can you hear me?

24 MS. NORRED: Yes.

25 MR. IGLESIAS: Okay. Perfect. Good morning,

1 Madam Chair and Board members. I am Adrian Iglesias with
2 Generation Housing Development. I am the developer for the
3 competing application which is located in the City of
4 Abilene. And I am speaking in support of staff
5 recommendation to deny the appeal.

6 In addition to our consultant's testimony, I
7 would like to add that our development team carefully
8 reviewed the documentation that the City had, to determine
9 if CRP could qualify in the City of Abilene, during our
10 site selections, and in preparation for the 2020 9 percent
11 round. We determined that the Neighborhood Empowerment
12 Zone without an actual plan would not qualify for CRP
13 points. Our current competing application predicated on
14 this determination.

15 Staff and Executive Director Mr. Wilkinson made
16 the correct determination. I encourage you to support
17 their recommendation to deny the appeal. I am happy to
18 answer any questions, and thank you.

19 MS. BINGHAM: Thank you, Mr. Iglesias. Any
20 questions for Adrian?

21 (No response.)

22 MS. BINGHAM: Great. Thank you. Okay. Renee,
23 do we want to see if Mr. Ainsa is on a phone where we can
24 hear him?

25 MS. NORRED: We are waiting for Mr. Ainsa to

1 enter in the audio PIN. And then, he will be good to go.

2 MS. BINGHAM: Awesome.

3 (Pause.)

4 MR. DARUS: Mr. Ainsa, the audio table has been
5 sent to you, through GoToWebinar. I give a unique
6 identifier to everybody, and we don't have access to your
7 specific one.

8 (Pause.)

9 MS. NORRED: He is not on yet.

10 MS. BINGHAM: Let's go then, and take Mr.
11 Shackleford, and then we will let Mr. Ainsa bring up the
12 end.

13 MS. NORRED: You are looking for John to unmute
14 him?

15 MR. DARUS: He is unmuted.

16 MR. SHACKLEFORD: Good morning, Madam Chair.
17 Members of the Board, Mr. Wilkinson.

18 MS. NORRED: Good morning.

19 MR. SHACKLEFORD: Thank you for confirming that
20 you can hear me. I will be brief. I don't want to
21 reiterate things that have been said. I do offer this
22 analogy for you.

23 This Comprehensive Plan all cities in Texas seem
24 to adopt, I sort of liken that to somebody that writes out
25 their life aspirations of things that they may want to

1 accomplish. And one would be, you know, they write down
2 they want to start a business. And then the NEZ that the
3 City of Abilene adopted was merely by resolution.

4 To create it, that would be like if a person
5 says, okay, my aspiration is to start a business. So they
6 actually file articles of formation, Mr. Braden, to form
7 the entity, but then they never do anything. They just --
8 they file it. And it sits there, and there is no activity.
9 They don't move forward. The person never moves forward
10 to actually do anything with the business.

11 And that is what it seems like has happened
12 here. There has been very little done, if anything, by the
13 City of Abilene to focus on this particular neighborhood in
14 which this particular project is located. So, to me, that
15 is sort of how I look at it.

16 I don't think the applicant met the required
17 standard of providing what was needed under the rules. And
18 so I support staff's decision wholeheartedly, and would ask
19 that you deny the appeal. Thank you.

20 MS. BINGHAM: Thank you, Mr. Shackelford.
21 Renee, did we find Mr. Ainsa?

22 MS. NORRED: We have Sarah Anderson wants to
23 take Frank's time, and then we also have Alissa Carpenter
24 as well.

25 MS. BINGHAM: Okey doke. So, should we -- or is

1 Alissa Carpenter against staff -- opposing staff's
2 recommendation?

3 MS. NORRED: Yes, ma'am. Hold on just one
4 second. I think Frank might be back on. Frank is unmuted.

5 MR. AINSA: Can you hear me?

6 MS. BINGHAM: Yes. Good morning.

7 MR. AINSA: I am actually clear. Good morning.
8 I apologize for all that trouble. I really can't explain
9 it, so I won't even try. But let me go forward here and
10 summarize what I believe are the salient points that you
11 should consider on this appeal.

12 The Executive Director, in his letter of June
13 24, 2020, characterized this as a documentation problem.
14 That is on page 1 of his letter. And it essentially is
15 claiming that Overland did not submit adequate
16 documentation to establish a CRP. And it is my position as
17 an attorney, and from a legal standpoint, that the
18 Executive Director and the staff have applied the wrong
19 test to this documentation issue.

20 I prepared a detailed letter, and I am sure you
21 have read it. But I would like to point out, right at the
22 very beginning here, that the test is not specific
23 documentation. The test is whether or not there are local
24 planning documents that together create a cohesive agenda
25 for the plan's specific area.

1 And it goes on to state in the rule that a
2 Concerted Revitalization Plan, CRP, may be a Tax Increment
3 Reinvestment Zone, a TIRZ, or a Tax Increment, TIF or a
4 similar plan, like an NEZ. Now, what has happened here is
5 that the application was submitted with Abilene's
6 Comprehensive Plan and with Abilene's Neighborhood
7 Empowerment Zone 1.

8 And it appears to me very clear and if you look
9 at my letter, especially on pages 3 and 4, you will see
10 that the staff gave absolutely no credence to the
11 descriptions that the Executive Director claims is missing,
12 of the specific area, namely, the area that Overland
13 proposes to develop. And I would like to point out, in
14 that connection, that the City of Abilene itself submitted
15 a letter which was attached to my letter. It is dated June
16 10, 2020.

17 And it went into great detail about the local
18 planning documents and the local planning efforts that went
19 into this application. And the City of Abilene very
20 clearly states on the second page of its letter, we would
21 like to emphasize that the Comprehensive Plan and the
22 Neighborhood Empowerment Zone resolution collectively
23 constitute a community revitalization plan with a cohesive
24 agenda.

25 And as Sarah Anderson has pointed out, on this

1 application, which goes into the Comprehensive Plan in
2 great detail, shows that all the criteria were met. Public
3 input was sought and obtained by the City of Abilene. The
4 plan describes the area that is included in the
5 application.

6 And this documentation issue seems to be that
7 Overland may not have submitted what the staff wanted to
8 see. But that is not the test. The test is, did Overland
9 submit documentation that satisfies the test, which is
10 local documents that, together, provide a cohesive agenda
11 for development.

