

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

GOVERNING BOARD MEETING

John H. Reagan Building  
JHR 140  
1400 Congress Avenue  
Austin, Texas 78701

June 16, 2022  
10:06 a.m.

MEMBERS:

LEO VASQUEZ, III, Chair  
ANNA MARIA FARIAS, Member  
BRANDON BATCH, Member  
KENNY MARCHANT, Member  
AJAY THOMAS, Member

BOBBY WILKINSON, Executive Director

*ON THE RECORD REPORTING*  
*(512) 450-0342*

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Availability and publication in  
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RULES

- h) Presentation, discussion, and possible action on an order adopting an emergency amendment to 10 TAC Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.407 Inventory Report directing its publication in the Texas Register; and an order proposing an amendment to 10 TAC Chapter 1, Subchapter D, Uniform Guidance for Recipients of Federal and State Funds, §1.407 Inventory Report directing its publication for public comment in the Texas Register
- I) Presentation, discussion, and possible action on the statutory four-year rule review and order of re adoption for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.16, Ethics and Disclosure Requirements for Outside Financial Advisors and Service Providers, and directing its publication for adoption in the Texas Register
- j) Presentation, discussion, and possible action on an order adopting the repeal and new rule, for 10 TAC §7.1, §7.2, §7.3, §7.7, and §7.12; 10 TAC Chapter 7, Subchapter C, Emergency Solutions Grants; and 10 TAC Chapter 7, Subchapter D, Ending Homelessness Fund, and an order directing their publication in the Texas Register

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## ACTION ITEMS

Executive Session: the Chair may call an Executive Session at this point in the agenda in accordance with the below-cited provisions none

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The Board may go into Executive Session Pursuant to none Tex. Gov't Code §551.074 for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee;

Pursuant to Tex. Gov't Code §551.071(1) to seek the advice of its attorney about pending or contemplated litigation or a settlement offer;

Pursuant to Tex. Gov't Code §551.071(2) for the purpose of seeking the advice of its attorney about a matter in

which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Tex. Gov't Code Chapter 551; including seeking legal advice in connection with a posted agenda item; Pursuant to Tex. Gov't Code §551.072 to deliberate the possible purchase, sale, exchange, or lease of real estate because it would have a material detrimental effect on the Department's ability to negotiate with a third person; and/or

Pursuant to Tex. Gov't Code §2306.039(c) the Department's internal auditor, fraud prevention coordinator or ethics advisor may meet in an executive session of the Board to discuss issues related to fraud, waste or abuse.

OPEN SESSION

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ADJOURN

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P R O C E E D I N G S

1  
2 MR. VASQUEZ: Good morning, everyone. I'd like  
3 to call to order the meeting of the Governing Board of the  
4 Texas Department of Housing and Community Affairs. By my  
5 clock, it is 10:06 a.m.

6 As a reminder to everyone, this is potentially  
7 our longest meeting of the year, so we will try to move  
8 things along rapidly. If you are planning to speak on an  
9 upcoming topic on the agenda, we ask you to come to these  
10 first two rows in front so we know there's speakers.  
11 Everyone, please silence or put your phones on mute or just  
12 turn them off, why not?

13 And then when you do come up to the podium to  
14 speak, please sign in on the form up there and state your  
15 name and the organization you're with. And again, I  
16 encourage everyone to be as brief as possible, so I  
17 appreciate everyone on their cooperation with that.

18 I'll start out taking the roll. Mr. Batch?

19 MR. BATCH: Here.

20 MR. VASQUEZ: Mr. Marchant?

21 MR. MARCHANT: I'm here.

22 MR. VASQUEZ: Mr. Thomas?

23 MR. THOMAS: Present.

24 MR. VASQUEZ: Ms. Farias?

25 MS. FARIAS: Present.

1 MR. VASQUEZ: Everyone is present and accounted  
2 for. Thank you. So we do have a quorum.

3 So as usual, we will start with the pledges and  
4 I'll ask Mr. Wilkinson to lead us.

5 (The Pledge of Allegiance and the Texas  
6 Allegiance were recited.)

7 MR. VASQUEZ: For the record, Mr. Wilkinson got  
8 both of them correct.

9 On the consent agenda today we are moving items  
10 1(k) and 1(l) to action, and Ms. Morales will explain the  
11 kind of technicality why we had to do that.

12 Do any Board members or members of the public  
13 wish us to move an item from the consent agenda to an  
14 action item?

15 (No response.)

16 MR. VASQUEZ: Okay. Hearing none, I will  
17 entertain a motion to approve the consent agenda except for  
18 items 1(l) and 1(k).

19 MR. THOMAS: Mr. Chairman, I move the Board  
20 approve items 1 and 2, except for items 1(k) and 1(l), as  
21 described and presented in the respective Board action  
22 requests.

23 MR. VASQUEZ: Great. Thank you.

24 Motion made by Mr. Thomas. Is there a second?

25 MS. FARIAS: Second.

1 MR. VASQUEZ: Seconded by Ms. Farias. All those  
2 in favor say aye.

3 (A chorus of ayes.)

4 MR. VASQUEZ: Any opposed?

5 (No response.)

6 MR. VASQUEZ: Hearing none, the motion carries.

7 Thank you, Mr. Eccles, for reminding me. We do  
8 have a resolution, to be read into the record by Mr.  
9 Lyttle, recognizing June as Homeownership Month.

10 Mr. Lyttle.

11 MR. LYTTLE: Thank you, Mr. Chairman.

12 The resolution reads as follows:

13 "Whereas, June 2022 is Homeownership Month in  
14 Texas;

15 "Whereas, the goal of the Texas Department of  
16 Housing and Community Affairs is that all Texans have  
17 access to safe and decent affordable housing;

18 Whereas, it is the policy of the Department to support  
19 equal housing opportunities in the administration of its  
20 homebuyer and homeownership programs and services;

21 "Whereas, since 1981, the Department has served  
22 as the State's housing finance agency, providing a choice  
23 of mortgage products and services to meet the needs of low,  
24 very low, and moderate income homebuyers throughout the  
25 State;

1           "Whereas, the Department offers a free online  
2 homebuyer education tool, Texas Homebuyer U, and  
3 administers funds to support the Texas Statewide Homebuyer  
4 Education Program to inform and prepare buyers for  
5 successful homeownership;

6           "Whereas, the Department applauds all those who  
7 work to achieve and maintain affordable, responsible  
8 homeownership and recognizes those who provide services and  
9 resources to all homebuyers regardless of race, color,  
10 national origin, religion, sex, disability, or familial  
11 status; and

12           "Whereas, the Department encourages Texans to  
13 explore the numerous affordable homebuyer resources  
14 available during Homeownership Month and throughout the  
15 year;

16           "Now, therefore, it is hereby resolved, that in  
17 the pursuit of the goal of affordable homeownership  
18 opportunities for all, the Governing Board of the Texas  
19 Department of Housing and Community Affairs does hereby  
20 celebrate June 2022 as Homeownership Month in Texas and  
21 encourages all Texas individuals and organizations, public  
22 and private, to join and work together in this observance  
23 of Homeownership Month.

24           "Signed this Sixteenth Day of June 2022."

25           MR. VASQUEZ: Thank you, Mr. Lyttle. The

1 resolution is adopted by acclimation.

2 Bear with me for one second.

3 (Pause.)

4 MR. VASQUEZ: Okay. Just housekeeping here. We  
5 will first look at items 1(k) and 1(l) that were pulled  
6 from consent to action.

7 Ms. Morales.

8 MS. MORALES: Good morning. Teresa Morales,  
9 director of Multifamily Bonds.

10 Item 1(k) involves the multifamily bond issuance  
11 for the acquisition and rehab of 156 units in San Marcos.  
12 The financing for this transaction will be a private  
13 placement with Bellwether Enterprise as the initial funding  
14 lender, with Freddie Mac acquiring shortly thereafter and  
15 becoming the bondholder.

16 As you may recall, last month I provided a brief  
17 overview of the differences in the bond resolutions that  
18 you will adopt based on the financing involved. Because  
19 the bonds for Champions Crossing will be privately placed,  
20 our governing statute requires the Board to set and approve  
21 a specific interest rate or formula by which that interest  
22 rate will be determined.

23 Included as Exhibit B to the bond resolution in  
24 your materials for this item is a great illustration of how  
25 creative we've had to be to provide some flexibility given

1 the volatility in interest rates. The formula is based on  
2 the 10-year Treasury and we thought a scale that reflected  
3 an 80 basis point spread would be sufficient. Given the  
4 increase in the 10-year Treasury this week, we have amended  
5 the Exhibit B by increasing the high end of the 10-year  
6 Treasury by 40 basis points, hoping that it's sufficient  
7 and are asking that this be the basis of your approval.

8 Staff recommends approval of Bond Resolution No.  
9 22-025 with the amended Exhibit B and a determination  
10 notice of 4 percent housing tax credits for Champions  
11 Crossing in the amount of \$1,117,969.

12 MR. VASQUEZ: Okay. Is yesterday's move on the  
13 interest rates --

14 MS. MORALES: Is factored into this.

15 MR. VASQUEZ: -- is already factored into this.  
16 Okay.

17 Do any Board members have questions for Ms.  
18 Morales on 1(k)?

19 (No response.)

20 MR. VASQUEZ: If not, I'll entertain a motion on  
21 1(k).

22 MS. FARIAS: I so move. I move the Board  
23 approve regarding the issuance of a multifamily housing  
24 governmental note Series 2022, Resolution No. 22-025, and a  
25 determination notice of housing tax credits, staff

1 recommendation regarding Champions Crossing, as described  
2 and presented in the Board action request on this matter,  
3 with the substitution of Exhibit B as presented at this  
4 meeting.

5 MR. VASQUEZ: Thank you.

6 Motion made by Ms. Farias. Is there a second?

7 MR. BATCH: Second, Mr. Chairman.

8 MR. VASQUEZ: Seconded by Mr. Batch.

9 Is there any comment on this item?

10 SPEAKER FROM AUDIENCE: On consent item 1(b).

11 MR. VASQUEZ: Well, actually, no, you can't.

12 We're still on 1(k), we have a motion on the  
13 floor made by Ms. Farias, seconded by Mr. Batch. All those  
14 in favor say aye.

15 (A chorus of ayes.)

16 MR. VASQUEZ: Any opposed?

17 (No response.)

18 MR. VASQUEZ: Hearing none, the motion carries.

19 If he has questions on 1(b), who on staff would  
20 be able to help him understand that one?

21 MR. ECCLES: Material amendment, Rosalio would  
22 be.

23 MR. VASQUEZ: Rosalio. Okay. Well, you guys  
24 get together after on that.

25 Let's continue on to 1(l).

1 MS. MORALES: 1(1) involves a multifamily bond  
2 issuance for the acquisition and rehab of 124 units in Fort  
3 Worth. The financing for this development is similar to  
4 Champions Crossing in that the bonds will ultimately be  
5 held by Freddie Mac. Since posting the Board book last  
6 week, we have amended the Exhibit B to the bond resolution  
7 that will hopefully cast a wide enough net for where the  
8 10-year Treasury will be at the time of rate lock.

9 Staff recommends approval of Bond Resolution No.  
10 22-026 with the amended Exhibit B, and a determination  
11 notice of 4 percent housing tax credits for Marine Park in  
12 the amount of \$1,350,490.

13 MR. VASQUEZ: Great. Thank you. So this is the  
14 same thing as the prior item.

15 MS. MORALES: Correct.

16 MR. VASQUEZ: Are there any comments on this or  
17 questions?

18 (No response.)

19 MR. VASQUEZ: Hearing none, I'll entertain a  
20 motion on item 1(1).

21 MR. BATCH: Mr. Chairman, I move that the board  
22 approve regarding the issuance of a multifamily housing  
23 governmental note Series 2022, Resolution No. 22-026, a  
24 determination notice of housing tax credits regarding  
25 Marine Park, as described and presented in the Board action

1 request on this matter, with the substitution of Exhibit B  
2 as presented at this meeting.

3 MR. VASQUEZ: Great. Thank you.

4 Motion made by Mr. Batch. Is there a second?

5 MR. MARCHANT: Second.

6 MR. VASQUEZ: Seconded by Mr. Marchant. All  
7 those in favor say aye.

8 (A chorus of ayes.)

9 MR. VASQUEZ: Any opposed?

10 (No response.)

11 MR. VASQUEZ: Hearing none, motion carries.

12 Thank you, Teresa. We'll see you later, I'm  
13 sure.

14 Item 3(a) on the agenda, since we lost our Board  
15 member, Mr. Braden, who was also our vice chair, that kind  
16 of shook up the reshuffling of the Board here, I am going  
17 to maintain the appointment of Mr. Thomas as chair of the  
18 Audit and Finance Committee. And I have asked Mr. Batch to  
19 be chair of the Rules Committee, the QAP Committee -- I  
20 twisted his arm and he acquiesced.

21 And I would like to appoint the next senior  
22 member of the Board as the vice chair, Mr. Marchant. And  
23 he has graciously accepted, if we can get a nomination for  
24 him and a vote.

25 MR. MARCHANT: I like the word "senior." Thank

1 you, Mr. Chairman.

2 (General laughter.)

3 MR. VASQUEZ: Elderly, senior.

4 So I would like to entertain a motion regarding  
5 the vice chairmanship.

6 MR. THOMAS: Mr. Chairman, I am honored and  
7 privileged to move the Board to elect the Honorable Kenny  
8 Marchant as assistant presiding officer or vice chairman of  
9 the Texas Department of Housing and Community Affairs  
10 Governing Board.

11 MS. FARIAS: I second it.

12 MR. VASQUEZ: Thank you. Motion made by Mr.  
13 Thomas, seconded by Ms. Farias. Any discussion, debate,  
14 objection?

15 (No response.)

16 MR. VASQUEZ: Okay. Hearing none, I'd like to  
17 call for the vote. All those in favor say aye.

18 (A chorus of ayes.)

19 MR. VASQUEZ: Any opposed?

20 (No response.)

21 MR. VASQUEZ: Hearing none, motion carries.

22 All right. We got you hooked now.

23 MR. THOMAS: Congratulations.

24 MR. MARCHANT: Thank you.

25 MR. VASQUEZ: Item 3(b), the executive

1 director's report. Mr. Wilkinson.

2 MR. WILKINSON: Yes, sir.

3 Probably the biggest thing that's still fairly  
4 new for us and is rolling out is the Homeowner Assistance  
5 Fund. We've served over 5,600 households, gotten about  
6 \$43.5 million paid, another \$2.7 million in process, and  
7 there's an additional \$20 million that's reserved for loan  
8 modification.

9 Those take longer. That's if the homeowner  
10 can't really afford ongoing payments, and we're trying to  
11 work with the servicer to modify their loan to get smaller  
12 payments; we can contribute towards that modification.  
13 With rising interest rates, the loan mod program is having  
14 some trouble, but as far as paying property taxes and  
15 reinstating people when they can keep up their mortgage  
16 payments, that part is going really well.

17 Related to the Homeowner Assistance Fund, we are  
18 in the process of contracting with physical intake centers.

19 Right now you have to go to the website or call the 800  
20 number, and this would be an in-person option for folks  
21 that aren't comfortable with applying online. It's not  
22 something we do with rent relief because we were more kind  
23 of in the height of COVID at the time, but this will be a  
24 nice option for folks.

25 We're hoping to get some pretty good geographic

1 coverage. In addition to helping people apply, there will  
2 be some housing counseling that will be funded as well.

3 Right now we have over 11,000 applications in  
4 review, totaling approximately \$132 million. There's still  
5 quite a bit of funding left for folks. Application intake  
6 increased about 4 percent last week; biggest increases from  
7 the Coastal Bend and the Valley.

8 We're going to kind of ramp up our marketing  
9 efforts for Homeowner Assistance Fund. We currently have  
10 some billboards. We're going to add to that, and then  
11 there's direct mail that will be followed by radio and  
12 print to kind of blanket the state, as well as we have  
13 ongoing digital.

14 Some earned media has picked up a little bit. I  
15 did an interview not too long ago. And related to all  
16 this, the website is getting kind of a revamp; we have a  
17 new logo that's super cool. We spent some time on choosing  
18 among many different options, and so it's really going to  
19 help with the program.

20 Switching gears to rent relief, it's still here.

21 We talked about there's this long tail at the end of kind  
22 of recapture and helping those that are next in line. Some  
23 of those applications are getting kind of stale at this  
24 point, so we have to keep looking further down the list.  
25 But we've put out over \$2 billion in rent and utility

1 assistance to over 310,000 households; that's more than  
2 700,000 Texans.

