TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
BOARD MEETING

11:06 a.m.
Tuesday,
March 27, 2001

Waller Creek Office Building
Room 437
507 Sabine
Austin, Texas

BOARD MEMBERS:

MICHAEL JONES, Chair
JAMES DAROSS, Vice-Chair
C. KENT CONINE
MARGIE BINGHAM
MARGIE BRIGHT
MARSHA WILLIAMS
DONALD BETHEL
ROBERT BREWER
FLORITA BELL GRIFFIN
LYDIA SAENZ

STAFF PRESENT:

DAISY STINER, Executive Director
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MR. JONES: At this time I will call to order the meeting of the board of the Texas Department of Housing and Community Affairs for March 27, 2001. The first order of business will be the roll call.

Mr. James Daross, vice-chair.

MR. DAROSS: Present.

MR. JONES: Mr. Donald R. Bethel.

MR. BETHEL: Here.

MR. JONES: Ms. Margie Bingham.

MS. BINGHAM: Here.

MR. JONES: Mr. Brewer.

MR. BREWER: Here.

MR. JONES: Mr. Conine.

MR. CONINE: Here.

MR. JONES: Dr. Bell Griffin.

DR. GRIFFIN: Here.

MR. JONES: Ms. Saenz.

MS. SAENZ: Here.

MR. JONES: And Ms. Williams.

MS. WILLIAMS: Here.

MR. JONES: There are nine members present and none absent, and I determine that there is a quorum.

The next order of business on the agenda is public comment, and we have certain witness affirmation.
forms that have been signed by people that would like to speak. The first one is Mr. John Barineau.

MR. BARINEAU: Thank you, members of the board and staff of TDHCA. I didn't know exactly what sequence you were going to follow in your agenda here this morning, but I'm only here to discuss one of the items I believe I'm aware of, and that is the tax-credit determination decision that you all have with regard to some pending bond lottery -- tax exempt bond lottery projects. Am I correct that that's one of the items on the agenda?

I'm here to comment. I'm a developer. John Barineau is my name again, and I'm a developer of affordable housing. We've been at it about 20 years. We operate in four states, including tax-credit projects in four different states under four different jurisdictions, and I'd like to say at the outset that I think the TDHCA, although we developers sometimes feel oppressed by the difficulty and degree and intensity of the application process, I will have to admit intellectually that the thoroughness, the comprehensiveness, and the detail that TDHCA has for its 9-percent competitive tax-credit applications is on a scale of one to ten close to a ten compared to other states.

The staff's procedure for crossing the t's and dotting the i's in making decisions on which projects
survive the very competitive review process and which ones are awarded tax credit I think is very commendable, and the result is that you have an awful lot of information to consider when making a decision of who gets tax credits and who doesn't.

Now, by contrast, the way it's worked out the last couple of years, the procedure of the bond lottery projects where those projects are in effect sort of randomly drawn and put into the mix without the in-depth -- without procedures being in place for the in-depth pre-screening that applies to all other tax-credit projects; that is, the competing tax-credit projects of the 9-percent credit.

And it may not have been predictable how this would work out, but the fact that one consideration being the objective to avoid over concentration and to strive for dispersion of quality low income housing being one of the golden rules of the 9-percent competing tax-credit application only comes into play at the end of the game with respect to bond lottery projects.

And I will admit -- and I should get this out of the way ahead of time -- I am a developer in Houston. We have a 9-percent credit project that we went in two years in a row applications. We lost the first time. We finally got through, got an allocation in 1998, completed
construction of Reed Park Townhomes. There was a '98 allocation. Just completed construction in the year 2000, not even a year ago, 192 units of a mixed income property with 60-percent AMI set aside, 50-percent AMI set aside in market, all designed to meet the staff's and the agency's criteria to be a successful, well-conceived project, and here we are potentially with a project -- one of the bond lottery projects immediately across the street.

We're 192 units. One of these projects across the street, Reed Road South, as I understand from the list, would be over 240 some-odd units. In addition, there are two other projects that are in consideration from the bond lottery that are within a mile or two of this same location.