12 And if you look at my letter carefully, and you
13 look at the City of Abilene's letter, you will see that
14 there is really no issue there at all on having met the
15 test. And so, I submit to you that what has happened here
16 is, the staff and the Executive Director have decided this
17 case based on their own personal preferences, as opposed to
18 the criteria and the rule.

19 And that is exemplified, I think, by what Sarah
20 Anderson got through saying, what is in my letter. And
21 please, look at the letter from the City of Abilene. They
22 very much establish together, that this is a CRP. And for
23 that reason, I would ask you to grant the appeal.

24 MS. BINGHAM: Thank you very much, Mr. Ainsa.
25 Nice to finally hear you, too. Does the Board have any

1 questions of Mr. Ainsa's comment?

2 (No response.)

3 MS. BINGHAM: Okay. Thank you. So, then, we
4 won't -- Renee, then you have Ms. Carpenter left? Is that
5 correct?

6 MS. NORRED: Yes, ma'am. That is correct.

7 MS. BINGHAM: Very good. Thank you.

8 MS. NORRED: We are finding her to unmute her.
9 She should be unmuted. Can you hear us?

10 MS. CARPENTER: Hello. Can you hear me?

11 MS. NORRED: Yes.

12 MS. CARPENTER: Okay. Great. Thank you. My
13 name is Alissa Carpenter, and I am a consultant on the
14 Heritage Abilene application.

15 And I just wanted to reiterate, again, a couple
16 of points, and maybe explain them differently. The QAP
17 requires that you have or allowed two planning documents
18 that together create a cohesive plan. One of the details
19 that I thought I read in one of staff's letter, was that
20 there was something about the Comprehensive Plan, not
21 talking about the specific and same area that comprises the
22 area of the NEZ.

23 And I want to point out that there is nothing in
24 the QAP that requires that both of the planning documents
25 speak to the same area. Our position on this, as well as

1 the City of Abilene's, was that the Comprehensive Plan was
2 the initial planning document that looked at all of the
3 neighborhoods of Abilene, grouped them by what
4 neighborhoods needed revitalization and assistance, and
5 revitalization efforts.

6 And then, subsequent to that process, the NEZ
7 was adopted. And that NEZ took four neighborhoods south of
8 downtown, including where Heritage of Abilene is located,
9 and create a program that focused on revitalization for
10 those areas.

11 So, our argument, which we believe is within the
12 language of the QAP, is that we have two documents that
13 together create the planning, the initial planning, and
14 then the solution, which would be the NEZ, in order to
15 revitalize the area. The NEZ is also new. It does have
16 tax incentives, and those are already flowing to the area.

17 And so, we believe that this does meet the
18 definition of a community revitalization plan and should be
19 allowed by staff. And the points should be reinstated to
20 the application.

21 MS. BINGHAM: Great. Thank you, Alissa. Does
22 the Board have any questions of Alissa?

23 (No response.)

24 MS. BINGHAM: So, Marni is back on, too. Do we
25 have any questions of Marni, regarding any of the comments?

1 Marni, would you like to respond to any of it?

2 MS. HOLLOWAY: I don't. I believe that my
3 comments at presentation covered all of staff's points.

4 MS. BINGHAM: Very good.

5 MR. VASQUEZ: I just have a question. I don't
6 know if it is for Marni or for Bobby. It seems to me that
7 the issue hinges upon whether this NEZ is simply a
8 resolution.

9 Kind of like the day the Governor declares the
10 date TDHCA Day in the State of Texas. To me, that is a
11 resolution. Nice, but it doesn't really have the weight of
12 law, or an actual program being implemented.

13 On the other hand, the City of Abilene, how
14 after the fact, put in their letter all the key words that
15 we need to hear to make it sound like a true comprehensive
16 implemented plan. Again, can you just speak a little bit
17 more to that?

18 MS. HOLLOWAY: So, looking at the resolution
19 that created the Neighborhood Empowerment Zone, and it is
20 on page 100 of your Board book, it talks about desiring to
21 increase economic development within historically
22 economically distressed areas and repeals an earlier infill
23 development program and creates this new development
24 incentive program.

25 And so, what it says is that they may enter into

1 agreements for the purpose of benefitting the Zone,
2 refinance of municipal sales taxes, enter agreements
3 abating property taxes, set baseline performance standards,
4 such as Energy Star programs to encourage the use of
5 alternative building materials. May participate in up to
6 50 percent of the cost of water or sewer lines, so that
7 would be fee abatements.

8 And then, authorize those incentives through a
9 Chapter 380 economic development agreement. This further
10 reduces fees, provide rollout containers, waiver-reduced
11 sewage fees, waiver-reduced zoning application fees. This
12 was adopted on May 10, 2018.

13 What we have is the resolution, a map, and the
14 statutory, you know, statutes behind creation of the
15 Neighborhood Empowerment Zone. So, I can't speak to
16 whether a program was created as a result of this
17 resolution. We have not received any of that
18 documentation.

19 MR. VASQUEZ: So, what would be the difference
20 between this and a TIRZ?

21 MS. HOLLOWAY: A Tax Increment Reinvestment Zone
22 or a TIF, a Tax Increment Financing Zone, creates a pot of
23 funds that are to be used within that zone for
24 redevelopment activities that are administered by,
25 generally, a board of directors that decide how those funds

1 are going to be used.

2 MR. VASQUEZ: Okay. I mean, I guess the
3 difference is, there is a formal organization, the TIRZ, or
4 a management district, versus just --

5 MS. HOLLOWAY: Right.

6 MR. VASQUEZ: Just here is a menu of a la carte
7 items that you can take from.

8 MS. HOLLOWAY: Right. Well, and the other
9 difference is, that it is actually a pot of funds. There
10 is actually, you know, a source of funds that is created
11 through that tax increment that are used for redevelopment
12 activities within that zone.

13 The Neighborhood Empowerment Zone is about fee
14 abatement and tax abatement, but it is not necessarily
15 investing dollars into the area to be redeveloped. And you
16 know, we don't have evidence of any activity that has taken
17 place under this, I don't believe.