3 A subset of that, 21,000 households were  
4 eviction diversion. Eighty-two percent of the households  
5 served were at or below 50 percent area median income.  
6 That's good. That's who we want to help.

7 With the \$47.8 million in additional reallocated  
8 funds, the program continues to review and process  
9 applications that are already on file until the remaining  
10 funds are allocated. In addition to that \$47.8 million,  
11 we've probably put out about that same amount but still  
12 have money left over because there's some recapture,  
13 there's some uncashed checks that are coming back, et  
14 cetera.

15 The Texas Supreme Court order establishing the  
16 eviction diversion program is scheduled to end on July 2.  
17 They've extended this before. We're not sure what's going  
18 to happen this time.

19 Moving on to Compliance, the Physical  
20 Inspections group within Compliance hired a new team member  
21 who started last week and so now they're fully staffed.  
22 Compliance has also created a new supportive service  
23 training webinar for the development community which  
24 they're excited about. They'll be conducting it on  
25 Tuesday, July 12, and like our other trainings will be

1 available on our YouTube channel.

2 In Community Affairs, I think some of you  
3 noticed that I went to Uvalde a couple of weeks ago. One  
4 of our subrecipients of a Community Service Block Grant,  
5 the Community Council of South Central Texas, continues to  
6 provide needed services in Uvalde in response to the school  
7 shooting tragedy. So far they've helped 93 households,  
8 which is 375 individuals, with gas cards, cards for  
9 groceries and other personal expenses, and on an as-needed  
10 basis they've done some rental assistance, some hotel rooms  
11 for family members to support the families.

12 They've expended about \$70,000 in CSBG so far.  
13 We're having staff with the sub reach out to those families  
14 already served to see if they can be helped again. We have  
15 several hundred thousand dollars still available to those  
16 that qualify.

17 With the HOME ARP plan, the American Rescue Plan  
18 dollars that can be used for homeless activities, including  
19 sticks and bricks construction, et cetera, HUD has approved  
20 the Board-approved plan. Staff is developing guidance and  
21 looking to release the application for a subset of that \$10  
22 million that we're going to have as an add-on to the  
23 National Housing Trust Fund set-aside.

24 It's designed to expedite delivery of some of  
25 the HOME ARP units into rental developments more quickly

1 and to preserve existing Department investments and NHTF-  
2 funded developments that may otherwise be at risk of not  
3 being completed. Developments will be required to submit  
4 an abbreviated application, but will not be required to  
5 compete for funds under the HOME ARP rental development  
6 notice of funding availability.

7 Housing Stability Services, that is a subset of  
8 the rental assistance that can be used for other purposes  
9 like legal help, outreach services, shelter services, and  
10 other services offered at permanent supportive housing  
11 properties. We've served more than 22,000 households since  
12 September, and over the last two months staff has done  
13 tremendous work with the ERA-1 HHS subs to reallocate funds  
14 to make sure we're on track to spend 100 percent by the  
15 deadline. And we're ramping up on the ERA-2 HHS  
16 subrecipients and off to a great start.

17 Not every state was as aggressive with doing the  
18 Housing Stability Services, especially with the first pot  
19 of rental assistance, and I'm glad we did. It was  
20 important to do the rental assistance but to use the  
21 flexibility of that pot or sub-pot was something that I  
22 think has been worthwhile.

23 Lastly, it is Michael Lyttle's birthday.

24 MR. VASQUEZ: Let's make sure we tweet that.

25 MR. WILKINSON: He's 35 years old today.

1 (General laughter.)

2 MR. WILKINSON: Any questions from the Board? I  
3 kind of ran through a lot there, but you know, the main  
4 stuff besides Tax Credit Program going on, HAF is our new  
5 big baby and Rental Assistance continues to wind down.

6 We'll probably get another reallocation, you  
7 know, as we're trying to wind down. How big it will be,  
8 when it gets here, I don't know. It's no way to run a  
9 railroad but that's what we're dealing with, and can't  
10 blame Treasury. It's a hole for them too.

11 Yes, sir.

12 MR. MARCHANT: When we go into, say, Uvalde, are  
13 we following FEMA, are we working with FEMA, or are we  
14 there instead of FEMA?

15 MR. WILKINSON: So it wouldn't be FEMA because  
16 it's not a national.

17 MR. MARCHANT: Not big enough.

18 MR. WILKINSON: Yeah, but TDEM is there, you  
19 know, which is our state counterpart. And so, yes, sir,  
20 that's all coordinated. There's like an actual physical  
21 facility for the families and there's people from, you  
22 know, Health and Human Services Commission, TDEM, our  
23 subrecipient is there -- they're not actual TDHCA  
24 employees -- but for counseling and all kinds of different  
25 services, and it's pretty organized.

1 MR. MARCHANT: Thanks.

2 MR. VASQUEZ: Any other Board members have  
3 questions for Mr. Wilkinson?

4 (No response.)

5 MR. VASQUEZ: I'd just like to say I appreciate  
6 the staff moving quickly at the request of the governor to  
7 get involved with the response to Uvalde. And I think it's  
8 great that we were given the flexibility by Governor Abbott  
9 to put funds out there and help these people when they have  
10 other things to be worrying about.

11 MR. WILKINSON: We're happy to be part of it and  
12 to do everything we can. Big shout out to our  
13 subrecipients, Bobby Deike and his team. They've been  
14 working weekends and such and staffing the center to do  
15 what they can for the families.

16 MR. VASQUEZ: Great. And with that, thank you  
17 for the report.

18 Moving on to item 4, Report on the meeting of  
19 the Internal Audit and Finance Committee. Mr. Thomas.

20 MR. THOMAS: Thank you, Mr. Chairman. Good  
21 morning, everyone.

22 The Audit and Finance Committee met this morning  
23 at 9:30 a.m. We did not have a full quorum, and therefore,  
24 no votes were taken on any action items.

25 In that meeting Mr. Mark Scott, director of

1 Internal Audit, presented three report items: the internal  
2 audit of Texas Homeownership Program, the follow-up  
3 internal audit of the Physical Inspections Section, and the  
4 status of internal and external audit activities.

5 TDHCA staff member Mr. Joe Guevara, director of  
6 Financial Administration, presented the fiscal year 2023  
7 TDHCA operating budget and the fiscal year 2023 Housing  
8 Finance Division budget. These two budget items are action  
9 items 5(a) and 5(b) on the Board's agenda today.

10 The committee did not vote on these action  
11 items, as I mentioned earlier, and Mr. Guevara is here to  
12 answer any questions Board members may have when he  
13 presents the budget items.

14 Mr. Guevara, are you going to present?

15 MR. VASQUEZ: Are you done with that summary?

16 MR. THOMAS: I'm done with the summary, yes,  
17 sir.

18 MR. VASQUEZ: Great. So that's officially item  
19 4 of the agenda, which brings us to item 5, Approval of the  
20 Department's operating budget for fiscal year 2023, with  
21 Mr. Guevara to present.

22 MR. GUEVARA: Good morning, Chairman and  
23 members. Joe Guevara, director of Financial  
24 Administration.

25 Item 5(a) is related to the approval of the

1 Department's operating budget for fiscal year 2023.

2 Earlier this morning we discussed the operating budget in  
3 detail during the Audit and Finance Committee meeting. The  
4 proposed budget is within the spending limits of the  
5 General Appropriations Act for the 2022-23 biennium and  
6 will be the foundation of our legislative appropriation  
7 request for the upcoming 2024-25 biennium.

8 We project we will have the revenue to support  
9 these expenditures appropriated through general revenue,  
10 federal funds, and appropriated receipts. In summary, the  
11 Department's operating budget for fiscal year 2023 is  
12 \$115.7 million, an increase of \$9.7 million, or 9.1  
13 percent. Of this amount, \$86.6 million is related to one-  
14 time temporary programs in response to the Coronavirus  
15 pandemic and other initiatives. This component increased  
16 \$9.2 million, or 11.9 percent, and accounts for 75 percent  
17 of our budget.

18 Secondly, \$20 million is related to our core  
19 operations. This component increased \$299,000, or 1.08  
20 percent. The third component of our budget is our capital  
21 projects budget in the amount of \$954,000, which increased  
22 \$141,000 to address IT needs to support cybersecurity,  
23 systems maintenance and equipment.

24 Overall, this budget proposes a total of 404  
25 FTEs, an increase of 38. The increase of 38 is attributed

1 to staffing needs to support the temporary one-time  
2 federally funded programs. Of the 404 budgeted FTEs, 91  
3 are considered Article 9 or temporary FTEs, 249 are TDHCA  
4 core permanent employees, and 64 are Manufactured Housing  
5 staff.

6 This concludes my summary and I'm available for  
7 any questions you may have.

8 MR. VASQUEZ: Thanks, Joe.

9 So to reiterate, when you throw out numbers like  
10 9, 10, 11 percent top line increase, that's based purely on  
11 the increased federal programs, federal funding. It's not  
12 drawing any more from growth of our Department, per se.  
13 It's program-related.

14 MR. GUEVARA: That's correct, yes, sir.

15 MR. VASQUEZ: And then again to reiterate, the  
16 core budget is going up just a hair over one percent, 1.08  
17 percent, which is, again, basically flat and really in this  
18 environment a decrease compared to inflation. So I commend  
19 you all on all that and appreciate your giving us some  
20 background information.

21 Do any other Board members have comments or  
22 questions?

23 (No response.)

24 MR. VASQUEZ: Hearing none, I will entertain a  
25 motion on item 5(a) of the agenda.

1 MR. THOMAS: Mr. Chairman, I move the Board  
2 approve the state fiscal year 2023 operating budget, as  
3 presented in the Board action request item, and the  
4 Department submit this budget to the Office of the Governor  
5 and the Legislative Budget Board.

6 MR. VASQUEZ: Thank you.

7 Motion made by Mr. Thomas. Is there a second?

8 MS. FARIAS: Second.

9 MR. VASQUEZ: Seconded by Ms. Farias. All those  
10 in favor say aye.

11 (A chorus of ayes.)

12 MR. VASQUEZ: Any opposed?

13 (No response.)

14 MR. VASQUEZ: Hearing none, the motion carries.

15 Moving on to 5(b) of the agenda, Approval of the  
16 Housing Finance Division budget for fiscal year 2023.

17 MR. GUEVARA: Yes, 5(b) is associated with the  
18 Housing Finance budget. This particular item is a subset  
19 of the internal operating budget, it is in relation to the  
20 Housing Finance budget that we are required to submit under  
21 Texas Government Code 2306 and in compliance with the  
22 General Appropriations Act. This subset of the budget is  
23 specific to fees generated by single family and multifamily  
24 bonds, tax credit and compliance activities, typically  
25 referred to as the Housing Finance budget of the

1 Department.

2 At this time we are prepared to certify this  
3 budget as well, and I'm here to answer any questions you  
4 may have.

5 MR. VASQUEZ: Thank you, Joe. And again to  
6 reiterate, fees from programs fund this aspect of the  
7 budget.

8 MR. GUEVARA: Yes, sir.

9 MR. VASQUEZ: Are there any questions on item  
10 5(b)?

11 (No response.)

12 MR. VASQUEZ: Hearing none, I'll entertain a  
13 motion on item 5(b).

14 MS. FARIAS: Mr. Chairman, I move the Board  
15 approve the state fiscal year 2023 Housing Finance Division  
16 budget, as presented in the Board action requested on this  
17 item, and that the Department submit this budget to the  
18 Office of the Governor and Legislative Budget Board.

19 MR. VASQUEZ: Thank you.

20 Motion made by Ms. Farias. Is there a second?

21 MR. BATCH: Second.

22 MR. VASQUEZ: Seconded by Mr. Batch. All those  
23 in favor say aye.

24 (A chorus of ayes.)

25 MR. VASQUEZ: Any opposed?

1 (No response.)

2 MR. VASQUEZ: Hearing none, motion carries.

3 Thank you, Joe.

4 Item 6 on the agenda, Presentation, discussion,  
5 and possible action regarding a material amendment to the  
6 housing tax credit application for project 21003.

7 Mr. Banuelos.

8 MR. BANUELOS: Good morning, members of the  
9 Board. I'm Rosalio Banuelos, director of Asset Management.

10 This development received a 9 percent housing  
11 tax credit award to construct 59 units, of which 50 are  
12 designated as affordable, in Tomball, Harris County. The  
13 owner is now requesting approval for material amendments to  
14 the application to amend the income and rent restrictions  
15 for the affordable units going from five units at 30  
16 percent of area median income, or AMI, 20 units at 50  
17 percent AMI, and 25 units at 60 percent AMI, to four units  
18 at 30 percent, ten units at 50 percent, and 36 units at 60  
19 percent.

20 In addition, there will be a modification to the  
21 site of the development that includes, among other changes,  
22 a reduction in the common area from 3,874 square feet to  
23 2,044 square feet. The reduced common area will result in  
24 the elimination of the business center, the fitness center  
25 and the arts and crafts room, but the owner has confirmed

1 that the development will still meet the point requirements  
2 for common amenities specified in the QAP.

3           Additionally, there was a slight change to the  
4 site plan that increases the number of parking spaces from  
5 90 to 99, with an increase in the number of accessible  
6 spaces from eight to eleven. The development owner  
7 explained that the requested changes are needed due to the  
8 fact that the interest rate for the permanent loan has  
9 increased and there was an increase of approximately one  
10 million in the construction cost, although overall the  
11 increase to the development cost was approximately  
12 \$360,000.

13           The updated financial information provided by  
14 the owner has been reviewed by the Real Estate Analysis  
15 Division of the Department and REA's analysis indicates  
16 that the development is expected to be feasible and there  
17 is no change to the previously recommended credit amount.

18           In terms of scoring, this was the only  
19 development that received an award in Rural Region 9, so  
20 therefore, scoring is not a factor in this amendment. And  
21 staff recommends approval of the amendment request, and I  
22 am available for any questions.

23           MR. VASQUEZ: Great. Thank you, Rosalio.

24           Again, so we're changing the mix of the  
25 affordable units but not the total.

1 MR. BANUELOS: Correct. The total number of  
2 affordable units will remain the same. The mix has fewer  
3 deeper rent targeted units to assist with the ability to  
4 service additional debt, increasing the NRI, but the number  
5 of affordable units and market rate units is remaining the  
6 same overall.

7 MR. VASQUEZ: Okay. And staff is comfortable  
8 with all the other changes of common areas and things like  
9 that?

10 MR. BANUELOS: Yes.

11 MR. VASQUEZ: Okay. Does anyone have questions  
12 on this item?

13 MR. THOMAS: I do have one question, Mr.  
14 Chairman.

15 So I understand the reduction in the units and  
16 not changing the mix, but the common areas and some of the  
17 amenities that the developer is asking for, is there a  
18 particular reason for that or it's just the site plan  
19 changed?

20 MR. BANUELOS: As I understand it, this is a  
21 value engineering change, so reducing the scope. So by  
22 reducing the square footage, it's assisting with keeping  
23 costs down, but I don't know if there are any additional  
24 reasons behind that.

25 MR. THOMAS: Okay. Thank you.

1 MR. VASQUEZ: If you have other questions, I  
2 suspect we have some representatives of the developer here,  
3 if need be?

4 MR. THOMAS: Sure. Yeah, I would love to hear  
5 kind of the reasons why the reduction in the amenities or  
6 common area.

7 MR. VASQUEZ: Okay. Let's impose the Eccles  
8 rule to entertain a motion to hear public comment on this  
9 item.

10 MR. MARCHANT: So moved.

11 MR. VASQUEZ: Moved by Mr. Marchant.

12 MR. BATCH: Second.

13 MR. VASQUEZ: Seconded by Mr. Batch. All those  
14 in favor say aye.

15 (A chorus of ayes.)

16 MR. VASQUEZ: Any opposed?

17 (No response.)

18 MR. VASQUEZ: None.

19 Would one of you care to explain a little bit  
20 more background on this, please, briefly?

21 MR. HARRIS: Briefly.

22 MR. VASQUEZ: Please identify yourself and what  
23 organization you're with.

24 MR. HARRIS: My name is Jervon Harris. I'm with  
25 SuperUrban Realty Ventures. I'm the development consultant

1 on this particular application.

2 So where we are with the development now is that  
3 since the application was submitted, there's been excess of  
4 \$2 million in increased construction costs. We found an  
5 avenue to move forward and get the development to a  
6 position where we can close and offset a significant amount  
7 of that additional cost.

8 And the way that we're doing that is by  
9 eliminating square footage without reducing the net  
10 rentable square footage, without reducing the unit sizes,  
11 and without reducing the unit features. And we'll still be  
12 able to meet the minimum scoring criteria for common area  
13 amenities.

14 MR. THOMAS: Thank you. I appreciate that.

15 MR. HARRIS: You're welcome.

16 MR. VASQUEZ: Thank you.

17 Okay. I would like to entertain a motion on  
18 item 6 on the agenda.

19 MR. THOMAS: Mr. Chairman, I move the Board  
20 approve the requested amendments for Tomball Senior  
21 Village, all as expressed in the Board action request on  
22 this item.

23 MR. VASQUEZ: Thank you.

24 Motion made by Mr. Thomas. Is there a second?

25 MS. FARIAS: Second.

1 MR. VASQUEZ: Seconded by Ms. Farias. All those  
2 in favor say aye.

3 (A chorus of ayes.)

4 MR. VASQUEZ: Any opposed?

5 (No response.)

6 MR. VASQUEZ: Hearing none, motion carries.

7 Item 7 on the agenda, Quarterly report relating  
8 to staff-issued determination notices for 2021  
9 noncompetitive 4 percent housing tax credit applications.

10 Ms. Morales.

11 MS. MORALES: Teresa Morales, director of  
12 Multifamily Bonds.

13 This is a report item that speaks to 4 percent  
14 activity over the last quarter from March through May,  
15 specifically those applications where the determination  
16 notice was issued administratively by staff. Exhibit A  
17 included in this agenda item reflects that staff has issued  
18 18 determination notices, which represents approximately  
19 3,700 total units, and \$35.8 million in annual 4 percent  
20 credits.

21 Exhibit B in your materials highlights where we  
22 ended up for the 2021 calendar year. I shared this with you  
23 last month, but with only a few lingering 2021 deals that  
24 have not closed, I think it's safe to go ahead and close it  
25 out, and then I'll kind of shut up about it for now, at

1 least until I start bragging about 2022 activity.

2 The 4 percent program produced, either through  
3 preservation of existing affordable housing or the new  
4 construction, 16,373 total units spread over 73  
5 applications and approximately \$141 million in 4 percent  
6 tax credits. The value of these credits over the ten-year  
7 period in which they are claimed is \$1.4 billion. Even  
8 more impressive is that this represents the annual issuance  
9 of approximately \$2.1 billion in private activity bonds.

10 So again, that was 16,373 total units which was  
11 all done with no scoring, no appeals and based on a lottery  
12 system. And that was my quarterly jab at the 9 percent  
13 program.

14 MR. VASQUEZ: Let the record reflect that Ms.  
15 Morales had an exhibit to show the 16,373 units. Show  
16 everyone.

17 (General laughter.)

18 MS. MORALES: 2022 activity is reflected in  
19 Exhibit C in your materials. We have already approved 25  
20 applications and have another 20 that are under review.  
21 The total units that these 45 applications represent is  
22 9,958.

23 Given the volatility in interest rates and cost  
24 increases, there have been a number of applications that  
25 have been withdrawn as they are no longer feasible. The

1 log reflects those applications. As those bond  
2 reservations get withdrawn, there will be more 4 percent  
3 applications submitted and added to the pipeline for  
4 review.

5 Staff recommends that you accept the report.

6 MR. VASQUEZ: Great. Do any Board members have  
7 questions for Ms. Morales on the 4 percent report?

8 (No response.)

9 MR. VASQUEZ: Hearing none, thank you for the  
10 report. It's entered into the record.

11 Moving on to item 8(a) of the agenda,  
12 Presentation, discussion, and possible action on timely  
13 filed appeal of the underwriting report published under the  
14 Department's Multifamily Program Rules for Clear Lake  
15 Crossing, project 22089.

16 Mr. Campbell.

17 MR. CAMPBELL: Good morning. Cody Campbell,  
18 director of Multifamily Programs. As always, it is a  
19 pleasure to be here.

20 The next item on your agenda concerns an appeal  
21 of the underwriting report for housing tax credit  
22 application number 22089, Clear Lake Crossing. I am joined  
23 this morning by Jeanna Adams, our director of Real Estate  
24 Analysis, who is available should the Board have any  
25 technical questions about underwriting that I am unable to

1 answer.

2 This application proposes the new construction  
3 of 90 units in Houston, Harris County. The Qualified  
4 Allocation Plan includes rules related to underwriting and  
5 financial feasibility and also establishes which costs may  
6 be included in the eligible basis of a development. As a  
7 reminder, eligible basis is the portion of the  
8 development's cost which is eligible to be supported by tax  
9 credits.

10 In accordance with the QAP, the amount of  
11 interest paid on the development's financing during  
12 construction which may be included in eligible basis is  
13 limited to the lesser of the actual eligible construction  
14 period interest or the interest on one year's fully drawn  
15 construction period loan funds at the construction period  
16 interest rate indicated on the term sheet. So in other  
17 words, you're limited to the lesser of the actual interest  
18 that you pay or one year calculated based on the term  
19 sheet.

20 The loan term sheet for this application  
21 indicates a loan of about \$15 million at an interest rate  
22 of 3.75 percent. With this loan amount and interest rate,  
23 the allowable construction interest to be included in  
24 eligible basis is \$568,383. The application was submitted  
25 with approximately \$825,000 in construction interest

1 included in eligible basis which overstates that amount by  
2 about \$250,000 by what's allowed by the rules.

3           When we reduce the eligible basis to an amount  
4 that is allowable by the rules, this results in a \$38,580  
5 cut to the eligible developer fee, as the developer fee  
6 included in eligible basis is calculated based on the  
7 project's eligible costs. It is common for part of the  
8 developer fee to be deferred and paid back during the first  
9 15 years of the development's service. This is a simple  
10 source of debt that is often used to adjust for changes  
11 made during the underwriting process.

12           Critically, the QAP requires that any deferred  
13 developer fee be repayable during the first 15 years of the  
14 development's service; otherwise, the development is  
15 considered infeasible. In other words, if you can't pay  
16 yourself back, we don't really see it as a feasible  
17 transaction.

18           The result of reducing the construction interest  
19 to an allowable level is a cut to the credit allocation of  
20 \$284,977. The project cannot support a larger deferred  
21 developer fee to make up this difference while still being  
22 able to repay it in 15 years.

23           As a result, the application was found to be  
24 financially infeasible and an underwriting report was  
25 published on June 3 which does not recommend the

1 development for an award. The applicant timely appealed  
2 this report. The appeal suggests that this matter should  
3 be curable through the Department's administrative  
4 deficiency process.

5 The purpose of the administrative deficiency  
6 process is to allow an applicant to provide clarification,  
7 explanation, or non-material missing information to resolve  
8 inconsistencies in the original application. The appeal  
9 claims that the interest rate listed in the application  
10 should be treated as an inconsistency because -- and this  
11 is a direct quote -- "it did not reflect the underwritten  
12 interest rate used by the applicant to determine the actual  
13 construction period interest."

14 The appeal also includes a new loan term sheet  
15 dated June 7 which shows a higher interest rate of 5.75  
16 percent. Remember they originally submitted at 3.75; they  
17 submitted a new term sheet with 5.75 percent. However, the  
18 QAP establishes that the inability to provide documentation  
19 that existed prior to the submission of an application  
20 could result in failure to meet threshold requirements.

21 The appeal cites another application from this  
22 round which was allowed to revise the loan term sheet as  
23 evidence that this matter should be curable thorough the  
24 deficiency process, however, for that application there was  
25 a difference between the amount of the loan on the term

1 sheet and the amount of the loan listed on the application.

2 It was a literal inconsistency in the application that  
3 required clarification.

4 For Clear Lake Crossing, which is the  
5 development in question today, because the interest rate is  
6 consistent throughout the application -- it says 3.75  
7 percent on the application, it says 3.75 percent on the  
8 loan term sheet -- staff does not identify this as an  
9 inconsistency that would warrant an administrative  
10 deficiency. Accordingly, the appeal was denied by the  
11 executive director on June 13 and is now being presented to  
12 the Board for consideration.

13 The application was reviewed and underwritten in  
14 accordance with the guidelines established in the 2022 QAP  
15 and found to be infeasible. Because of this, staff  
16 recommends that the Board deny this appeal. I'm happy to  
17 take any questions that you have.

18 MR. VASQUEZ: Just to clarify, on the deferred  
19 developer fee, those rules are statute? That terminology  
20 is a statute or a rule?

21 MR. CAMPBELL: I believe that's just a rule in  
22 the QAP.

23 Mr. Eccles?

24 MR. VASQUEZ: It's not 10 TAC Section  
25 11.302(i)(2)?

1 MR. CAMPBELL: That would be the QAP, yes, sir.

2 MR. VASQUEZ: Okay.

3 MR. ECCLES: Administrative.

4 MR. VASQUEZ: It's administrative. Okay.

5 MR. CAMPBELL: Yes, sir.

6 MR. VASQUEZ: Mr. Marchant.

7 MR. MARCHANT: Does the developer have the  
8 option of waiving the deferral?

9 MR. CAMPBELL: The developer would have the  
10 option of deferring their fee up to 50 percent, and I  
11 believe that they've already done that in this application.

12 So there's not an option for them to defer any more of  
13 that.

14 MR. MARCHANT: So they can't just totally defer  
15 the amount of the fee that would not be eligible so it  
16 wouldn't be in non-compliance?

17 MR. CAMPBELL: So when we determine what should  
18 be allowable to be deferred, we look at the first 15 years  
19 of the pro forma and we look at the cash flow that we  
20 anticipate from the development. And if that excess cash  
21 flow isn't sufficient to pay that deferral back within 15  
22 years, then we consider it to be infeasible.

23 MR. MARCHANT: Okay. So even if the developer  
24 decided to defer and not receive, he would still  
25 technically be invalid?

1           MR. CAMPBELL: That's correct. They can't defer  
2 a sufficient amount of fee to cover the difference that's  
3 created by us reducing the eligible basis and still be able  
4 to pay that increased deferral back within 15 years.

5           MR. MARCHANT: And is there an explanation or is  
6 there a reasoning behind not allowing the developer to  
7 charge less?

8           MR. CAMPBELL: You mean reducing the developer  
9 fee?

10          MR. MARCHANT: Yes, voluntarily.

11          MR. CAMPBELL: That's not the solution that they  
12 provided, so you know, we kind of have to process things by  
13 their suggestion. And their suggestion was that we allow  
14 them to increase the interest rate on the construction loan  
15 rather than decrease the developer fee.

16                 So the developer fee is 15 percent of the  
17 eligible development cost depending on how many units there  
18 are, but generally it's 15 percent. There's not a rule  
19 that says they have to take that 15 percent.

20          MR. MARCHANT: So if you found yourself in  
21 non-compliance and you were going to be turned down, a  
22 developer might decide to just defer, not take the fee.  
23 But you say that would still make them -- they could apply  
24 for that instead of applying for the treatment the way  
25 they've applied?

1           MR. CAMPBELL: I think we would have to discuss  
2 internally whether we would consider that to be a material  
3 change in the application. I don't know if we contemplated  
4 that. We contemplated their suggestion of increasing  
5 the -- because if they increase the interest rate on the  
6 construction loan then they calculate out with the year's  
7 interest that's allowable to be included in eligible basis,  
8 I'm pretty sure that gets them where they need to be.

9           MR. MARCHANT: Well, I would like for us -- not  
10 today but have a discussion about whether when a developer  
11 finds themselves in this kind of situation if they're  
12 willing to defer or make their fees less to continue the  
13 project, we ought to allow them to do so.

14           MR. CAMPBELL: Sure.

15           MR. MARCHANT: Thank you.

16           MR. CAMPBELL: I believe that discussion has  
17 come up with some of our bond transactions. There's a  
18 concern that maybe they won't meet the 50 percent test  
19 because of rising construction costs and I think internally  
20 there's been a little chatter about that. I haven't heard  
21 that same chatter come from 9 percent applicants.

22           MR. VASQUEZ: Okay. And at this point, staff is  
23 recommending to deny the appeal.

24           MR. CAMPBELL: Yes, sir.

25           MR. VASQUEZ: And cannot find within the rules

1 and statutes a recommended alternative for the applicant to  
2 make it work?

3 MR. CAMPBELL: So the Board could direct the  
4 staff to issue an administrative deficiency and allow them  
5 to update the construction rate. Staff's analysis didn't  
6 really lead us to believing that this would be something  
7 that would be covered by the administrative deficiency  
8 rule, but there is some gray area with that.

9 I think everybody who has worked on this program  
10 for a while knows that figuring out what is an  
11 administrative deficiency and what isn't is really probably  
12 the hardest question that we have to answer consistently in  
13 this program. So certainly the Board could disagree with  
14 staff here and tell us to let them fix it.

15 MR. VASQUEZ: Okay. Let me ask a question then  
16 to counsel. How much leeway and discretion does the Board  
17 have in this type of matter?

18 MR. ECCLES: There is discretion to interpret  
19 this situation as within the administrative deficiency  
20 realm, and that's what granting this appeal would be. The  
21 effect of granting this appeal would be that it could be  
22 cured as an administrative deficiency instead of this being  
23 a material deficiency, and then staff would request that  
24 information, which they've already provided.

25 MR. VASQUEZ: Mr. Marchant?

1           MR. MARCHANT:  Would that put us in a position  
2 where any future appeal that had the same characteristics  
3 we'd be bound to use our discretion the same way?

4           MR. ECCLES:  This Board is not bound by previous  
5 decisions, however, in order to remain consistent with its  
6 interpretation, it would need to consider that.

7           MR. VASQUEZ:  That was actually very related to  
8 the question that I had.  If we were to go back and make it  
9 administrative and re-tweak things to make it work out, is  
10 that opening up a floodgate of every other consultant  
11 applicant saying, well, you did that?

12           MR. WILKINSON:  We'll have Jeanna come up and  
13 speak.

14           MS. ADAMS:  I'm Jeanna Adams, director of Real  
15 Estate Analysis.

16           I would just like to point out we're reviewing  
17 two other 9 percent applications at this time that have the  
18 same lender as the application in question.  And one of  
19 those applications also had a letter dated from February  
20 with the construction interest at 3.75 percent, just the  
21 same as this application, and that application turned in  
22 one year's interest at 3.75 percent for their eligible  
23 construction interest per the rule.  There's also another  
24 current 9 percent application from the same lender where it  
25 specifies in their original letter from February the 3.75

1 percent (underwritten rate at 5.75 percent).

2           So the rules clearly state that it's the  
3 responsibility of the applicant to make sure that the term  
4 sheets that are turned in include all possible fees, and  
5 other applicants have done that. So asking if it will open  
6 up a floodgate, I'm not quite for sure how to put it, but  
7 when we have multiple letters from the same lender in the  
8 same application round, at the end of the day it's the  
9 applicant's responsibility to have those term sheets be  
10 fully representative of what they're including in their  
11 application so that we can administer this program fairly  
12 across the board.

13           MR. VASQUEZ: All right. Thanks.

14           Well, I think before we even hear testimony, I  
15 mean, it's -- okay, Mr. Eccles, we can put a motion on the  
16 floor and then have comment. Right?

17           MR. ECCLES: Of course.

18           MR. VASQUEZ: Okay. Would anyone care to make a  
19 motion on this item 8 of the agenda?

20           MS. FARIAS: I do, Mr. Chairman. I move the  
21 Board deny the appeal of the underwriting report for Clear  
22 Lake Crossing, application number 22089, for the reasons  
23 described in the Board action request and associated  
24 materials on this item.

25           MR. VASQUEZ: Okay. Is there a second to that?

1 MR. THOMAS: I second, Mr. Chairman.

2 MR. VASQUEZ: Okay. We have a motion made by  
3 Ms. Farias, seconded by Mr. Thomas, to deny the appeal as  
4 recommended by the staff. I'll entertain a motion to hear  
5 public comment.

6 MR. ECCLES: Don't need one.

7 MR. VASQUEZ: I don't need one? I thought you  
8 said we always did.

9 MR. ECCLES: There needs to be a motion.

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

11 Would anyone care to speak on behalf of the  
12 applicant? If so, please come up and identify yourself and  
13 sign in, and we're trying to make these comments as brief  
14 as possible. You'll hear a buzzer.

15 MR. MICAELA: So was there a vote yet?

16 MR. VASQUEZ: There's no vote, but there's a  
17 motion to deny the appeal that's been seconded. So that's  
18 where we stand right now.

19 MR. MICAELA: Okay, great, gotcha, gotcha.

20 So good morning. My name is Russ Micaela. I'm  
21 the attorney representing the applicant and the developer.

22 I think I got this down to about three minutes,  
23 three and a half minutes, so if you don't mind, I think I  
24 can clarify some things.