18 MS. BINGHAM: Since 2018? Since the due date?

19 MS. HOLLOWAY: Yes.

20 MS. THOMASON: I have a question, Marni.

21 MS. HOLLOWAY: Uh-huh.

22 MS. THOMASON: If this 2018 resolution were to
23 satisfy that, would the competing development also be
24 eligible for those points? Or is that in a different zone?

25 MS. HOLLOWAY: It is in a -- the competing

1 application does not make use of this Neighborhood
2 Empowerment Zone.

3 MS. THOMASON: Okay.

4 MR. BRADEN: I have a couple of questions.
5 Sorry, I was on mute, so I wasn't able to speak before.
6 That was me, not you all. So Marni, how does Palladium
7 differ from this Abilene application?

8 MS. HOLLOWAY: So, first off, you know, I think
9 that discussing another application and comparing them is
10 akin to this applicant appealing a decision on another
11 application. So, I want to be very careful about how I
12 characterize the differences between the two.

13 Talking about the Fain Street application, and I
14 think even Sarah mentioned, there was a great deal more
15 documentation. And as I recall, we were able to get
16 comfortable with that Fain Street application that
17 activities were going on within this very specific area.
18 There was documentation that there had been investment and
19 work done in order to improve this very specific
20 revitalization area.

21 MR. BRADEN: That just means Fort Worth has been
22 more successful than Abilene in the last two years. I
23 mean, I am not sure that is determinative of the issue.
24 The fact that there is activity already in one, and not in
25 the other doesn't seem like it answers the question.

1 And you know, adopting something by resolution
2 has a binding effect. This isn't something that is
3 passing. It is just -- you know, cities adopt by ordinance
4 or resolution. Many, many things are adopted by resolution
5 and the statute probably requires it.

6 And the difference between an Empowerment Zone
7 and a TIRZ, I mean, there is a difference. But there are
8 statutes that talk about the empowerment zoning having sort
9 of TIRZ powers in certain categories. So, this is nothing
10 like. An empowerment zone is something real and does
11 carry.

12 MS. HOLLOWAY: I agree. But I would refer back
13 to the requirement and rule that calls for a history of
14 sufficient documented and formative funding to accomplish
15 its purposes on its established timetable.

16 That part of the rule is there for a very
17 specific purpose. Because in the past, this Board and --
18 the Boards and through our rulemaking process, we have been
19 very clear that the affordable housing should not be the
20 first thing in. And so it should not be the only purpose
21 of the revitalization plan or the zone.

22 Which is not the case here, but the affordable
23 housing should not be the first thing in. So, that if the
24 zone had established that timetable, and had documented and
25 committed funding, then it would meet the requirements.

1 That is the case here. They have adopted the
2 zone. There isn't a plan to go with it. And the
3 Comprehensive Plan, while it talks about neighborhoods in
4 general, doesn't have that specific plan for this
5 revitalization area.

6 MR. BRADEN: And just the Abilene resolution, it
7 doesn't have a specific timetable or date associated with
8 it?

9 MS. HOLLOWAY: It doesn't. Not that I can see.

10 MR. BRADEN: The rule about affordable housing
11 not being the first thing in, is that actually a rule, or
12 is that just the practice and the policy that we have
13 followed?

14 MS. HOLLOWAY: That is, I don't remember if it
15 is actually in the rule or not. But that is, in fact, the
16 conversations that we have had around these revitalization
17 plans since day one. That the affordable housing needs to
18 be part of a larger plan that is about the entire area and
19 not about just the development.

20 MR. BRADEN: Okay.

21 MS. BINGHAM: Mr. Braden, Renee is letting me
22 know that Sarah would like to respond to Marni's comments.
23 And that also, there is another speaker in support of
24 staff's recommendation.

25 We don't have a motion right now. Would we like

1 to hear the other two comments, and then make a motion and
2 wrap up? Okay. All right. Let's do that.

3 So, why don't just -- so that it is still fresh
4 with us, why don't we get Sarah on the line first, Renee.
5 And then, we will have Ms. Applequist right after.

6 MS. NORRED: Sarah has been unmuted. Can you
7 hear us, Sarah?

8 MS. ANDERSON: Can you hear me?

9 MS. NORRED: Yes.

10 MS. ANDERSON: Okay. Thank you so much for
11 letting me speak again. I did want to correct something
12 that Marni had said. There has been funding flowing into
13 the NEZ, based on the resolution. That was part of the
14 letter from the City in the original application.

15 While it passed at the end of 2018, I believe
16 the City provided a letter that said at least \$180,000 in
17 incentives had been done. And so, it has been enacted.
18 There is a program.

19 The resolution actually did talk about that the
20 City Manager will -- is the person that does it and gives
21 information on how it will be -- how the incentives are
22 given out. But there definitely has been activity in this
23 area and this would not be the first thing going in.

24 So, thank you.

25 MS. BINGHAM: Hey, Sarah, before you leave, I

1 have to -- so you said -- so there is in the Abilene letter
2 that is in our packet, there talks about some waiver of
3 fees that is valued at \$160,000. Is that what you are
4 referring to?

5 MS. ANDERSON: Yes.

6 MS. BINGHAM: Okay. All right. Anybody else
7 have any questions of Sarah?

8 (No response.)

9 MS. BINGHAM: Okay. Chris Applequist?

10 MS. NORRED: Chris Applequist should be unmuted.

11 Chris, can you hear us?

12 MR. APPLEQUIST: Hello. Yes, I am here. Can
13 you hear me?

14 MS. NORRED: Yes.

15 MR. APPLEQUIST: Okay. Madam Chair, members of
16 the Board, thank you for your time. I very much appreciate
17 this. I think again, the very simple fact here, we are the
18 competing application here, that is currently first place.

19

20 But the first step is to have a resolution. So,
21 they have that. There is no plan that comes after that.
22 So, you need a plan for this to work.

23 We have looked at this site. We have looked at
24 multiple sites in Abilene. And it doesn't meet the
25 requirement. And it is very simple. You can have a

1 resolution that is one sheet, and the critical point is
2 that there is no application. Fain has an application.
3 They also have an application for incentives, which is a
4 lot different from just having an application.

5 So, it is -- we see it as being very simple. We
6 looked at these sites. We looked at the plan. It didn't
7 make sense. It shouldn't meet what is in the QAP. A very
8 easy way to avoid this, is to talk to staff before you
9 bring an application. And that is what should have been
10 done. And so thank you for your time. We support staff.

11 MS. BINGHAM: Thank you, Chris. Any questions
12 for Chris?

13 (No response.)

14 MS. BINGHAM: Okay. Staff's recommendation was
15 to deny the appeal, and we are pending a motion from the
16 Board. Is there a motion from any of the Board members?

17 MR. VASQUEZ: All right. I will throw one out
18 there and see if I get a second. I would actually move to
19 consider the Neighborhood Empowerment Zone sufficient of a
20 plan and move to grant the appeal of the applicant.

21 MS. BINGHAM: Okay. We have a motion from Mr.
22 Vasquez to grant the appeal of the applicant for Heritage
23 at Abilene. Is there a second?

24 MR. BRADEN: This is a tough one, and --

25 MR. VASQUEZ: Oh, very much.

1 MR. BRADEN: And you know, obviously, if Abilene
2 knew that it probably needed this, they would have adopted
3 it at the same time they did the resolution. So I don't
4 want to penalize one city because they just didn't do it.
5 But I guess what I struggle with is, has there really --

6 MR. WILKINSON: Sorry. Either way, Abilene gets
7 a deal. There is only two in the subregion. And so either
8 way you go, it is either in elderly or general. If you
9 support staff, the general wins. If you oppose staff, the
10 elderly win. They are both in Abilene.

11 I don't know that the City necessarily prefers
12 the elderly. Perhaps so, given that they submitted some
13 documents.

14 MR. BRADEN: Okay. That is a good point, Bobby.
15 And I guess that -- and I hate, this is a long way to
16 second or not second a motion, though, sorry.

17 But somebody -- Marni made the point, and it
18 seems to be a valid one, that affordable housing is not
19 supposed to be the first thing in. And we've -- I've heard
20 that over in the last few years on the Board.

21 Now, I think Sarah came back and said there were
22 other things already in this zone. I mean, do we know? I
23 didn't really -- when I looked through the letter, I didn't
24 see a statement saying that other things were going on.
25 Did I miss that?

1 MS. HOLLOWAY: So the letter itself says that
2 there is no detailed information regarding incentives that
3 has been compiled. And that the City is in the process of
4 implementing a tracking system for the NEZ incentives.

5 So we don't know at this point what (coughing)
6 have received those incentives or what type of incentives
7 have been provided to folks who are doing work within the
8 Zone. We have a dollar amount, but I can't tell you how
9 those dollars were spent.

10 MS. THOMASON: I think that is my hang-up, as
11 well, is that there is -- it is an estimated amount. And
12 there is no specific tracking available for how that would
13 be applicated.

14 MS. BINGHAM: Leo's lonely motion is still out
15 there, I think.

16 MR. VASQUEZ: Make another --

17 MS. BINGHAM: I mean -- so in the absence of a
18 second, the motion to approve the applicant's appeal, is
19 there another motion?

20 MR. BRADEN: I will make a motion to support
21 staff's recommendation.

22 MS. BINGHAM: Okay. We have a motion from Mr.
23 Braden to support staff recommendation to deny the appeal.
24 Is there a second?

25 MS. THOMASON: Second.

1 MS. BINGHAM: Ms. Thomason seconds. Any further
2 discussion?

3 (No response.)

4 MS. BINGHAM: Okay. All those in favor of
5 staff's recommendation, aye.

6 (A chorus of ayes.)

7 MS. BINGHAM: Opposed?

8 MR. VASQUEZ: Nay.

9 MS. BINGHAM: The motion carries in support of
10 staff's recommendation on denying the appeal for Heritage
11 at Abilene. Thank you all for your work on that.

12 So Renee is telling me that there are some -
13 there's commenters teed up for Casitas at Los Ebanos. We
14 had said that that one was withdrawn?

15 MS. HOLLOWAY: Yes.

16 MS. BINGHAM: Are we hearing that one on the
17 23rd, or not at all?

18 MS. HOLLOWAY: We have received an email from
19 the applicant telling us that they are withdrawing their
20 appeal of that scoring item.

21 MR. WILKINSON: So that's your discretion
22 whether you want to remove the item and just hear public
23 comment on it. They worded their appeal to me as if I
24 didn't award it, to put it on the agenda at the next
25 meeting.

1 And so it was placed on it, because I awarded 38
2 out of 40 points that they had lost. So the two points --
3 this appeal is about two points, or about scoring in
4 general. We think we could probably review some that I
5 gave them back, as well.

6 We got an email from them, what, yesterday,
7 Marni?

8 MS. HOLLOWAY: Yes.

9 MR. WILKINSON: That they actually don't want to
10 appeal. I don't know that anyone from the applicant is
11 even on the line to speak to it.

12 But there is definitely some, I believe, some
13 opposed to the development that would like to speak. So,
14 whether you left it an action item with no one appealing to
15 you, or we can hear discussion and public comment.

16 MS. BINGHAM: Yes. I am struggling with that a
17 little. I mean, if there is no action to be taken, it is
18 not that we don't want to hear the comment, but it doesn't
19 sound like there is anything that we can do with the
20 comment.

21 But any feedback from other Board members?

22 MR. BRADEN: I agree with you, Leslie. I think,
23 if people want to make public comment at the end about
24 things that are not discussed as a Board item, I think that
25 is okay. But I mean, I would make a motion to delete that

1 item. It has been withdrawn.

2 MS. BINGHAM: Great. So, Mr. Braden makes a
3 motion to just remove the item from the agenda, since the
4 appeal has been withdrawn. And then, just as a follow up
5 that there is time at the end of the meeting for folks to
6 make comment on items that aren't on the agenda, so that
7 would be available. And I don't know. Typically, I guess,
8 since it has been withdrawn. It wasn't part of consent
9 agenda, so we don't necessarily pull anything off the
10 active agenda.

11 Is there a need for a second on Mr. Braden's
12 recommendation?

13 MR. WILKINSON: I don't think so. I think just
14 Vice-Chair can agree.

15 MS. BINGHAM: Very good. Great. Let's do this,
16 then. Renee, if we could just let the folks that are in
17 the queue for Casitas at Los Ebanos know that if they would
18 like to speak at the end of the agenda, there will be time
19 to speak after we finish the rest of our action items.