25 MR. VASQUEZ: You're wasting your time.

1 (General laughter.)

2 MR. MICAELA: So on behalf of the applicant, I  
3 believe that the Clear Lake Crossing application is an  
4 example of when an administrative deficiency can be used.  
5 An administrative deficiency, as we kind of put forth, it's  
6 information requested by Department staff that provides  
7 non-material missing information in the original  
8 application which can assist staff in evaluating an  
9 application that in staff's reasonable judgment may be  
10 cured by supplemental information or explanation which will  
11 not necessitate a substantial reassessment or reevaluation  
12 of the application. In addition -- and this is from the  
13 QAP -- administrative deficiencies may be issued at any  
14 time, okay, while the application is under consideration by  
15 the Department.

16 In this instance the missing information which  
17 can assist underwriting staff in evaluating Clear Lake  
18 Crossing's feasibility is the lender's intent to use 3.75  
19 percent plus 200 BPS to calculate the applicant's one-year  
20 period of construction interest. In other words, the  
21 applicant and lender intended to underwrite Clear Lake  
22 Crossing with the adjustable rate that equals 5.75 percent.

23 And when the underwriter runs the construction interest  
24 calculation in 11.302(e)(8) Financing Costs with that rate,  
25 then Clear Lake Crossing is completely feasible and can pay

1 back its deferred developer fee in less than 15 years.

2 And so in order to cure that financing cost  
3 item, all the applicant needs to do is submit to the  
4 underwriter a new loan term sheet from its lender. There  
5 will be no other change to the applicant's financials,  
6 development budget, operating expenses, DCR expense ratio  
7 pro forma that would necessitate this being a wholesale  
8 change or an application having a material change. And  
9 that new loan sheet we submitted on the appeal in the  
10 supplement Board on page 143.

11 So supplementing a loan term sheet occurs  
12 routinely on full application, whether during the scoring  
13 review or underwriting, so this is not something out of the  
14 ordinary. And here's a few examples that I was able to  
15 pull with my staff around other applications that were  
16 allowed to change financing tabs, like rent schedules, term  
17 sheets, et cetera: so 21235 revised application tabs on a  
18 matter to confirm its eligible basis; 21011 revised its  
19 rent schedule; 21113 and 21132 they changed the schedule of  
20 sources, the change was made to match the term letters;  
21 21228 REA cut credits and the applicant was allowed to  
22 respond with a revised cost schedule; and 22110 this year  
23 was issued an administrative deficiency and was allowed to  
24 change its term sheet, schedule of sources and other  
25 financing tabs. And a few years ago 20116 was initially

1 determined as infeasible, but it was allowed to cure with  
2 supplement information in a remand back to REA to help it  
3 go forward.

4 And the last thing I want to say is just  
5 interest rates, interest rates, interest rates. I mean,  
6 the dynamic of this real estate climate is real and I think  
7 it's important the Board at least looks into granting  
8 flexibility to applications that have a reasonable request  
9 of staff. And over the years, at least in recent memories  
10 for me, my experience has been that the Board and staff has  
11 been taking stances to help applications clarify issues  
12 like this.

13 So again, we believe that clarifying the intent  
14 of the lender falls within the administrative deficiency.  
15 So thank you very much.

16 Happy to answer any questions.

17 MR. VASQUEZ: Okay. Mr. Micaela, you said the  
18 project is still financially feasible at 5.75 percent?

19 MR. MICAELA: Absolutely.

20 MR. VASQUEZ: Okay. I thought I heard that  
21 differently from staff. Let's get that point clarified.

22 MR. CAMPBELL: Yes, sir. So the increased  
23 interest rate does allow enough construction interest for  
24 that one-year calculation to be included in eligible basis,  
25 that I don't believe we'd have to cut the eligible basis

1 which is what results in the domino effect that leads to  
2 the development being financially infeasible.

3 With that 5.75 -- and I think I would need  
4 Jeanna to confirm this for sure -- I don't think that we  
5 have the same issue if we use the higher construction rate  
6 and subsequently the higher one-year interest amount in  
7 eligible basis.

8 MR. VASQUEZ: Okay. I thought I heard that  
9 unless we defer the whole developer fee that at 5.75 it's  
10 not eligible.

11 MR. CAMPBELL: At 3.75 they don't have enough  
12 developer fee to defer to cover the gap that's caused by  
13 the cut in eligible basis. I apologize if I didn't explain  
14 that clearly.

15 MR. VASQUEZ: But at 5.75?

16 MR. CAMPBELL: It is strange to kind of wrap  
17 your head around, but yes, a higher interest rate would  
18 actually make the development feasible because there would  
19 be more costs to be supported by the tax credits.

20 MS. ADAMS: (Speaking from audience.) This is  
21 5.75 construction interest, so it's not like the permanent  
22 debt where you're supporting the debt service every year  
23 which is what we're calling the issue.

24 MR. VASQUEZ: Okay. So did you have a question?

25 MR. MARCHANT: So all of the new projects that

1 we will most likely see that come forward and say, hey, our  
2 interest rate went up, in all of those instances the very  
3 fact that the construction period interest rate is going to  
4 go up, it's going to drive the developer fee up as well.

5 MR. CAMPBELL: If they include those costs in  
6 eligible basis. I don't believe that they can increase  
7 from what we award them.

8 MR. MARCHANT: Not percentage-wise, but it will  
9 increase the developer fee.

10 MR. CAMPBELL: It could.

11 MR. VASQUEZ: Okay. I did not understand that  
12 at the initial presentation. I'm not sure if that changes  
13 anyone else's perspective on this.

14 Let's, I guess, continue with public comment.  
15 Mr. Harris again.

16 MR. HARRIS: My name is Jervon Harris,  
17 SuperUrban Realty Development, development consultant on  
18 this application.

19 Here's a couple of things that I want to point  
20 out to the Board and kind of ask that you consider when  
21 you're considering this. The calculation of eligible basis  
22 in and of itself is a pretty straightforward calculation,  
23 and that's typically done with the development cost  
24 schedule. And if you use the development cost schedule as  
25 we submitted it, with the costs that we provided, then the

1 eligible basis is supported.

2           What's at issue here is that there's a side  
3 calculation that's being done and then that side  
4 calculation is triggering a domino effect of other  
5 calculations that in essence don't really have anything to  
6 do with the actual eligible basis. So what we're saying is  
7 that the way that we underwrote the deal with the lender,  
8 we included a cushion in the interest rate to size the  
9 interest rate appropriately.

10           A change to the construction period interest  
11 only affects that side calculation. It has no effect on  
12 any of the other values. It doesn't affect the loan, it  
13 doesn't affect the perm loan, and it doesn't affect the  
14 eligible basis as a direct calculation, only as a side  
15 calculation that staff uses in its underwriting process.

16           That is not a part of the IRS program, it is now  
17 how the lender and investor would underwrite, and it is not  
18 how the application will be viewed at cost cert. If this  
19 application went to cost cert the way that it is today, the  
20 costs that we provided would be accepted.

21           So what we're asking is to acknowledge that we  
22 did have an inconsistency in the intent. We're asking to  
23 clarify that. The result of that would be a change to the  
24 schedule of sources as one solution, and a change to the  
25 term sheet. And routinely, routinely those changes are

1 made as a result of admin deficiencies that are issued to  
2 applicants.

3 Schedule of sources are changed and the data is  
4 corrected, term sheets are changed and the data is  
5 corrected. So by the volume of the amount that that  
6 happens, it clearly could not be a material change. It has  
7 to be an immaterial change because it happens consistently  
8 in response to admin deficiencies.

9 So I just ask that you consider that.

10 MR. VASQUEZ: Okay. Thank you, Mr. Harris.

11 Mr. Campbell or Jeanna. I was just going to see  
12 if everything he just said was correct.

13 MS. ADAMS: Eligible basis includes eligible  
14 construction interest; you can use one year of eligible  
15 construction interest. We can only base our underwriting  
16 on what is turned in in an application. The rules clearly  
17 state that whatever term sheet you turn in must include any  
18 extra sort of fees, any MIP, so that we can underwrite them  
19 correctly.

20 What the applicant included was the full 7.75  
21 percent construction interest on their development cost  
22 schedule. Eligible construction interest is routinely  
23 overstated by applicants so we make this adjustment all the  
24 time. And because the term sheet that was turned in stated  
25 3.75 percent and because that was also entered by the

1 applicant as 3.75 percent on their sources and uses, there  
2 was no inconsistency to drive us to ask questions.

3           It was very clear, and that's why we say you  
4 have to give us accurate information so we can accurately  
5 underwrite your deal. And you know, I think what is  
6 important is the rules apply, especially in this 9 percent  
7 round, across the board. And as we see, there are current  
8 other term sheets in here that are from the same provider  
9 and they followed the rules, they are getting underwritten  
10 according to the rules on what they turned in their  
11 application, and so that's what we underwrote.

12           And I can answer any other questions that you  
13 may have.

14           MR. THOMAS: Mr. Chairman.

15           Just a point of clarification I think is  
16 important on something, Jeanna, you said. There are other  
17 applicants from the same lender who turned in the term  
18 sheet with a sufficient cushion or whatever they needed so  
19 that you could accurately underwrite or run your  
20 calculations and underwrite it without having this  
21 administrative deficiency or a change in the term sheet  
22 provisions.

23           MS. ADAMS: We had no reason to issue an  
24 administrative deficiency. All the terms were consistent  
25 throughout the application.

1 MR. THOMAS: Or ask for supplemental information  
2 or anything like that.

3 MS. ADAMS: Yes.

4 MR. THOMAS: Okay.

5 MR. VASQUEZ: Mr. Batch, do you have anything  
6 else?

7 (No response.)

8 MR. VASQUEZ: Okay. I think we have one more  
9 speaker lined up here.

10 MR. BUMP: Good morning, Chair, Board members.  
11 My name is Casey Bump and I'm here representing Sycamore  
12 Strategies as the applicant of item number 22110.

13 This application and administrative deficiencies  
14 were cited in the challenge that you're hearing -- or the  
15 appeal that you're hearing today. We do not have any  
16 competing applications in the region so really this is just  
17 a point of clarification from our perspective.

18 After reading the appeal materials that the  
19 applicant in this instance provided, we felt it was  
20 extremely disingenuous to conflate the errors in their  
21 application with ours. We do not take the position on  
22 whether this applicant should be able to correct their  
23 inconsistencies through the administrative deficiency  
24 process or not. However, noting that we corrected through  
25 the administrative deficiency process in any way changed

1 the underwriting or financials of our application is  
2 incorrect.

3 We simply corrected the term of a loan which had  
4 in error stated 20 years when it in fact was 17. Just a  
5 reminder, a 15-year term is the minimum required in the  
6 application. The interest rate and amortization did not  
7 change throughout the application process and  
8 administrative deficiency process.

9 Once again, we don't take the position on  
10 whether the applicant should be able to update their  
11 application. We just want to point out that the comparison  
12 of our two circumstances is incorrect as the underwriting  
13 in our application remained consistent from original  
14 application through the administrative deficiency process.

15 Thank you.

16 MR. VASQUEZ: Great. Thanks, Casey.

17 MR. MARCHANT: Mr. Chairman, I've got a question  
18 for Casey.

19 MR. VASQUEZ: Cody. That's Casey.

20 MR. MARCHANT: Sorry, Cody.

21 MR. WILKINSON: Mr. Marchant, your mic.

22 MR. MARCHANT: How many applicants are we going  
23 to have this year?

24 MR. CAMPBELL: So we have 127 total  
25 applications. Right now it's looking like we're going to

1 end up making somewhere in the range of about 60 awards.

2 MR. MARCHANT: Okay. So, Mr. Chairman, last  
3 year I was too new to this job to understand what was going  
4 on. I'll be the first to admit that.

5 I think I understand what's going on now, and I  
6 feel like there ought to be some other remedy on the part  
7 of the applicant, but I understand that there's not in  
8 administrative law.

9 Thank you.

10 MR. VASQUEZ: Mr. Harris, you want to make one  
11 more comment?

12 MR. HARRIS: Yes, I do. I think this comes down  
13 to whether or not an applicant can change the schedule of  
14 sources and can change their term sheet. By citing that  
15 application, we were implying that the circumstances were  
16 the same, but the net effect was.

17 Casey was allowed to change his schedule of  
18 sources and he was allowed to change his term sheet. We're  
19 just asking to do the same.

20 Thank you.

21 MR. VASQUEZ: Okay. So we had a motion by Ms.  
22 Farias to deny the appeal and one of you seconded it -- Mr.  
23 Thomas seconded it. Does your second remain?

24 MR. THOMAS: Yes, Mr. Chairman, it does.

25 MR. VASQUEZ: Does your motion remain?

1 MS. FARIAS: Yes.

2 MR. VASQUEZ: Okay. Let's call for a vote. All  
3 those in favor of the motion to deny the appeal say aye.

4 (Ayes: Members Batch, Farias, Marchant and  
5 Thomas.)

6 MR. VASQUEZ: And those opposed say no.

7 One no, put me down as a no, but the motion  
8 carries four to one.

9 MR. BATCH: Can I ask a quick question, Mr.  
10 Chairman, if that's okay?

11 MR. VASQUEZ: As long as it doesn't make one of  
12 us change our vote on that.

13 (General laughter.)

14 MR. BATCH: I mean, from hearing the arguments  
15 kind of back and forth on this, I'm really just trying to  
16 wrap my head around it. But in terms of the schedule of  
17 sources and term sheets, how often do we allow for an  
18 applicant to make updates to those?

19 MS. ADAMS: Speaking strictly on 9 percent, not  
20 the 4 percent, I don't have a percentage but they get  
21 changed.

22 MR. BATCH: So it happens.

23 MS. ADAMS: It does happen. It happens for  
24 multifamily administrative deficiencies where there are  
25 inconsistencies. In the example that was provided, you

1 know, there's a number on a term sheet and then the  
2 applicant puts a different number on the application  
3 exhibit, like the sources and uses. Well, we have to know  
4 which one is correct, so we have to issue an administrative  
5 deficiency so we know what's correct.

6 And so those types of changes to the exhibits  
7 that are parts of the application in a 9 percent  
8 application are driven by inconsistencies between the  
9 documents and the actual application is what drives those  
10 administrative deficiencies.

11 MR. BATCH: And just to be clear, what you're  
12 saying is there was no inconsistency on this application  
13 which didn't necessarily, I guess at that point, force  
14 y'all to make any sort of administrative deficiency.

15 MS. ADAMS: We had no reason to question because  
16 it was consistent between the documents provided and the  
17 application.

18 MR. BATCH: And is that pretty consistent across  
19 the board in terms of when an applicant is consistent  
20 within their application yet, you know, there's a  
21 determination made? I mean, have we ever allowed for an  
22 applicant to then go back, and you know, update that?

23 MR. CAMPBELL: I would hesitate to say that  
24 we've never done just because --

25 MR. BATCH: But it's not common.

1 MR. CAMPBELL: -- it's been around but not a  
2 common practice. You actually may recall an item earlier  
3 this year where an applicant overstated their credit  
4 request by \$8,900 and wanted to change that. And staff's  
5 position was the same at that time. It's not inconsistent  
6 throughout the application, so there's no reason for us to  
7 issue a deficiency and have it corrected.

8 MR. BATCH: Okay.

9 MR. VASQUEZ: Okay. Thank you.

10 Moving right along, items 8(b) and 8(c) of the  
11 agenda have been pulled for today, so that brings us to  
12 8(d), Presentation, discussion, and possible action on  
13 timely filed scoring appeal under the Department's  
14 Multifamily Program Rules for Butler Park Apartments 22288.

15 MR. CAMPBELL: Thank you, Mr. Vasquez, and if I  
16 could just take ten seconds to address 8(b) and (c),  
17 because the industry is going to have a lot of questions  
18 about them.

19 8(b) was terminated by staff and within the last  
20 couple of days they submitted an appeal and it has been  
21 granted by the executive director, so that application has  
22 been reinstated and is under review.

23 For item 8(c), they have appealed their scoring  
24 notice. We initially intended to bring it to this meeting.  
25 At the applicant's request, we are going to bring it to

1 the July 7 meeting. So it's not a resolved matter, it just  
2 isn't coming in front of the Board today.

3 Item (d), graciously it's a little bit more  
4 straightforward. This item concerns a scoring appeal for  
5 Butler Park Apartments which proposes the new construction  
6 of 48 units in Andrews, Andrews County.