20 MS. NORRED: All right, Chair Bingham. It looks
21 like a couple of people do not -- no longer wish to speak
22 on that. And we don't currently have anyone else in the
23 queue for that.

24 MS. BINGHAM: Okay. Great. Thank you very
25 much. So then, if everybody is okay moving forward,

1 quickly then, we will move to Item 4(b). Marni, this is
2 yours also.

3 MS. HOLLOWAY: Yes. Item 4(b), regarding 20116
4 Dian Street Villas, we are also pulling from this agenda.
5 After the agenda was posted, but before we put up the book,
6 or before our meeting today, the Executive Director granted
7 the appeal. And so, there is no longer an appeal to be
8 discussed.

9 MS. BINGHAM: Great. So, I would doubt there
10 would be any additional comment, then. But Renee, just in
11 case there is additional comment, it looks like, on Dian
12 Street Villas, Application 20116, has been pulled.

13 MS. NORRED: Okay. Thank you.

14 MS. BINGHAM: So, then we move on to Item 4(c).
15 Which is a report item, I believe, Marni, on Avanti Legacy
16 Valor, which was an application that was heard at a prior
17 meeting.

18 MS. HOLLOWAY: Correct. Item 4(c), Report of
19 Third-Party Request for Administrative Deficiency under 10
20 TAC '11.10 of the 2020 Qualified Allocation Plan for 20177,
21 Avanti Legacy Valor Heights in McAllen. As we discussed
22 last month, through a third-party request for
23 administration deficiency or RFAD, an unrelated person or
24 entity may bring new material information about an
25 application to staff's attention.

1 At the June 25th meeting, the Board directed
2 staff to review its determination for this application to
3 ensure that the development site was not located within 300
4 feet of a junkyard. You will recall that our rule uses the
5 definition of junkyard from the Texas Transportation Code
6 Section 396.001.

7 That section states that junk means copper,
8 brass, iron, steel, rope, rags, batteries, tires, or other
9 material that has been discarded or sold at a nominal price
10 by a previous owner of the material. The term does not
11 include a wrecked vehicle. Junkyard means a place where a
12 business that owns junk and is operated to store, buy, or
13 sell junk keeps all or part of the junk outdoors until the
14 business disposes of the junk.

15 In response to an administrative deficiency, the
16 applicant provided a number of reasons why the property
17 does not meet the definition. First, the property is zone
18 C, general business, and under their code of ordinances,
19 the City of McAllen expressly prohibits any wholesale trade
20 or trade accessory of metals and minerals and scrap or junk
21 waste materials within this zoning.

22 The business -- the property owner is not in the
23 business of storing, buying, or selling junk as defined by
24 the Texas Transportation Code. It was initially leased and
25 used as an automotive repair shop, and is currently being

1 used by the owners as a private automotive repair facility
2 for their personal collection of vehicles and personal
3 property.

4 The third-party requestor was unable to find any
5 business or online presence associated with the property,
6 because the owner is maintaining it for their personal use.

7 The applicant provided additional photos from street level
8 that were not included by the third-party requestor, which
9 shows the property from the view of a passing person or
10 vehicle, which shows that the property is privacy fenced,
11 and that the contents of the storage yard are not visible
12 from the street.

13 The response included a letter from the mayor of
14 McAllen regarding current use of the property for personal
15 storage, and a letter from the State Representative,
16 stating his understanding of the City's pledge to monitor
17 the property, to ensure its compliance with state and local
18 laws. Based on the information provided, staff determined
19 that the property does not comprise a business operated to
20 store, buy, or sell junk.

21 Since the last meeting, staff has received
22 documents from the group that filed the RFAD, providing
23 information about why they believe the property meets the
24 definition. The response is included in your Board book.
25 All right.

1 I am sorry. The letter states that the letter
2 supplied by the Mayor and the State Representative would
3 seem to concede that the junkyard site is in fact used for
4 business. Per that letter, the Transportation Code does
5 not require that the business be operated solely to buy,
6 sell, or store junk.

7 Whether the owners of the junkyard site also
8 operate a private auto repair shop, or in fact, any type of
9 business or private activities at the site, the junkyard
10 site is a business, as confirmed by the City, and operated
11 to store junk, as quite clearly shown by the photographic
12 evidence, as stated in the letter.

13 The staff also received documents from the
14 applicant which recap and clarify information already
15 submitted, and include a letter from the offending property
16 owner, confirming the statements of the applicant and the
17 City, which states that no commercial business activity was
18 conducted at this site as of February 28, 2020, which was
19 the application deadline.

20 Staff recommends that the Board accept this
21 report. I would be happy to take any questions.

22 MS. BINGHAM: What questions does the Board have
23 for Marni?

24 MR. BRADEN: I don't really have any questions.
25 I think the staff did this report on the basis of my

1 questions at the last meeting. I very much appreciate the
2 thorough job and you answered my questions easily. I would
3 make approve to accept the report -- motion to approve and
4 accept the report.

5 MS. BINGHAM: We have a motion to accept the
6 report from Mr. Braden. Is there a second?

7 MS. THOMASON: Second.

8 MS. BINGHAM: Okay. Mr. Braden moves to accept
9 the report, Ms. Thomason seconds. And we can take a vote
10 on this. There are a few people that want to speak. Let
11 me see.

12 We are going to work with Renee here. We have,
13 hold on just a minute. We have Michelle Snedden, followed
14 by Michael Beard, Holly Beery is maybe out there somewhere,
15 James McDonald and Cynthia Bast. So, Renee, are we going
16 in that order?

17 MS. NORRED: Yes, ma'am.

18 MS. BINGHAM: Very good. So, we will hear
19 Michelle Snedden.

20 MS. NORRED: Michelle, you are unmuted. Can you
21 hear us?

22 MS. SNEDDEN: I can. Can you hear me?

23 MS. NORRED: Yes, ma'am.

24 MS. SNEDDEN: Great. Good morning, everybody.
25 I am -- so, yes, I am Michelle Snedden with the Shackelford

1 Law Firm. I represent the Pendleton Square application. I
2 am here to discuss application 20177, and the presence of a
3 junkyard facing the proposed development.

4 Firstly, I think it is important to remind
5 ourselves that TDHCA has made a public policy decision that
6 it does not want affordable housing within 300 feet of a
7 junkyard. Why is that? Because individuals in need of
8 decent affordable housing do not want to, and should not
9 have to, live next door to a large accumulation of junk.
10 That is what will occur if the McAllen development is
11 awarded credits.

12 Secondly, I want to address staff's comparison
13 between the auto wrecking and salvage yard definition and a
14 junkyard. Staff states that theoretically the outside
15 question is whether a business that used to operate as an
16 auto wreck and a salvage yard but ceases to operate, does
17 that auto wrecker and a salvage yard convert into a
18 junkyard. We think this question somewhat distorts the
19 issue.

20 The definition of a salvage yard in the Code
21 only addresses the storage and use of vehicles. The
22 definition of junk in the Code addresses items as Marni
23 said, such as steel, batteries, tires, and other material
24 that has been discarded.

25 To determine that this property is a salvage

1 yard rather than a junkyard, or perhaps it even meets both
2 definitions, disregards the large amount of junk on the
3 property, including discarded toilets, AC units, old
4 vending machines, tires, old appliances, a bathtub, all as
5 evidenced in the photographs in your Board book. And I
6 know you looked at that in the last Board meeting.

7 As Mr. Vasquez noted in that last meeting, if it
8 looks like a duck, it walks like a duck, it quacks like a
9 duck. And this is clearly a junkyard.

10 It is really hard to believe anybody would
11 consider this property anything other than a junkyard. Ms.
12 Bast and the Avanti applicant know that from street level
13 there is a fence that surrounds and hides the sight of the
14 property. That is irrelevant and not a determining factor
15 on whether this is a junkyard under the QAP or the Code.

16 It is also going to be irrelevant for a tenant
17 who lives on the second or the third floor that has a
18 direct constant view of the junk. Staff states that the
19 presence of a nearby salvage yard creates the same
20 impression as a junkyard.

21 The Board can issue guidance to consider
22 expanding the definition of junkyard in next year's QAP.
23 As noted just a moment ago, this incorrectly assumes that
24 the property was and continues to be a salvage yard.
25 Disregarding the junk as defined in the Code, stored on the

1 property. We believe that the property is undeniably a
2 junkyard.

3 However, we are also not opposed to a rule
4 clarification if the Board deems it necessary to ensure
5 that the public policy continues to be achieved. However,
6 in the interim, the Avanti application should be deemed
7 ineligible with or without a change to the rule.

8 To render this property anything other than a
9 junkyard would be a disservice to those future tenants and
10 undermine the intent of the rule. Thank you.

11 MS. BINGHAM: Thank you, Michelle. Okay.
12 Michael Beard?

13 MS. NORRED: We are finding Michael Beard to
14 unmute him.

15 MR. BEARD: Yes. Can you hear me?

16 MS. NORRED: Yes.

17 MS. BINGHAM: Yes.

18 MR. BEARD: Good. Good morning, Madam Chair and
19 members of the Board. My name is Michael Beard with BETCO
20 Consulting, and we represent the applicant that submitted
21 the RFAD against application 20177, Avanti Legacy, Valor
22 Height.

23 We can do all the legal hairsplitting that we
24 want to about whether this is a business that buys, sells
25 or stores junk. At the end of the day, you have a site

1 that has an accumulation of junk less than 50 feet away
2 from the proposed development site that no one has done
3 anything with or about.

4 With all due respect to the attorneys, one
5 shouldn't need a law degree to see that this is a junkyard,
6 and prospective residents should not have to live next to
7 this detrimental site. It is an eyesore. It is a health
8 hazard. It attracts vermin. And whether it is [inaudible]
9 or not, it is there.

10 This is the type of site that we all should know
11 not to build next to, as we should strive to do what is
12 best for the residents and foster good housing policy.
13 Building next to this detrimental site is not good housing
14 policy. That said, perhaps the rules should be changed so
15 the developments are not built next to an auto salvage
16 yard.

17 They want to change the rules in the future, so
18 the applicant cannot build near a site like this. If this
19 is the case, why not accept that this is a junkyard and not
20 allow housing to be built next to the site now. Why not
21 protect these elderly residents, too, and not just the ones
22 in the future.

23 At the end of the day, the accumulated junk will
24 still be sitting outside and in plain view of the residents
25 of Avanti Legacy Valor Heights, regardless of whatever the

1 applicant has submitted to the contrary.

2 Just ask yourself this. Would you want to live
3 here? Would you want your parents to live here, next to
4 this detrimental site? I think the answer would be no, and
5 for good reason. I would be happy to answer any questions
6 the Board may have. Thank you.

7 MS. BINGHAM: Okay. Thank you, Mr. Beard. That
8 was my mistake. We were trying to alternate support and
9 oppose.

10 And I think we had one of the speakers that
11 elected not to speak. Renee, can we -- if there is no
12 questions from the Board members of the prior speaker, can
13 we have a speaker that is in support of staff's report?

14 MS. NORRED: Chair Bingham, we have Henry
15 Flores. And we are finding him to unmute.

16 MS. BINGHAM: Awesome.

17 MS. NORRED: Henry, you are self-muted.

18 MR. FLORES: Hello. Can I be heard?

19 MS. BINGHAM: Yes.

20 MR. FLORES: Good morning, everyone. Cynthia
21 Bast was actually scheduled to go first. I face more of a
22 situation like Sarah did earlier. But let me offer my
23 comments, and if necessary, Ms. Bast can also address the
24 matter.

25 Let me first say, thank you, Madam Chair and

1 members, and Director Wilkinson for having reviewed this
2 matter so carefully. We concur with their conclusion.
3 They have reviewed this matter several times. And I
4 believe the recommendation is thoughtful and correct.

5 Cynthia will offer some technical perspective,
6 but again, this is more than a technical matter. I wanted
7 to talk about some of the things that have been inferred in
8 the comments by our competition. And again, I emphasize,
9 our competition. They are offering these comments in hopes
10 that we are denied and that they fall into the funding
11 range.

12 Now, when we were looking at sites in McAllen,
13 back in August, we reviewed a number of sites, and chose
14 this one specifically because of its location. There is a
15 blighted structure nearby. There is no doubt about that.
16 But it is the only blighted structure in that census tract.