7 The QAP awards points based on the cost of the  
8 development per square foot. Among these point options,  
9 twelve points are available to applications with a  
10 voluntary eligible building cost that is less than \$82.67  
11 per square foot. The "less than" language in this point  
12 item is critical.

13 This round has seen several applications with  
14 that exact amount listed as the eligible cost per square  
15 foot, which does not qualify for points since the cost must  
16 be less than that amount. Staff anticipates proposing  
17 changes to this item for the 2023 QAP, which we hope will  
18 result in fewer incorrectly selected points.

19 This particular application came in at exactly  
20 \$82.67. Because of this, a point was deducted when the  
21 final scoring notice went out, because remember, it's got  
22 to be less than \$82.67.

23 The applicant timely appealed stating that the  
24 three-bedroom units were incorrectly rounded on the  
25 application where they were listed at 1290 square feet and

1 that they should have been rounded to 1291 square feet.  
2 Because rounding is not allowed for this scoring item, the  
3 appeal was denied by the executive director.

4           Upon receipt of this denial, the applicant  
5 further engaged staff. While the rounding argument  
6 originally presented in the appeal would not be allowed  
7 under program rules, the actual square footage of the units  
8 in question is 1290.69, as evidenced in a response to an  
9 administrative deficiency issued by the Department on May  
10 17.

11           When this precise figure is entered into the  
12 application as originally submitted -- so in other words,  
13 making no other changes, just putting the correct square  
14 footage in -- the voluntary cost per square foot drops to  
15 \$82.65, which is sufficient to qualify for the points in  
16 question.

17           Because of this, the staff actually recommends  
18 that the Board grant the appeal.

19           MR. VASQUEZ: Great. They're cutting this one  
20 right to the end. So in summary this isn't -- when we  
21 normally think of a rounding, it's someone takes something  
22 at 8.499 and rounds it up to 9, but this is simply taking  
23 the full decimal points, doing the math and it qualifies.

24           MR. CAMPBELL: Yes, sir, that's correct. So  
25 they rounded one way at first and then they said, oh, no,

1 we should have rounded the other way.

2 MR. VASQUEZ: Well, we shouldn't have rounded is  
3 what they said.

4 MR. CAMPBELL: Exactly. But when you put the  
5 right number in, they qualify for the points.

6 MR. VASQUEZ: Okay. Do any Board members have  
7 questions on this one?

8 (No response.)

9 MR. VASQUEZ: Thank God for computers and Excel  
10 to use all those decimals.

11 So the chair would entertain a motion on item  
12 8(d).

13 Well, does anyone want to speak against this?

14 (No response.)

15 MR. VASQUEZ: I'll entertain a motion for item  
16 8(d) of the agenda.

17 MR. BATCH: Mr. Chairman, I move that the Board  
18 grant the scoring appeal of Butler Park Apartments,  
19 application number 22288, for the reasons described in the  
20 Board action request and associated materials on this item.

21 MS. FARIAS: Second.

22 MR. VASQUEZ: Motion made by Mr. Batch, seconded  
23 by Ms. Farias. All those in favor say aye.

24 (A chorus of ayes.)

25 MR. VASQUEZ: Any opposed?

1 (No response.)

2 MR. VASQUEZ: Hearing none, motion carries.

3 Getting us back on schedule here. So should we  
4 take like an hour and a half lunch or something?

5 (General laughter.)

6 MR. VASQUEZ: Hearing no objection, let's move  
7 on to item 8(e) of the agenda, Report of third party  
8 requests for administrative deficiency under 10 TAC Section  
9 11.10 of the 2022 Qualified Application Plan.

10 I'd like to make a note that per 10 TAC  
11 11.10(f), the Board may not take a final action in response  
12 to this report, but if the Board believes that staff's  
13 conclusion on the RFAD should be revisited, the Board may  
14 remand the RFAD back to staff for further consideration  
15 which may result in a reaffirmation, reversal, or  
16 modification by staff.

17 Again, I think there's a whole list of report  
18 items under the RFADs, and we'll introduce each one and  
19 then have discussion?

20 MR. WILKINSON: The plan is to have him run  
21 through them all and then lock on it kind of in order.

22 MR. VASQUEZ: After we run through the whole  
23 thing.

24 MR. WILKINSON: After he runs through the whole  
25 thing.

1           MR. VASQUEZ: Okay. So we'll run through the  
2 whole list and basic explanation. Right?

3           MR. CAMPBELL: Well, so I've got a summary of  
4 like the high level issues.

5           MR. VASQUEZ: Okay. And then we'll go back and  
6 I'll give everyone ample opportunity to stand up and get up  
7 here if you want to speak on yours or whichever subject.

8           So with that, Mr. Campbell.

9           MR. CAMPBELL: Thank you, and I do apologize in  
10 advance, this I just a bit longer than my normal  
11 presentations, but the subject matter does warrant it.

12           The purpose of the third party request for  
13 administrative deficiency process -- or RFADs, as they're  
14 more commonly known -- is to allow an unrelated person or  
15 entity to bring new material information about an  
16 application to staff's attention and to request that staff  
17 consider whether that information should result in an  
18 administrative deficiency. While a deficiency may be  
19 issued as the result of an RFAD, not all RFADs will result  
20 in a deficiency being issued.

21           The requirement that RFADs present new material  
22 information is critical to this presentation. The QAP is  
23 very clear that if the assertions in the RFAD describe  
24 matters that are part of the application review process and  
25 the RFAD does not contain information not present in the

1 application, staff will not review or act on it.

2 Additionally, any RFAD that questions a staff  
3 decision regarding the scoring of an application filed by  
4 another applicant will be disregarded, straight from the  
5 QAP.

6 Submitting an RFAD is not an interactive or two-  
7 way process between the requester and staff, nor does it  
8 make the requester party to the application for which they  
9 are submitting the request. The result of an RFAD may not  
10 be appealed by the requester.

11 RFADs are one of the more controversial  
12 components of this program. There are certainly people in  
13 the housing industry who would prefer that this process be  
14 eliminated entirely, and I think you'd have to search far  
15 and wide to find anybody who has worked at the Department  
16 who would tell you that this is their favorite part of  
17 administering the program.

18 That being said, RFADs provide a tremendous  
19 amount of valuable information to staff -- I really do mean  
20 that; there's a lot of good information in them -- and just  
21 as importantly, they provide a formal mechanism for  
22 participants in our programs and other concerned parties to  
23 present their concerns about applications to the  
24 Department.

25 RFADs were due on May 6. Sixty-five RFADs were

1 submitted by this date. Of these, 18 were considered by  
2 staff to provide new material information as required by  
3 the rule. Staff did attempt to err on the side of caution  
4 when evaluating the requests for this criteria, so for  
5 example, one could competently argue both ways whether or  
6 not issues related to mapping provide new material  
7 information, and in most of these cases, staff did choose  
8 to treat these as though they did. The 18 requests which  
9 provide new information are detailed in the report in your  
10 Board materials.

11 Of the 65, 42 were not considered by staff to  
12 provide new material information. A list of these is also  
13 provided in the report. I would like to emphasize that the  
14 lack of new information does not necessarily mean that  
15 these requests don't raise valid issues or that staff  
16 necessarily disagrees with the requester; just that the  
17 issues raised are already included as part of staff's  
18 review of information that we already have on hand. Of  
19 these requests. Probably the most common issue raised was  
20 a lack of supporting documentation provided in the  
21 application to support points claimed.

22 While each of these issues is unique and  
23 warrants specific analysis during the application review,  
24 staff would like to note that the following sentence, which  
25 was previously located at 10 TAC 11.9(a), was removed from

1 the QAP for the 2022 round, so what it used to say is:  
2 "Due to the highly competitive nature of this program,  
3 applicants that elect points where supporting documentation  
4 is required but fail to provide any supporting  
5 documentation will not be allowed to cure the issue through  
6 the administrative deficiency process."

7 So that's what the QAP used to say; that  
8 sentence was taken out. The removal of the sentence has  
9 informed staff's review of applications this year. Of the  
10 65 submitted RFADs, three failed to meet the QAP  
11 requirement of notifying the applicant at the time of  
12 request.

13 So you can't just send it to us; you also have  
14 to let the applicant know that you're doing it. All three  
15 of these came from representatives of neighborhood  
16 organizations and are listed separately in your materials.

17 While staff did not treat these as RFADs, we  
18 have communicated extensively with members of the  
19 neighborhood organization in question to answer their  
20 questions.

21 The remaining two RFADs, unfortunately, were  
22 inadvertently left off of this report and will be presented  
23 to the Board at the July 7 meeting in a follow-up report,  
24 and I promise to make that presentation just a little bit  
25 shorter.

1           For the 18 RFADs that did present new  
2 information, many raised one of two issues. First, several  
3 were submitted in Houston and Austin, which informed staff  
4 that newly elected officials were sworn in between the time  
5 of pre-application and full application. Because these  
6 newly sworn-in officials were not notified, the requests  
7 suggest that the application failed to meet the public  
8 notification requirements.

9           Staff reviewed these and did not determine that  
10 any had failed the requirement. The QAP requires re-  
11 notification if the jurisdiction of the official holding a  
12 position changes between pre-application and full  
13 application; re-notification is not required if a new  
14 person is elected to the same jurisdiction.

15           Second, several requests were received related  
16 to the five-point scoring item in the underserved area  
17 point category. This particular item allows for five  
18 points to be awarded for a site located -- and I apologize;  
19 this is dense -- within a census tract whose boundaries are  
20 wholly within an incorporated area if the census tract  
21 itself and all contiguous census tracts do not have another  
22 development that was awarded less than 15 years ago. And  
23 this item only applies in Places with a population of  
24 100,000 or more, and that's capital P, Places, which is a  
25 defined term in the QAP.

1           These requests really could have gone either way  
2 in terms of presenting new information, but staff chose to  
3 treat the requests which raised issues related to mapping  
4 as presenting new information due to the sensitivity and  
5 precision of this information.

6           Several requests raised issues concerning the  
7 requirement that these census tracts' boundaries be wholly  
8 located within an incorporated area. One application did  
9 not meet this requirement. Staff determined that the  
10 application did not qualify for these five points and  
11 issued a scoring notice reflecting that reduction. The  
12 applicant has since withdrawn.

13           Another application received a similar RFAD.  
14 Staff reviewed the census tract in question and determined  
15 that it did qualify for those points because while a small  
16 portion of the census tract itself is unincorporated, the  
17 boundaries of the tract are wholly located within an  
18 incorporated area, which is what is required by the rule.  
19 A map of the census tract in question is provided on page 6  
20 of this item in your materials.

21           This has been a high level summary of the issues  
22 presented, and I'm happy to answer any questions the Board  
23 may have about any other specific RFADs. The item in front  
24 of you today is a report item rather than an action item.

25           The Board may accept the report but also may

1 remand any specific issues in it back to staff for further  
2 consideration. No points are being awarded or deducted and  
3 no awards are being made by this specific item. Staff  
4 recommends that the Board accept this report.

5 MR. VASQUEZ: Okay. So just to clarify, if we  
6 do not accept the report as is and instruct staff to  
7 revisit, that's still not an approval. They'll look at it  
8 again, and even whether someone's appeal is approved -- I'm  
9 sorry -- whether the RFAD is approved or denied at this  
10 point and we just accept the report, everyone is still in  
11 the pot in the running, just their point scoring might be  
12 changed.

13 MR. CAMPBELL: Correct.

14 MR. VASQUEZ: So we're not approving or denying  
15 anything at this point.

16 MR. CAMPBELL: That's correct.

17 MR. VASQUEZ: All right. Just want to make that  
18 clear.

19 So are we going to start going down the list as  
20 a high level?

21 MR. CAMPBELL: So almost all of the 18 covered  
22 one of the issues that I covered, either the  
23 re-notification of public officials or the mapping related  
24 to the underserved area points. I've got the 18; I'm happy  
25 to go through them one at a time.

1 MR. VASQUEZ: Okay. Let's just poll the group  
2 here. How many of you are here are here to actually speak  
3 for or against one of these items on the agenda? Is it  
4 just the folks over here?

5 Hang on, Mr. Shackelford.

6 Again, if you want to speak for or against an  
7 RFAD on the agenda, please come up to the front couple of  
8 rows. Could you tell us which one?

9 MR. SHACKELFORD: (Speaking from audience.)

10 MR. VASQUEZ: Okay. And you have those  
11 identified?

12 MR. CAMPBELL: Yes. I've got a list of them.

13 MR. VASQUEZ: Okay. And again, just to  
14 summarize the notification of elected officials, we're  
15 talking about if, say, Houston City Council District C, as  
16 long as that district stayed the same geographically, it  
17 doesn't matter if the applicant notified the city council  
18 member at that time.

19 It doesn't matter about the person's name, it's  
20 they notified the officeholder at that time even if the  
21 person changed. The officeholder has still been notified.

22 That's what we're saying.

23 MR. CAMPBELL: Yes, sir, and that comes from  
24 Texas Government Code 2306.6705(9), which establishes the  
25 notification requirements, and what it says is that you

1 have to notify the entity, and so this was a specific  
2 change made to the QAP. I believe it was between the 2019  
3 and 2020 QAP but I could be off by a couple of years on  
4 that.

5 We received comments that presented to staff  
6 that entity is not really the same thing as a person.  
7 Staff accepted that, and the comments the staff provided in  
8 that change to the QAP are consistent with the way that  
9 staff is interpreting this requirement today.

10 MR. VASQUEZ: Okay. So are all the Board  
11 members comfortable with that? You sue the board chair of  
12 a group and then that chairman leaves, they change the name  
13 or the style of the suit to the next chairman's name.

14 MR. CAMPBELL: Sure.

15 MR. VASQUEZ: That was an example, or ED's name.

16 Mr. Shackelford?

17 MR. MARCHANT: And during a redistricting year,  
18 you can end up with having sent a letter to a district that  
19 the member no longer even represents.

20 MR. VASQUEZ: No. That's a different case, and  
21 so if that was the case, that would apply that you didn't  
22 notify -- you had to re-notify if the boundaries moved, a  
23 state rep letter or something like that. That does not  
24 apply in this case, but that would be a problem where they  
25 would have to re-notify.

1 MR. CAMPBELL: Yes, sir.

2 MR. VASQUEZ: Okay.

3 MR. THOMAS: Motion for comment?

4 MR. VASQUEZ: I'll entertain a motion for public  
5 comments.

6 MR. THOMAS: So moved.

7 MS. FARIAS: Second.

8 MR. VASQUEZ: Made by Mr. Thomas, seconded by  
9 Ms. Farias. All in favor aye.

10 (A chorus of ayes.)

11 MR. VASQUEZ: Okay. Comments.

12 Mr. Shackelford, do you want to speak on that at  
13 all, because it appears I don't sense any dispute with the  
14 staff's recommendation on that, but we'd love to hear from  
15 you.

16 MR. SHACKELFORD: Not to prejudge anything, mind  
17 you.

18 Mr. Chairman, John Shackelford on behalf of  
19 Sonoma Housing Advisors.

20 I do take issue with Mr. Campbell in a couple of  
21 respects. He cited the statute, but the statute that he's  
22 reciting it does use the word "entities," but then in the  
23 laundry list of who needs to be notified under the statute,  
24 (a) is a neighborhood organization, but then after that  
25 everybody after is an individual.

1           If your application is in the city, you have to  
2 give notice to the mayor and all the elected officials of  
3 the city council; if you're in the county, it's the county  
4 commissioners; the school district, it's the school board  
5 and superintendent.

6           So when Mr. Campbell -- and in visiting with  
7 him, I think I understand where he's coming from -- he's  
8 sort of saying, okay, he's looking at a city council seat  
9 as an entity. This particular gave notice to the occupant  
10 of that seat at that time, therefore it qualifies.

11           I would say I don't interpret the statute that  
12 way -- if I'm misinterpreting the statute, I apologize for  
13 wasting anybody's time -- but that's not the way the  
14 statute reads. It says "entities," but everybody in there  
15 other than a neighborhood organization is an individual, so  
16 I take issue with that interpretation by Mr. Campbell.

17           The other thing is under the rule that we're  
18 under for public notification too it says "officials to be  
19 notified are those in office at the time the application is  
20 submitted." This particular city council person was sworn  
21 in on February 2, some applications -- maybe all but I  
22 didn't research all -- most of the applications were filed  
23 after February 2, so the QAP rule says the officials to be  
24 notified are those in office at the time you file your  
25 application.

1           In this particular one I'm concerned about, they  
2 filed they filed their application subsequent to the date  
3 of the new city council member being sworn in, so I take  
4 issue with that that it applies across the board in that.