17
18 It is not a bad place to live. In fact, it is
19 an exceptional place to live. It is, under TDHCA's rules,
20 a high opportunity area, because of all the additional --
21 because of the factors of that community. In addition, it
22 is one of the highest rated urban areas in the Rio Grande
23 Valley.

24 It is a very desirable place in McAllen. In
25 fact, there is no other tax grade deal in this census

1 tract. So, it would be the very first one.

2 There has been opposition to deals in this
3 census tract in the past. We worked really hard to ensure
4 that we had political support for this transaction, by
5 demonstrating to city council members and to the mayor that
6 what we were building was located -- it would be run
7 correctly, and it would be located in an area of high
8 opportunity.

9 You know, we -- in September, we met with staff
10 because of that blighted structure. Staff has specifically
11 -- Michelle Rivera, the assistant city manager took it
12 under advisement. Staff were sent out there to review the
13 matter, reviewed whether it was a junkyard or not and
14 advised us, that in their opinion, it was not.

15 In fact, as Marni Holloway said earlier, it is
16 not zoned to allow a junkyard. She referenced a letter
17 from the mayor, which indicated we'd had this visit back in
18 September with staff.

19 And the mayor says that they assured us that the
20 site was not a junkyard, and pledged that the City would
21 monitor the property to ensure the owners' continual
22 compliance with state and local laws, and that they would
23 ensure that the property never fell and never became an
24 undesirable site feature.

25 In my mind, this is a very clear subject. It is

1 a wonderful site in a wonderful part of McAllen. The
2 competitors provided really misleading photos of the
3 location. Mr. Vasquez talked about, does it look like a
4 duck, quack like a duck, walk like a duck.

5 This does not look like a duck. This is a
6 wonderful site in a wonderful part of McAllen. And I
7 appreciate again your thoughts and consideration at this
8 time.

9 MS. BINGHAM: Thank you. Thank you, Mr. Flores.
10 Any questions for Mr. Flores?

11 (No response.)

12 MS. BINGHAM: We can hear from Cynthia Bast, and
13 then I think we will be back to even, and we will have Mr.
14 McDonald wrap up.

15 MS. NORRED: We are looking for Cynthia Bast to
16 unmute her. She is good to go. She is self-muted.
17 Cynthia, you are self-muted.

18 MS. BAST: I think it is good now, right.

19 MS. NORRED: Yes.

20 MS. BAST: Okay. Thank you. Cynthia Bast of
21 Locke, Lord, representing the applicant for this matter.
22 Because this is a report item and I am not arguing an
23 appeal, I will try to be brief.

24 We do support the staff's conclusion. There are
25 over 100 pages of materials showing the information that

1 has been presented and considered. And after all of that,
2 the Executive Director has directed -- has confirmed the
3 staff's interpretation. Whether a certain land use
4 constitutes a junkyard can be in the eyes of the beholder.
5

6 So to avoid speculation and interpretation,
7 TDHCA chose to rely upon a statutory definition of junkyard
8 in the Texas Transportation Code. The applicant duly
9 investigated this site, as you heard from Mr. Flores --
10 performed diligence in accordance with and understanding
11 TDHCA's rules.

12 Based on those rules, it selected this site for
13 all of the good characteristics that you heard about. You
14 have a letter from the owner of the property that says
15 there is no business being conducted. And under the Texas
16 Transportation Code, without a business, there can't be a
17 junkyard. Just because a site is zoned for commercial
18 activity does not mean commercial activity is being
19 conducted on the site.

20 Therefore, we believe that the Executive
21 Director's conclusions and staff's conclusions on this
22 matter are appropriate, and we thank you for your support.

23 MS. BINGHAM: Thank you. Thanks, Ms. Bast.
24 Renee, so there is no other comment, Renee, at this time?

25 MS. NORRED: No, ma'am. We have no comments at

1 this time.

2 MS. BINGHAM: Okay. Great. So we -- just this
3 was a report item, just answering some Board questions from
4 the previous meeting. We have a motion from Mr. Braden and
5 a second from Ms. Thomason to accept the Board's report as
6 submitted. If there are no further questions or
7 discussion?

8 (No response.)

9 MS. BINGHAM: All those in favor, aye.

10 (A chorus of ayes.)

11 MS. BINGHAM: Opposed?

12 (No response.)

13 MS. BINGHAM: The motion carries on Item 4(c).
14 The report item.

15 MS. HOLLOWAY: Thank you.

16 MS. BINGHAM: Thank you very much. Thanks,
17 Marni. So this, it looks like this is the end of the
18 agenda for today. We do set aside time for public comment
19 on matters that are items that weren't on the agenda today.

20 So, let's let Renee check quickly to see if
21 maybe either the folks that were going to speak on Los
22 Ebanos, or any other topic. We are only able to just
23 accept the comment. We wouldn't be taking action here
24 today, but we do want to provide the opportunity for that.

25 MS. NORRED: Vice Chair Bingham, we do have a

1 couple of people queued up to talk about Dian Street
2 Villas, 20116. They haven't said anything, but we do
3 have -- there is no specific order, but we do have some
4 people that want to speak about that. And then we also
5 have at least one person for an application, 20223.

6 MS. BINGHAM: Okay. We'll look that one up
7 quickly. And we can open the line for the speaker for Dian
8 Street.

9 MS. NORRED: Okay. We are going to start with
10 Kevin Strickland. We are going to find him to unmute him.
11 This is for Dian Street Villas.

12 (No response.)

13 MS. NORRED: Kevin Strickland is not available.
14 We are going to move on to Jason Shaughnessy.

15 (No response.)

16 MS. NORRED: His audio is off. We have lost
17 Michael. We are finding him. Russ Michaels, you are
18 unmuted.

19 MR. MICHAELS: Hi. This is Russ Michaels. Can
20 you hear me?

21 MS. NORRED: Yes.

22 MR. MICHAELS: Okay. Great. I am just here to
23 speak in favor of Dian Street Villas. Just as you know, I
24 am the Executive Director of Texas Interfaith Housing, the
25 owner and operator and the applicant. We have Cynthia Bast

1 with us that also could speak.