5           And also then, under the particular application  
6 I'm referring to, on their tab when they had to certify  
7 were there any changes between pre-application and  
8 application in the public officials, in the pre-app they  
9 had a list of all the city council members. They checked  
10 the box that there was no change between pre-application  
11 and application. That's a false statement, so under  
12 11.903, that's making a false and misleading representation  
13 in an application.

14           So I think on the particular application I'm  
15 concerned about, I think they've got issues two different  
16 ways: under the rule under 11.203 on public notification  
17 that the official wasn't the same at the time they filed  
18 their application, and then they made a false  
19 misrepresentation to the staff and to the Department when  
20 they said there was no change between pre-app and the  
21 application.

22           And I know the chairman doesn't like "gotchas,"  
23 and I get that.

24           MR. VASQUEZ: It's already coming into mind.

25           MR. SHACKELFORD: Right, right, and I understand

1 that and I understand, but to me this is statutory what is  
2 required, and I don't think the Board has discretion on it,  
3 so my request would be that the Board ask staff to take  
4 another look at this issue.

5 Thank you.

6 MR. VASQUEZ: Okay. Thank you, Mr. Shackelford.

7 Does anyone have questions?

8 MR. WILKINSON: What's the application number  
9 that you're particularly concerned with?

10 MR. SHACKELFORD: It's Coral Hills.

11 SPEAKER FROM AUDIENCE: 22012 Cypress Seniors.

12 MR. SHACKELFORD: Well, that's one of them but  
13 it impacts others as well. 22273, 22273 is Coral Hills  
14 where the specific dates I cited, they filed their  
15 application on February 17 -- well, it's notarized on  
16 February 17, I don't know exactly the day that they  
17 submitted it to the Department, but it was notarized on  
18 February 17, 15 days after the change in the public  
19 official.

20 MR. VASQUEZ: Okay. With all due respect, I  
21 think on your argument regarding notifying the individual  
22 person versus the individual who was in office, the  
23 officeholder at the time, I think the intent was the  
24 officeholder, of the statute, of the language, so I don't  
25 think you're going to get any movement from us there.

1           On the "gotcha" portion, the second part of your  
2 argument, of the officeholder changing, even though the  
3 previous officeholder was notified, we concede that, but it  
4 changed by that two-week period, or 15 days or whatever it  
5 was, that's technically a "gotcha," but I don't know if  
6 that sways me.

7           MR. CAMPBELL: So if you'll give me just a  
8 second here. It's 11.203 of the QAP says very clearly:  
9 "If notifications were made in order to satisfy  
10 requirements of pre-application submission for the same  
11 application, then no additional notification is required at  
12 application."

13           It's just addressed as clear as can be in the  
14 QAP. So if they notified the correct entity at  
15 pre-application, no requirement for re-notification at  
16 application.

17           MR. VASQUEZ: Mr. Eccles, are you good with  
18 that?

19           MR. ECCLES: I have no further questions for  
20 staff on this. That is an accurate recitation of that  
21 section of the QAP.

22           MR. VASQUEZ: Okay. Do any Board members have  
23 any questions or problems on this topic?

24           (No response.)

25           MR. VASQUEZ: Hearing none, let's continue with

1 whatever -- more comment not on the notification of the  
2 officeholder and the timing of that officeholder?

3 MR. FISHER: Good morning, Board members. Bill  
4 Fisher, Sonoma Housing.

5 I'm referring to the RFAD on 22012, same notice  
6 issue. Board members, I have participated in the 9 percent  
7 tax credit round since 1997. This notification requirement  
8 has been in place for a long time. I've been in a  
9 situation where the state rep took office after the pre-app  
10 deadline; we were required to notify the new state rep, and  
11 that has been consistent all these years.

12 To give you some perspective, there are 17  
13 applications that are affected by the notification  
14 requirement for the new council member. Eleven  
15 applications re-notified and properly marked their  
16 application notifying staff and the Board that a change had  
17 taken place and the notification had been done.

18 This section of the application is titled  
19 "Elected Officials" and that particular section I'm  
20 referring to states: Elected officials have changed -- not  
21 the entity -- elected officials have changed since the pre-  
22 app and information regarding notifications or re-  
23 notifications are entered below. It's a requirement.

24 Although I don't look like it, I was a  
25 competitive swimmer all the way through college, and

1 competitions are technical. You know, if I didn't touch  
2 the wall with two hands and I was in first place, I got  
3 disqualified. If you don't do what's required in a  
4 competitive round like this, you're disqualified.

5 And I suggest to you the failure to notify and  
6 mark the box are both terminal to the six applications.  
7 I'd ask the Board to consider the fact that eleven of the  
8 17 folks did notice the change and firmly believe, based  
9 upon the statute, the QAP and the application requirement,  
10 that notification was required to that particular elected  
11 official and the application needed to be properly marked.

12 Unfortunately -- and I'm not a big "gotcha" guy  
13 either when it comes to building housing until it comes to  
14 competition, and we all need to abide by the rules, and I'm  
15 suggesting that these six applicants missed it, and when  
16 you miss it, you lose and you reapply next year.

17 And I appreciate your time.

18 MR. VASQUEZ: Thank you, Mr. Fisher.

19 MS. ANDERSON: Good afternoon. My name is Sarah  
20 Anderson, and with all due respect to Mr. Fisher, sometimes  
21 being in this program for this long you end up having  
22 institutional memory that just is simply not correct  
23 anymore.

24 Two years ago we actually were the people that  
25 brought to staff the request that the rule be changed that

1 we go from what it was three years ago that if someone came  
2 in we had to re-notify, and it was because we pointed out  
3 the language in the statute talked about the institution as  
4 opposed to the individual.

5 The rule was changed two years ago about this.  
6 What didn't happen was the application wasn't updated to go  
7 along with that rule necessarily, so the form stayed the  
8 same, the rule changed.

9 This came up last year. There were multiple  
10 challenges for this exact same thing where people said you  
11 didn't re-notify, and staff pointed out at that time the  
12 rule changed, you don't have to re-notify.

13 This is the second year that this rule will be  
14 in place, and unfortunately, there just are a lot of people  
15 who frankly just didn't notice the change.

16 So staff is correct, the rule changed several  
17 years ago, they kept it this way, all of last year's  
18 challenges were done this way, and staff is being  
19 consistent, and they are correct with this item.

20 MR. VASQUEZ: Thank you, Ms. Anderson.

21 MS. ANDERSON: If you have any questions, I can  
22 answer them as well.

23 MR. THOMAS: Just one real quick clarification  
24 question. So are we saying -- like so Mr. Fisher, when he  
25 made his comments, referenced the 17 applications, eleven

1 of which made the notification change because they followed  
2 the form on the application and that was his interpretation  
3 of the rule as it's been.

4 You're saying the rule changed two years ago.  
5 The six applicants that didn't re-notify didn't need to re-  
6 notify under the new rule.

7 MS. ANDERSON: Correct. And just the form is a  
8 legacy. You know, sometimes we see -- you guys have heard  
9 this over and over again that a rule changes and the form  
10 in the application may not get updated, and in this case  
11 just the form in the application wasn't updated but the  
12 rule has been in place for two years now.

13 MR. THOMAS: Okay.

14 Cody, is that correct, the rule has changed; the  
15 form just wasn't updated?

16 MR. CAMPBELL: Yes, sir. And certainly we will  
17 make that update to the application for next year, but I  
18 would agree with Ms. Anderson's comments.

19 MR. THOMAS: Thank you.

20 MR. VASQUEZ: I guess Barry was here first.

21 MR. PALMER: Barry Palmer, representing the  
22 Coral Hills application, and I support everything that  
23 Sarah Anderson said and staff's interpretation. I think  
24 this was a good change to the rules.

25 You know, this was a "gotcha" in the program for

1 a number of years where people got tripped up because  
2 somebody new got elected that really had no substantive  
3 impact. This complies with the statute the way that the  
4 rule is being interpreted now, and I support staff's  
5 interpretation.

6 MR. VASQUEZ: Thank you, Mr. Palmer.

7 Ms. Horak-Brown.

8 MS. HORAK-BROWN: Good morning, gentlemen. Joy  
9 Horak-Brown, president and CEO of New Hope Housing in  
10 Houston, Texas.

11 I would like to be very clear that we do have an  
12 application and it is not competitive but we did re-notify  
13 when we noticed a change in council. We did that as a  
14 courtesy.

15 We understood the rule, we totally agree with  
16 Sarah Anderson; it was simply for good local  
17 communications, and we would definitely not want to be an  
18 example of something that was needed. It was not needed;  
19 it was simply a courtesy.

20 We agree that any "gotchas" that can be removed  
21 from this program are a wonderful thing. It's an  
22 extraordinarily complex process, and we trust that you will  
23 remain with the rule as it is and was rewritten and that  
24 you will update the application.

25 Thank you very much.

1 MR. VASQUEZ: Thank you, Joy.

2 Okay. Again, we don't have to take any action  
3 on that if we agree with the staff.

4 Is there another pool of types of applications,  
5 RFADs?

6 MR. CAMPBELL: No, sir, not among the 18. There  
7 are a few smaller kind of one-off issues, but they're  
8 not -- these were the significant issues that I really  
9 suspected would warrant the comments.

10 MR. VASQUEZ: Okay. Is there anyone in the  
11 audience who wishes to speak against an RFAD or for an RFAD  
12 recommendation that's in the materials that staff has  
13 recommended -- or analyzed and put forth?

14 (No response.)

15 MR. VASQUEZ: It's a miracle! We should have  
16 broken for lunch.

17 (General laughter.)

18 MR. VASQUEZ: Last call. I mean, there's still  
19 more items; there's going to be a couple more meetings.

20 Again, we appreciate the industry's attention to  
21 detail and concern for the integrity of the program, and we  
22 definitely appreciate staff's work on going through this.  
23 I mean, it's always -- for newer Board members, for all the  
24 Board members, there have been some years where this just  
25 could go on and on and on for a long time.

1           MR. CAMPBELL: These are the RFADs we received,  
2 and this is printed double-sided.

3           MR. VASQUEZ: Let the record show he's showing  
4 like a three-inch stack double-sided of materials.

5           So we accept the report of staff, and please  
6 continue on with the recommendations, and we'll move on to  
7 the final scoring in the next meetings.

8           This brings us to item 8(f) of the agenda,  
9 Presentation, discussion, and possible action to issue a  
10 list of approved applications for the 2022 housing tax  
11 credits in accordance with Texas Government Code Section  
12 2306.6724(e).

13          MR. CAMPBELL: Thank you, Mr. Vasquez.

14          This is a little bit of a strange item. It is  
15 required by statute; I think it was probably placed in  
16 there before the widespread adoption of the internet where  
17 people maybe didn't have access to as much information as  
18 they do. We routinely post logs of applications on our  
19 website which provides this information to folks, but we've  
20 still got to do this.

21          So the Department's Board is required by statute  
22 to review the recommendations of Department staff regarding  
23 applications and to issue a list of approved applications  
24 each year no later than June 30.

25          To be clear, this is not a list of awards. It

1 is simply a list of applications which, as of June 8, when  
2 the report was prepared, had not been found ineligible to  
3 compete in this round. The applications recommended for  
4 award will be presented to the Board on July 28.

5 Initially, 303 pre-applications and then 127  
6 full applications were submitted for this cycle. As of the  
7 date that this report was prepared -- which again was June  
8 8 -- 13 applications had been withdrawn or terminated.

9 As provided by the QAP award recommendation  
10 methodology, the Department will not perform a detailed  
11 review of all applications. We review priority  
12 applications that are most likely to be competitive.

13 Priority applications are based on self-score,  
14 preliminary review and other relevant factors such as  
15 information that's brought to our attention through RFADs.

16 As staff continues the review process, applications remain  
17 subject to the identification of material deficiencies,  
18 administrative deficiencies, or point losses.

19 Further, the credit amount reflected on this  
20 list is the amount requested by the applicant, which may  
21 change as the application is underwritten. The  
22 underwriting reports that have been completed to date are  
23 posted on the Real Estate Analysis section of the  
24 Department's website.

25 Staff recommends that the Board approve the list

1 of active applications for the 2022 competitive housing tax  
2 credit round.

3 MR. VASQUEZ: Okay. Anyone want to make a  
4 motion on accepting the list in item 8(f)?

5 MR. THOMAS: Mr. Chairman, I move the Board  
6 accept the list of active 9 percent applications, as orally  
7 discussed at this meeting in accordance with Texas  
8 Government Code Section 2306.6724(e) and subject to the  
9 descriptions, limitations and stipulations stated in the  
10 Board action request on this item.

11 MS. FARIAS: I second.

12 MR. VASQUEZ: Motion made by Mr. Thomas,  
13 seconded by Ms. Farias. Any further discussion?

14 (No response.)

15 MR. VASQUEZ: There's no public comment on this  
16 item, so all those in favor say aye.

17 (A chorus of ayes.)

18 MR. VASQUEZ: Any opposed?

19 (No response.)

20 MR. VASQUEZ: Hearing none, motion carries.

21 Thank you, Cody.

22 MR. CAMPBELL: Thank, y'all.

23 MR. VASQUEZ: So the Board has addressed the  
24 posted agenda items. Now is the time of the meeting where  
25 members of the public can raise issues with the Board on

1 matters of relevance to the Department's business or  
2 request that the Board place specific items on future  
3 agendas for consideration.

4 If there's anyone who would like to provide  
5 public comment, I invite you up to the front at this time.

6 (General talking and laughter.)

7 MR. VASQUEZ: Remember, everyone, identify  
8 yourselves and your organization and sign in, please, and  
9 keep your remarks as brief as possible.

10 MS. ANDRE: Yes. My name is Sarah Andre. Thank  
11 you very much.

12 I am here to talk about two items, one of which  
13 is supplemental credits. I believe you are about to hear a  
14 lot of information about supplemental credits, and I agree  
15 with what I think is going to be the majority of the  
16 speakers here that supplemental credits will be needed for  
17 the next round.

18 However, I do want to bring one thing to your  
19 attention: supplemental credits this year are having some  
20 unintended consequences.

21 There is, you know, a really great formula for  
22 how awards are made after USDA and after at-risk. Then we  
23 go to the rural regions, then we go to the urban, and we  
24 have collapse, et cetera, et cetera. And it's very well  
25 laid out, and I won't say it's easy to follow but it can be

1 done.

2 And one of the unintended consequences of the  
3 supplemental credits for 2021 deals is that there are some  
4 regions that will not be getting a new allocation this  
5 year, so they have high scoring development and just the  
6 way the collapse works, it appears that there is not going  
7 to be a new award made for a region.

8 And I can be as specific or as vague as you  
9 like. I don't want to take up a lot of time here, but in  
10 our current calculation it appears that there will be a  
11 region that will get 300 percent of its regional allocation  
12 formula and then there will be a region that will get 15  
13 percent. And so I am asking you to encourage staff to look  
14 at that and potentially report on it if that is your  
15 desire.

16 And then I'm ready to go on to my second  
17 comment. Any questions?

18 MR. VASQUEZ: Go ahead.

19 MS. ANDRE: Thank you.

20 Okay. As quickly as possible, you know, I think  
21 we're all in a bit of a lather on this side of the podium.

22 It's a tough world out there in this business, rising  
23 interest rates, increasing costs; you know, you're just  
24 kind of getting squeezed on both sides.

25 So you know, I had a very sobering conversation

1 with Mr. Campbell a few weeks ago about what was going on,  
2 and he said, you know, as staff we don't necessarily have  
3 the same window on the industry as you have. And I said,  
4 you know what, I'd be happy to do a little bit of research.

5 So I polled some of my colleagues, we looked at  
6 the 2021 awards list, and I asked those colleagues to just  
7 anonymously tell me which of those deals had closed.  
8 Ordinarily, 10 percent tests would be due and TDHCA would  
9 have a great deal of information about that, but with the  
10 sort of blanket postponement of 10 percent tests, the  
11 Department is a little bit in the dark.

12 So here is what we found. Of the 72 awarded  
13 applications from last year, the colleagues that I polled  
14 were able to comment on 45 of those, or 62.5 percent of the  
15 applications.

16 Now, you know, I have not taken statistics for  
17 30 years but I think that's a legitimate sample size. Of  
18 those, 13 percent had closed. So I think if you had a 100  
19 percent answer rate -- and you may have that soon enough,  
20 because I was on vacation, and I think y'all sent out a  
21 poll as well -- I think you're only going to see about 13  
22 percent have closed, and that is due to the uncomfortable  
23 circumstances we as an industry find ourselves in right  
24 now.

25 So I'm bringing that to your attention for you

1 to ponder and in your group as the policymakers think about  
2 potential solutions, and we will also, of course, be  
3 offering solutions. I think you're going to start seeing a  
4 number of amendment requests that are out of the box or  
5 things that I would ordinarily tell my clients no way,  
6 that's not acceptable, that's not going to happen, and I  
7 want you to be prepared for that.

8 But I do know that the people I work with are  
9 making their very best efforts to make their deals work,  
10 and I am hoping that we can all come together to find a way  
11 to salvage what we have before we start some new things.

12 MR. MARCHANT: Chairman?

13 Clarification, the 13 percent closed their  
14 interim loan, their construction loan?

15 MS. ANDRE: So you close actually on your  
16 construction loan, any bridge financing, and your equity  
17 all at the same time.

18 MR. MARCHANT: So you're going to do it, you've  
19 managed to do it, and you've executed those documents.

20 MS. ANDRE: Yes, sir, that's correct. And then  
21 you eventually convert. You know, the construction loan is  
22 high, the equity slowly takes that out as you reach the  
23 milestones, and then you convert to your permanent loan  
24 when you have reached 90 days at 90 percent occupancy plus  
25 some other milestones.

1 MR. MARCHANT: The 13 percent as opposed to a  
2 normal year of what percent?

3 MS. ANDRE: You know, that's a great question,  
4 but I know for the deals that I'm working on, only half  
5 have closed and normally by now it would be 95 to 100  
6 percent. You generally have to close to hit your 10  
7 percent test; you want to hit your closing in the first  
8 quarter of the year following your award.

9 MR. MARCHANT: Thank you.

10 MR. VASQUEZ: And just for the record, I think  
11 that the Department and Board have been very accommodating  
12 in extending placed-in-service deadlines. Even today on  
13 this consent agenda there was a whole slew of them. Let's  
14 just make sure everyone recognizes that.

15 MS. ANDRE: I definitely concur; of course we  
16 do. I'm just trying to paint a picture and provide you  
17 with information that you may not normally have access to.

18 Thank you very much for listening and for your  
19 time today.

20 MR. VASQUEZ: Thanks, Sarah.

21 Next in line.

22 MS. MYRICK: Good morning, my name is Lora  
23 Myrick, and I am with BETCO Consulting, and I am also here  
24 to talk about the dreaded supplemental credits coming up.

25 I also with Sarah agree that we will probably --

1 we are in need of supplemental credits. She and I have  
2 been talking about some of the information that she has  
3 provided for you this morning.

4 The other thing is that I was thinking about is  
5 the force majeure that have been approved, and we are  
6 extremely grateful, and we could not do some of these  
7 things that we're trying to do without those extensions, so  
8 we are extremely grateful to staff and to the Board who  
9 have provided those extensions.

10 We need those extensions because we have  
11 construction delays that are still plaguing us and we have  
12 costs that are completely plaguing us as well. Labor  
13 shortages are still a huge deal for us, supply chain issues  
14 are still an issue for us.

15 We have one transaction that the transformers --  
16 with the freeze of last year, their transformers -- they  
17 were replacing them, so now they don't have transformers  
18 and transformers are twelve months behind on backorder. So  
19 it's things like that, and I'm sure you'll hear other  
20 people that will bring other examples to you.

21 But I was looking at the 2021 deals and the  
22 force majeure requests. There have been 22 to date; that's  
23 roughly more than 30 percent. That tells you that there is  
24 a lot that is going on out there, and we're trying to find  
25 other sources of funds, we're trying to do everything that

1 we can to mitigate some of these costs that are increasing  
2 and some of the delays that we are seeing.

3 I would advocate for additional credits, and  
4 right now we do have somewhat of a Subchapter F in there  
5 which is the supplemental credits, and I would advocate  
6 that we keep that and we allow it to stand and we have the  
7 opportunity to maybe tweak it here and there for the  
8 upcoming round.

9 I think one of the beauties of it is that staff  
10 and TDHCA and the industry have actually gone through that  
11 process. There may be places that we need to kind of shore  
12 up and kind of clean up for another round. So I would  
13 strongly advocate to leave Subsection F in the QAP.

14 There are other states that are also providing  
15 supplemental credits and this type of assistance: Florida  
16 is, Michigan is, North Carolina is, Ohio is, Oklahoma has,  
17 and of course, we are another state. I'm still going  
18 through all those states, there are a few of them that I  
19 still have to go through, so there are states out there  
20 that are providing assistance for their 2019s, 2020s, 2021s  
21 and now some of the states are providing assistance for  
22 2022s. There are some states that have not issued  
23 assistance yet for 2022 transactions or 2021 transactions,  
24 but '19 and '20 are definitely ones that they have.

25 Very quickly I will wrap this up. I think we

1 need to address the end result, the issues for the deals  
2 that we have out there. There is actual harm out there  
3 with these transactions. I know that taking away from the  
4 future is not a happy thing to do but that is a theoretical  
5 harm compared to an actual harm that we are feeling right  
6 now. So I just ask that we consider keeping the  
7 supplemental credits.

8 Thank you very much.

9 MR. VASQUEZ: Ms. Myrick, just out of curiosity,  
10 these other states that are allowing supplemental credits,  
11 are most of them reducing a developer's cap for the  
12 following years, or is there like a penalty?

13 MS. MYRICK: Yes. Some of them have penalties.

14 MR. VASQUEZ: Which we're not doing.

15 MS. MYRICK: Right. Some of them do have  
16 penalties, and some of them are a little more explicit. We  
17 are a state that's pretty explicit about how we're going to  
18 handle supplemental credits, the caps, what's going to  
19 happen, how that's going to count against you, if it is  
20 going to count against you. We've always been a state  
21 that's pretty transparent in that area.

22 There are some states that while they do have  
23 language in their QAP about additional credits going to  
24 fund deals, they don't give us much data or information in  
25 their QAP, they just simply say we're going to have a

1 mechanism for it and then we'll kind of figure out what  
2 that's going to look like.

3 The one that was a little more specific was  
4 Michigan. They said you could go up to 5 percent and then  
5 there could be deals that were between 6 percent and 12 and  
6 not going above 12 at all, and there was negative points, I  
7 believe, that were going to be imposed for those  
8 transactions that did take those supplemental credits.

9 So they're a little all over the place, and some  
10 places don't have enough information in their QAP. And I'm  
11 still digging through to talk to staff about those just to  
12 get a lay of the land to find out what other states are  
13 also doing.

14 MR. VASQUEZ: Okay, great. Thanks.

15 MS. MYRICK: Thank you.

16 MR. MARCHANT: Mr. Chairman?

17 MR. VASQUEZ: Yes.

18 MR. MARCHANT: Could whatever staff member is  
19 responding. How do we come up with the pool of money that  
20 we use for the supplemental credits, and how far ahead do  
21 we know that that number is and does that number go larger,  
22 smaller, how do we know how much we're going to have?

23 MR. CAMPBELL: Well, I think we know because you  
24 tell us. I think in the original QAP we had asked for --  
25 Bobby, if you remind us how much we had originally asked

1 for? I don't think it was \$5 million originally.

2 MR. WILKINSON: It ended up at \$5 million.

3 MR. VASQUEZ: I think that was our limit.

4 MR. MARCHANT: And so that's a number that comes  
5 out of general revenue?

6 MR. VASQUEZ: The next round.

7 MR. WILKINSON: The next round of tax credits.  
8 So what we did was we used \$5 million of 2022 tax credits  
9 to help '19 and '20 deals, and what we're talking about now  
10 is using some amount of 2023 9 percent tax credits for 2021  
11 deals.

12 MR. MARCHANT: Okay. Thank you.

13 MR. VASQUEZ: Thanks, Cody.

14 MR. ARRIAGA: Good afternoon, Mr. Chairman,  
15 Board, Mr. Wilkinson and staff. I think I've now been  
16 schooled on the protocol for the seating arrangement, so I  
17 appreciate my industry for helping me out with that.

18 My name is Roger Arriaga. I am the executive  
19 director for the Texas Affiliation of Affordable Housing  
20 Providers. Our 600 members are statewide, and we generally  
21 represent the various disciplines of anybody that impacts  
22 the affordable housing industry in Texas, of course, the  
23 developers, the financiers, bankers, property managers,  
24 attorneys, et cetera.

25 First, I'd like to start by thanking the TDHCA

1 staff. I was at all of their meetings, the roundtables,  
2 the working groups, and they certainly covered a lot of  
3 ground. And at the end of the day, I think it was time  
4 well spent for everybody, especially looking forward to the  
5 2023 round.

6 I'm here representing not just TAAHP but as part  
7 of TAAHP, our president, board president, Chris Akbari,  
8 couldn't be here today, and our members, and really the  
9 bottom line is -- you've heard a lot of this already -- to  
10 request that at your July meeting that you at least  
11 consider a request to look at the 2021 deals that are  
12 having some difficulty, as we just discussed, looking at  
13 how that might be funded in advance from the 2023 round.

14 As an industry we are very sensitive about  
15 coming to the well again to help these troubled deals, but  
16 there are definitely new dynamics that were different than  
17 what drove last time's supplemental request.

18 Last year the request for 2019 and 2020 deals  
19 was really based on unprecedented lumber pricing, which  
20 could not have been anticipated and definitely drove a lot  
21 of those developments well beyond their feasibility.

22 But between now and then the situation has  
23 become definitely worse and much more difficult: The  
24 demand for skilled labor has skyrocketing labor costs,  
25 supply chains have gone from delays to full breaks, as some

1 of the folks have already discussed, and of course,  
2 interest rate increases which are happening much more  
3 recently and definitely impacting these deals.

4 Now, given the needed support for the 2019 and  
5 2020 deals, the applicants for 2021 did make adjustments  
6 given what they had known at that point, but yet again, the  
7 economic environment went well beyond what they could have  
8 reasonably expected.

9 We understand that there may be questions about  
10 what is real and how pervasive really is it. For now,  
11 right now, as some of the folks we have already discussed,  
12 we can point to some of the indicators: virtually 90  
13 percent of the '21 deals have not closed, my understanding  
14 is based on today's action we are seeing more force majeure  
15 requests and awards happening, which are definitely  
16 appreciated and needed.

17 While force majeure certainly mitigate the time  
18 so developers can scramble to find other sources to fill  
19 those gaps, those options are limited, and many times they  
20 take away from the financial feasibility which can  
21 ultimately add more debt to these developments.

22 So what would happen if all or maybe even just a  
23 good number of these developments fail? Given the current  
24 indicators, as Sarah had discussed earlier, there is a very  
25 distinct possibility that a number of them just might.

1 I'll just finish by saying that we have done a  
2 number of surveys; we just started a brand new one this  
3 week, and we are seeing that everyone is essentially in the  
4 same boat. A few have closed, only a few, by and large  
5 everyone is having these difficulties.

6 We want to work with your staff and provide this  
7 information as we are able to provide it to them. We are  
8 also working with our national partners to generate the  
9 same data that you were just asking about, Mr. Chairman,  
10 what are other states doing. Florida has been mentioned  
11 over and again as an application process, Louisiana just  
12 blanket gave everybody \$100,000 across all 21 deals.

13 I hope that you'll consider the request. Thank  
14 you for your consideration.

15 MR. VASQUEZ: Thanks, Roger. And thanks to  
16 TAAHP for working with the staff here.

17 MR. ARRIAGA: Absolutely.

18 MS. LASCH: Good afternoon. Megan Lasch, O-SDA  
19 Industries. I am here, surprise, also to ask for  
20 consideration of supplemental credits for the 2021 deals.  
21 I can assure you those of us that have '21 applications  
22 would not be making this request unless it was absolutely  
23 dire.

24 We have deals that are shovel ready that have  
25 had permits since March and April ready to close, but we

1 cannot stop the constant moving target between increased  
2 construction that is changing with bids moving every 30  
3 days or interest rates, as you mentioned, yesterday the Fed  
4 hiked again, and so while we're waiting on the Multifamily  
5 Direct HOME funds that we all applied for in March to solve  
6 this issue, the interest rate keeps on bleeding.

7 We all should be scared about what's going to  
8 happen with these '21 applications. I mean, everyone in  
9 this room needs to take it seriously and be concerned about  
10 the bird in hand that we have and what's going to happen  
11 with these developments. Many of them have already taken  
12 down land.

13 On the applications we're working on, we took  
14 down the land in December, and I have been carrying land  
15 costs since then. And we would gladly close if someone  
16 would help come to the table to solve this between the  
17 Multifamily Direct HOME funds that we applied for and  
18 making a move on those and taking the supplemental credit  
19 requests.

20 The 13 percent or the 9 percent echoed by the  
21 previous speakers that have closed is an alarming low  
22 number. Every year we have had all of our deals typically  
23 closed by this time in the cycle, so that is a huge  
24 indicator that this is not because we're not trying to  
25 figure things out, we are deferring developer fee to the

1 max, we are underwriting these deals at a debt service rate  
2 below anything we've ever seen just to get to the closing  
3 table.

4 So I urge you to please take this serious. This  
5 has to be done, and we have to do it now before the  
6 bleeding keeps getting worse. Thank you.

7 MR. VASQUEZ: Thanks, Megan.

8 MR. MARCHANT: Can I ask the staff a question?  
9 How many years, once the award is made, do they have to  
10 start the project, or is there a time that they have to end  
11 the project?

12 MR. WILKINSON: Its placed in service is the  
13 end, so a July 2022 award would have to be completed by the  
14 end of 2024.

15 MR. CAMPBELL: That is correct, yes.

16 MR. MARCHANT: Thirty months?

17 MR. CAMPBELL: Yes, sir. They have until the  
18 end of the second calendar year following the award, and  
19 there is another deadline which comes before that, which is  
20 their 10 percent test, which I believe is it the end of  
21 June -- is Rosalio in here?

22 MR. BANUELOS: July 1.

23 MR. CAMPBELL: So July 1 of the year after the  
24 award they have to have expended 10 percent of their  
25 reasonably expected basis, which generally is what happens

1 when they close, they purchase the land.

2 MR. MARCHANT: Is it common or uncommon for a  
3 project in a year to just say we're not doing it and turn  
4 the money back?

5 MR. CAMPBELL: Extraordinarily uncommon. I'm  
6 not going to say it's unprecedented. Sometimes people  
7 can't get their zoning or something that is just absolutely  
8 black and white, you know, they can't get that through.  
9 But in terms of we just can't get this deal done, I would  
10 say it's a pretty uncommon occurrence.

11 MR. MARCHANT: If the '21 projects are as bleak  
12 as we've been told -- and I don't have any reason to  
13 disagree -- what would be the theoretical action on our  
14 part if a project they just gave us notification that  
15 they're not going to do it? That money reverts back into a  
16 pool and then it goes into the '22 or '23 awards?

17 MR. CAMPBELL: Yes, sir. So when we receive  
18 credit returns, those credits first go back to the region  
19 that they originally came from, so if they came from  
20 Houston, they would first go to see if we can fund a deal  
21 in Houston, and if we can't do that, then they go to what's  
22 called the collapse, which is where we pull all that access  
23 money together and give it to the next most underserved  
24 region in the state.

25 MR. MARCHANT: In the next round?

1 MR. CAMPBELL: It depends on when they come  
2 back.

3 MR. MARCHANT: Or do you go back to the '21  
4 round?

5 MR. CAMPBELL: We would not go back to '21. As  
6 of January 1 of each year the previous year's waiting list  
7 is no more, they're done.

8 MR. MARCHANT: Thanks, Cody.

9 MR. CAMPBELL: Sure thing.

10 MR. THOMAS: Cody, one quick question. So as we  
11 hear this need for supplemental credits and considering  
12 taking '23 credits and moving over to '21 projects,  
13 obviously one of the biggest components in here is the  
14 moving interest rate target.

15 We saw interest rates rise yesterday. It's  
16 forecasted another 75 basis points for next month, and then  
17 probably we will have some sizable increase in September at  
18 the Fed's meeting. When you look at all the data and all  
19 the components being discussed, it's all escalating for  
20 probably the balance of this calendar year pretty  
21 dramatically.

22 Is there some cap staff has in mind in terms of  
23 saying, okay, X number, we can't do any more, I mean,  
24 that's it, we're not going to be able to give enough  
25 credits, we can't figure out other sources to sort of make

1 these projects work, you have to just either make them work  
2 or we delay them or they turn them back?