2 But there is no opposition. I just wanted to
3 just state that this is a top scoring application in
4 Houston. It is going into an area that is a high
5 opportunity zone. We are doing everything that we are
6 supposed to do to follow the QAP rules. And that is what
7 we have done up to this date.

8 I am glad that it was reinstated. And I am
9 looking forward to working with the City of Houston and the
10 disaster dollars there, and also with TDHCA to move this
11 deal forward. That is really all I have.

12 I appreciate you all at least being here today
13 and helping us through this process. It has kind of been a
14 long process, especially in Houston with COVID and doing
15 outreach with notifications with the neighbors, et cetera.

16 But having said that, I will just pass it off to
17 Cynthia and save some time here. I think she wants to see
18 if there any neighbors that want to speak. Thank you very
19 much, folks.

20 MS. BINGHAM: Thank you. Thank you, Russ.

21 MS. NORRED: Vice Chair Bingham, we have just a
22 couple of more people for Dian Street Villa.

23 MS. BINGHAM: Great.

24 MS. NORRED: We have Jervon Harris. And he is
25 unmuted.

1 (No response.)

2 MS. NORRED: Jervon, you are self-muted.

3 MR. HARRIS: Good morning. Thank you. I really
4 don't have any comments to add. We were prepared to
5 discuss in more detail if there was continued opposition to
6 the application.

7 But being that there is none, we don't really
8 have any comments. So, we look forward to moving the
9 application forward. Thank you.

10 MS. NORRED: Thank you, Mr. Harris. We have no
11 more people in queue to speak for Dian Street Villas.

12 MS. BINGHAM: Great are there any -- did you
13 mention that application 20223.

14 MS. NORRED: Yes, ma'am. We have Omar Izfar.

15 MS. BINGHAM: Great.

16 MS. NORRED: He is unmuted.

17 MR. IZFAR: Lovely. Can you hear me?

18 MS. BINGHAM: Yes.

19 MR. IZFAR: Thank you. My name is Omar Izfar.
20 I am with the law firm of Wilson, Cribbs and Goren. And I
21 represent the Briar Hollow Townhouses Association.

22 And we were made aware of application 20223, for
23 the Campanile at Briar Hollow application for tax credits.

24 That was on, I believe, last month's agenda in front of
25 this Board. And we have a few objections that we think we

1 would like this Board to consider that this project should
2 not be funded for a couple of reasons.

3 First is, we never received notice of this. And
4 we are an organization that is required to receive notice
5 under the statute in the Government Code. And we have
6 reached out to the applicant and we have asked them to
7 provide us notice.

8 And we didn't know that this application would
9 not be on today's agenda. We checked the agenda when it
10 was posted a few days ago, and we decided to speak anyway.

11 And so, I don't normally practice in this area,
12 so I don't know what it is I need to do to have to be put
13 on a notice list, or to have the applicant take it
14 seriously. But by our review of the Code, we were required
15 to receive notice by the applicant.

16 My second objection to this project is that it
17 can't be constructed as proposed. In reviewing the
18 architectural drawings that were submitted in this
19 application, probably -- and although the architectural
20 drawings don't have this measurement in place, it probably
21 violates a great amount of a recorded covenant that
22 requires a 40-foot setback from a certain property line,
23 which I drew out and submitted in a letter from my firm on
24 July 7, which we had submitted in anticipation of being a
25 week before this meeting, in accordance with what we

1 understood to be the speaker rules, not realizing this
2 application would not be on this meeting.

3 But because this violates the 40-foot setback
4 from this certain property line between the townhouses in
5 which my clients reside in and this project that is
6 proposed to be built, it couldn't be built this way, and it
7 can't be permitted by the City of Houston, who requires
8 compliance with private covenants and restrictions in order
9 to issue building permits.

10 Even though the City has come out publicly to
11 support this project from their executive office, the
12 development rules would prohibit this from being platted
13 without recognition of that building line or permitted
14 without compliance with that building line. So I think it
15 doesn't make sense to fund a project that represents that
16 it will violate that.

17 And I would like any kind of guidance from the
18 Board as to how to get notice for my client, or what I
19 should do in order to speak when this application is before
20 the Board again. Thank you.

21 MS. BINGHAM: Thank you. Thank you, Mr. Izfar.
22 And, Bobby, somebody can follow up with Mr.
23 Izfar?

24 MR. WILKINSON: Yes. We are in communication
25 with him.

1 MS. BINGHAM: All right. Very good. Thank you,
2 Mr. Izfar.

3 And it looks like Renee said there is somebody
4 that still wants to speak on Los Ebanos. That's Sidney
5 Culp. So this looks like this will be our last public
6 comment.

7 MS. NORRED: We are looking for Sidney to unmute
8 him. Sidney, you are unmuted. Can you hear us? You are
9 self-muted, Mr. Culp.

10 (No response.)

11 MS. NORRED: It looks like he might be self-
12 muted.

13 (Pause.)

14 MS. NORRED: Mr. Culp, you are self-muted. Can
15 you unmute yourself?

16 (No response.)

17 MS. BINGHAM: Just while we are giving him just
18 one more moment to see if he can unmute. So we -- staff
19 just get like a little very short break to catch their
20 breath and then we all see each other again on the 23rd,
21 July 23rd. So the Board will reconvene July 23rd.

22 Renee, any --

23 MS. NORRED: No, ma'am. It looks like he is not
24 unmuted.

25 MS. BINGHAM: Okay. Thank you very much.

1 Anything else from the Board members, before -- sorry. Did
2 you say he is back?

3 MS. NORRED: No. We are good.

4 MS. BINGHAM: Very good. All right. Anything
5 else from Board or staff?

6 (No response.)

7 MS. BINGHAM: Thank you all for your time this
8 morning. Great Board meeting, and we will look forward to
9 convening next Thursday.

10 MR. WILKINSON: Thank you, members.

11 MS. BINGHAM: The meeting is adjourned.

12 (Whereupon, at 11:06 a.m., the meeting was
13 concluded.)

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C E R T I F I C A T E

MEETING OF: TDHCA Board
LOCATION: via GoToWebinar
DATE: July 14, 2020

I do hereby certify that the foregoing pages, numbers 1 through 7677, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Nancy H. King before the Texas Department of Housing and Community Affairs.

DATE: July 20, 2020

(Transcriber)

On the Record Reporting
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