3 MR. CAMPBELL: That's a great question.  
4 Statutorily, we can't give more than \$3 million in credits  
5 to a single applicant in any given round, so I suppose if  
6 we wanted to give additional credits to somebody, that cap  
7 would come into play, although if the credits are coming  
8 from a new ceiling, I don't know if it would count against  
9 the same \$3 million cap.

10 The question of when staff and the agency in  
11 general just says, you know, we can't do anything more for  
12 you is really what I think we're trying to figure out right  
13 now, because we haven't had to figure this out before.

14 As Ms. Andre mentioned earlier, she and I had a  
15 conversation earlier this year, and what she said was true:  
16 We as a staff don't really know what's going on with these  
17 deals until they have to come to us and ask for something.

18 So in terms of what's happening on the ground  
19 that hasn't come to our attention yet, we are kind of  
20 learning on an ongoing basis what that situation is like.  
21 I don't know if we have found where that level is where we  
22 say we just got nothing else for you

23 MR. THOMAS: Thanks, Cody, appreciate that.

24 MS. FARIAS: Mr. Chairman, I'll make it very  
25 quick.

1           I want to go on record thanking staff. This is  
2 my third meeting, and I remember talking to one of the  
3 previous commissioners and saying, Are these issues are  
4 going to come up where they delay. And the previous  
5 commissioner said, oh, in my time it was almost an absolute  
6 no, we never gave extensions, we expected people to follow,  
7 blah-blah-blah. And the commissioner said, but the way  
8 things are going now.

9           So I know the comment was said we need to take  
10 it seriously, and I think just from the three meetings that  
11 I've been here, every commissioner -- every Board member  
12 here knows and has known for quite some time just how bad  
13 it was getting and is getting.

14           One very quick example. Two weeks ago I was in  
15 Yellowstone, and the question that we tourists had was:  
16 Where the heck are the employees; you guys are supposed to  
17 be among the toughest work ethic, where are they? Well,  
18 then Mother Nature came and went boom. We were there when  
19 all the snow was falling, so now things are going to get  
20 even worse.

21           So yes, they are getting bad, and I'm sure, Mr.  
22 Chairman, we'll all be saying this, it's going to get even  
23 worse because certain things need to happen first.

24           But I do want to thank the staff, and I know  
25 this Board they're approving most of these extensions and

1 there's a reason for it. And everybody is feeling the  
2 pain, everyone, and I think more so the staff, because  
3 based on the briefing I had yesterday you're always going,  
4 because the bottom line is affordable housing, it's not a  
5 catch you, it's like who's building affordable housing.

6 MR. VASQUEZ: Thank you, Ms. Farias.

7 MS. FARIAS: Thank you.

8 MR. VASQUEZ: And actually, I was going to say  
9 this before your comment, so this isn't directed at that;  
10 we agree. But we have to be careful -- I just asked our  
11 counsel here -- in this discussion we're kind of walking a  
12 fine line between what is a posted agenda item that we're  
13 allowed to be discussing right now versus just hearing  
14 public comment.

15 So just everyone, I'm not trying to cut off the  
16 conversation, but I've asked Mr. Eccles, if we start  
17 crossing over that line here to stop us, because it's  
18 borderline on how much we're discussing and the  
19 interaction.

20 Usually we just take public comment and don't  
21 say anything even though we want to say something, so I've  
22 been a little more relaxed here because the RFAD went so  
23 well and I'm in a good mood.

24 (General laughter.)

25 MR. VASQUEZ: And also, let me make a statement

1 that I'm sure I'm speaking on behalf of all the Board  
2 members and all the staff. We fully understand and  
3 comprehend that y'all are looking for solutions and that  
4 supplemental credits seem like a low-hanging fruit that is  
5 a step towards funding those solutions.

6           Again, I'm glad Mr. Batch agreed to be head of  
7 the QAP Committee. He can help work with staff and  
8 industry to figure out what is that ideal solution, and all  
9 the information I've been receiving from around the  
10 country, every state is kind of taking a different  
11 approach.

12           So we get the message, we understand. I'm not  
13 saying absolutely that we're going to do an additional  
14 round of supplemental credits, but I'm not saying we're  
15 not.

16           So with that, let's do a little more public  
17 comment -- I guess one more statement to make. This isn't  
18 just affecting the affordable housing industry; I mean,  
19 it's affecting every building industry. I mean multifamily  
20 for-profit groups are having huge troubles, building  
21 warehouses having huge trouble, and we recognize y'all are  
22 just a component of that bigger picture, and everyone is  
23 having these kinds of issues and these kinds of problems.

24           So we do understand and recognize that, and  
25 we'll try to work with staff to come up with solutions that

1 work for everybody, because we need more affordable  
2 housing.

3 Okay. With that, I'll still entertain some more  
4 public comment.

5 MR. MICAELA: Thank you. Russ Micaela, Vault  
6 Consulting and attorney for some of the 2021 deals. I'm  
7 going to be very fast.

8 I want to reiterate that I think that the TAAHP  
9 group and the developers are some of the best in the  
10 industry, I'm a part of it too, and I appreciate everybody  
11 getting up and kind of conveying that. I think staff is  
12 doing a fantastic job trying to get this going.

13 What I want to convey, and I don't know if it  
14 came through, is probably the need to have it done quicker  
15 this year, so I think we kind of got to December and we  
16 started to fly.

17 I don't know the rules, but I would like to at  
18 least go on record as saying that I think if there's a way  
19 to get some of this started now, like in August or  
20 September and apply, that's what I would like to see.  
21 Because as Megan and other people have mentioned, we could  
22 apply credits faster than some of the direct loans and  
23 other things, I think, so this would be something that I  
24 think we could apply quicker.

25 And that's all I have to say, but thank you so

1 much, and I appreciate you helping on Tomball Senior  
2 Village and approving that, because that was a 2021 deal  
3 earlier, and we can now kind of move forward on that.  
4 Appreciate it.

5 MR. VASQUEZ: Thank you, Russ.

6 MR. SMITH: Board, Darren Smith with MVAH  
7 Partners and Alexander Development. Again, 2021  
8 supplemental credits. The need I think is what I wanted to  
9 talk about from an express perspective.

10 Some developers have taken down their land, some  
11 developers are running out of clock with their purchase  
12 agreements. You know, the fortunate thing we were able to  
13 do in certain circumstances, there's kind of an urban  
14 component and a rural component and you're almost getting a  
15 surcharge for being rural because there aren't as many  
16 general contractors out there, so you're paying a surcharge  
17 to get somebody out there.

18 But the other thing is we at least have the  
19 ability with the 2020 credits that we had certainty that we  
20 could kind of release our general contractors to start to  
21 order some of the lead time items.

22 So now there's kind of the fear out there right  
23 now that, you know, the longer this takes can you keep your  
24 real estate under tow, but then not only that, can you get  
25 your GCs released to order certain items that are going to

1 take a year, like transformers or even electric appliances.

2 So the quicker we move on that, kind of the better; the  
3 longer we wait, kind of the worse.

4 And you know, Mr. Marchant, I think we're at a  
5 precipice, after doing this for 25 years, that you could  
6 actually have credits come back just because you can't  
7 close. So I appreciate that. Thank you.

8 MR. VASQUEZ: Thanks, Darren.

9 Who wants to go next?

10 MR. BALL: Good afternoon, Chairman, Board  
11 members. My name is Kenny Ball; I'm with the ITEX Group.  
12 I'm here. Unfortunately, Chris Akbari wasn't able to make  
13 it today, but I'm here on his behalf and my company's  
14 behalf, pretty much echoing the same sentiment that a lot  
15 of the other developers and everyone has already stated.

16 You know, our firm has experienced some issues  
17 with some of our deals that are from the '21 competitive  
18 tax credit round. We all are aware of all the issues; I  
19 think a lot of those have been covered already.

20 One of the things that I did want to point out  
21 just to make it quickly, you know, our deals are in areas  
22 where there's not a lot of access to additional funding.  
23 You know, we're all working to try and get these deals  
24 funded. We're doing everything we can to do that, but  
25 specific to our deals, we just don't have any other means

1 to put soft funds in or anything like that to get these  
2 deals done.

3 Just to make it quick, you know, we really  
4 wanted to ask the Board to really consider including  
5 Subchapter F in the 2023 QAP -- I think Sarah Andre already  
6 covered that -- and really expedite the process as has just  
7 been mentioned. We really need to expedite the process for  
8 a fast approval of the '23 QAP so these deals can really  
9 get closed so we can get Texans in housing.

10 So I respectfully request that the Board  
11 consider an action item at next month's Board meeting to  
12 consider the data that we can provide as the development  
13 community to show that without the supplemental credits the  
14 supply of the housing stock in the state of Texas will be  
15 really detrimentally affected.

16 So we just thank you for your consideration.  
17 Again, thank you for all that you all day, thank you for  
18 staff's work. We just ask that you consider that. Thank  
19 you.

20 MR. VASQUEZ: Thanks.

21 MS. RICKENBACKER: Good now afternoon. Donna  
22 Rickenbacker, last but hopefully not least.

23 I think this Board knows how I feel about  
24 supplemental credits. That being said, first and foremost,  
25 thank you all very much for these force majeure treatment

1 action items that you all approved. I've got one,  
2 unfortunately, a '21 deal coming to you all next week that  
3 was held up by the GLO finishing out their audit in  
4 Houston, so very much appreciate y'all's understanding of  
5 what we're going through.

6 I affirmatively agree with what everybody has  
7 said here today, and I also agree with what you said,  
8 Chairman. I think we need to go ahead as quickly as  
9 possible and convene a workshop to kind of go over so  
10 others that are not here today have an opportunity to voice  
11 their opinion on supplemental credits, while simultaneously  
12 seeing what we could do to push the process forward before  
13 the '23 QAP is implemented.

14 What happened this last time is that the '20  
15 deals, to a large extent, waited until the QAP rules were  
16 approved and the supplemental process, and therefore, they  
17 got further and further delayed and sought force majeure  
18 treatment.

19 There are still several 2020 deals that haven't  
20 closed. I don't know how you evaluate how many there are  
21 still out there because they got force majeure treatment to  
22 you don't have an opportunity to see where they are on the  
23 10 percent test and those kind of items that kind of  
24 trigger an understanding of where developments are.

25 So I very much encourage us to see what we can

1 do to potentially move forward with supplemental credits  
2 prior to approving a '23 QAP. Thank you very much for your  
3 time.

4 MR. VASQUEZ: Thanks, Donna.

5 MR. LUNDGREN: Good afternoon, Chairman, Board.  
6 My name is Jay Lundgren. I'm here with  
7 stopvillageatboyer.org, for all of y'all. And yes, I'm an  
8 enemy, not your favorite person, but I'd like to try to  
9 explain. If I could ask a question of the Board. What is  
10 the status of this project, Village at Boyer?

11 MR. WILKINSON: You can't ask questions.

12 MR. LUNDGREN: Oh, I can't ask questions. I  
13 just thought in the interest of time, it wasn't on the  
14 agenda. I was told by the developers of Prospera in a  
15 previous teleconference meeting that it would be on the  
16 agenda at this meeting and it's not, so I didn't know where  
17 it stood, but I'll go ahead and proceed.

18 I own a house. This proposed development, low  
19 income housing in San Antonio, it's villageatboyer.org, or  
20 Village at Boyer is the name of the apartment complex  
21 that's under consideration.

22 I bought a house here in Denver Heights  
23 neighborhood in San Antonio 13 years ago. It's a very  
24 underprivileged area, and by the way, we're in the same  
25 business, I provide housing to low income people.

1 I understand that it's a very important thing to  
2 do, but I'd like to make you understand or at least  
3 explain, try to explain why I'm against this particular  
4 project and why a lot of people in the neighborhood are  
5 against this particular project. We had a teleconference  
6 with Prospera, the developers, several months ago, and to  
7 be perfectly honest, there was a lot of hostility from the  
8 neighborhood against that.

9 Let me explain something to you. We're in like  
10 a little offshoot of Denver Heights neighborhood. I'm  
11 directly across the street and one house down from the  
12 proposed development. So Denver Heights neighborhood is in  
13 the lowest 10 percent of median income in San Antonio.  
14 Okay?

15 This is a very poor neighborhood but it's mostly  
16 people that own their houses, underprivileged working  
17 people that own their houses. In the whole neighborhood I  
18 only know of about two houses that are rental houses, most  
19 of them are multi-generational houses with at least three  
20 generations living in them, so we have a lot of  
21 undocumented people, unfortunately; it's just an  
22 underprivileged neighborhood.

23 So what's going on, though, in the neighborhood  
24 is less than 1.5 miles away we have developments on Clay  
25 Street, we have \$700,000 four-story condos being built, we

1 have 1.9 miles away from this proposed development at 114  
2 Camp Street -- it's 1.9 miles away and we have a \$7.25  
3 million condominium for sale right now, 215 Lowell, which  
4 is two blocks from my house, right now is on the market for  
5 \$800,000.

6 So I have a beautiful little two-bedroom  
7 bungalow, a 1925 bungalow. It was very affordable at the  
8 time that I bought it, and slowly, slowly, slowly over 13  
9 years the neighborhood has been getting better and better.

10 Just one more minute, please. But now they want  
11 to -- and my opposition is maybe 10 percent that it's  
12 totally going to change the character of the neighborhood  
13 to have that many renters in the neighborhood and to have  
14 something that's not historical.

15 Most of the houses were built in the 1920s, if  
16 not in the 19th century, and the area is really turning  
17 around. But what I'm really concerned about is putting a  
18 low income housing development in an already low income  
19 area that's struggling.

20 I feel like the past 13 years I've seen slowly,  
21 slowly, slowly the neighborhood improve and it feels like  
22 we're in a lifeboat and we're bailing and bailing and  
23 bailing, and then all of a sudden they want to add another  
24 I think it's about 250 residents in the proposed complex to  
25 our life raft, and it doesn't feel like it's a good idea

1 because the invisible hand of the market is already raising  
2 the area and these people --

3 MR. VASQUEZ: Mr. Lundgren, I'm going to have to  
4 ask you to try to wrap up your comments here.

5 MR. LUNDGREN: -- the invisible hand of the  
6 market is already raising the area, and a rising tide  
7 floats all boats. We can bring generations out of poverty  
8 by letting the market do what it's already going to do.  
9 The best use of that lot where they're going to build  
10 Village at Boyer is not to put low income apartments; it's  
11 to build \$700,000 condos which will raise the tax base.

12 We're also in a food desert. Our school  
13 district is in the lowest 10 percent in every category you  
14 can name except we're number one in child obesity, and I  
15 wish that was a joke but it's not. So you're proposing --  
16 by Prospera's own admission, it's about 50 percent single  
17 mothers in their tenants, so you're talking about 120 kids  
18 who already are underprivileged. They're in a single-  
19 parent family, so they have two strikes against them, and  
20 Prospera is going to warehouse them in one of the poorest  
21 areas of town, in a food desert, no bus stop within a half  
22 a mile, with lousy schools in the lowest 10 percent.  
23 That's why I'm against the Village at Boyer development.

24 Thank you very much for your time.

25 MR. VASQUEZ: Thank you for coming.

1           Is there anyone else that wishes to participate  
2 in the public comment period?

3           (No response.)

4           MR. VASQUEZ: Seeing none, and seeing that we've  
5 concluded the written agenda, we'll end the meeting, wrap  
6 up the meeting. The next scheduled Board meeting is  
7 Thursday, July 7, 2022, at this same location. The time is  
8 to be determined so look for a posting of it, likely to be  
9 ten o'clock again.

10           And do I have a motion to adjourn the meeting?

11           MS. FARIAS: I move, Mr. Chairman, to adjourn  
12 the meeting.

13           MR. MARCHANT: Second.

14           MR. VASQUEZ: Motion made by Ms. Farias,  
15 seconded by Mr. Marchant. All those in favor?

16           (A chorus of ayes.)

17           MR. VASQUEZ: Meeting adjourned. Thank you very  
18 much. It's 12:36.

19           (Whereupon, at 12:36 p.m., the meeting was  
20 adjourned.)

C E R T I F I C A T E

1  
2  
3 MEETING OF: TDHCA Board  
4 LOCATION: Austin, Texas  
5 DATE: June 16, 2022

6 I do hereby certify that the foregoing pages,  
7 numbers 1 through 120120, inclusive, are the true,  
8 accurate, and complete transcript prepared from the verbal  
9 recording made by electronic recording by Nancy H. King  
10 before the Texas Department of Housing and Community  
11 Affairs.

12 DATE: June 23, 2022  
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17  
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19 \_\_\_\_\_  
(Transcriber)

20  
21 On the Record Reporting  
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