I think the department should really think carefully about that, because one of the things that's occurred is with the bond lottery projects when they went to the Tier One concept to allow applicants to target their project to charge rents only at 50 percent of area median income level, that might have been intended for good reason to serve a lower income population and therefore be an incentive for that to occur by giving them a smaller number of lottery competition by putting them in a separate pot, so to speak.

On the other hand, the next step of also
requiring those projects to rent only to 50 percent area
median income people did not occur; whereas in fact they
can rent to people who make as high as 60 percent of area
median income, and whether that slipped through the
legislature through the lack of review or whether that was
a conscious decision, I can't really say.

On the other hand, the affect of it would be in
considering your determinations today that nearby projects
that have to rent to the income classes that their rent
levels and their underwriting targeted when they were
approved are put at potentially -- not to mention the
number of units that are brought on the market as a
possibility of over consideration. But those new units
being brought on the market will have an opportunity to
charge lower rents, 50 percent rents to 60 percent of area
median income people, and I will submit I don't think that
was the intention of the program or the purpose served.

So it's not just a matter of what the
statistics show is what the population is in some of these
projects located one to the other. I think it's very
important to realize that a bond project charging 50-
percent rents located very near another project who is
charging -- has to charge the income eligible rents has
the potential -- very real potential of cannibalizing the
60 percent of area median income tax-credit tenants on the
nearby project, and it's most likely that would occur on those that are immediately across the street or around the corner.

And I would respectfully request that you all think long and hard about providing an over concentration. Let the staff make the judgment about what in their judgment and analysis would be a proper concentration and proper dispersion, and it would perhaps be a tough call but I would urge you to consider that, because housing --

MS. BINGHAM: Mr. Barineau, could you get to the point? I think the bottom line is that you have a 9-percent tax credit that's 100 percent occupied?

MR. BARINEAU: Not quite. No, ma'am.

MS. BINGHAM: What's the percent?

MR. BARINEAU: We're at 96, 97.

MS. BINGHAM: About 97 percent occupied. Everything is occupied except your disabled units. Right?

MR. BARINEAU: That's about right.

MS. BINGHAM: And you have a 4-percent bond lottery project not down the street, not around the corner, but directly across the street from you.

MR. BARINEAU: Yes, ma'am.

MS. BINGHAM: It is a project that's proposed by Trammell Crow that's right across the street from you.

MR. BARINEAU: That's correct.
MS. BINGHAM: Okay. I don't think it's in this recommendation but if you could sum that up -- is that not the bottom line?

MR. BARINEAU: That's one of the bottom lines. The broader bottom line is your -- is to consider changing procedure and maybe even lobbying the legislature to get this 50-percent and 60-percent dichotomy fixed for future years.

MS. BINGHAM: We've been preaching -- I have personally been preaching about that for quite some time, but the bottom line I think the staff and our recommendation today is going to deal with the -- from the board's perspective the concentration. This development is not down the corner, around the corner in Houston. It's right across the street.

MR. BARINEAU: That's right.

MS. BINGHAM: And you have got a 60-percent deal and Trammell Crow is proposing a 50-percent deal right across the street from you. You can look out the windows like that building right there and you're in this building.

MR. BARINEAU: That's right.

MS. BINGHAM: I think the staff is making a recommendation on that issue. How we deal with the legislature -- you all need to go deal -- developers need
to go talk with legislators about how these 50-percent
deals right across the street may adversely impact -- the
other unfortunate part about it is that the market studies
seem to state that the area is supported by 5- to 600
units, but then you've got about a thousand that are being
proposed, so the staff's got to make a determination as to
which two needs to go.

And I think one developer has withdrawn his
because he understands the market issues, so the other
developer, which is Trammell Crow, has some issues
about -- they still want to build right across the street
from you. So I think the staff has got a recommendation
on that.

How the legislature deals with it -- I've been
preaching this for four years, that 50 percent is tough
anywhere other than Houston and Dallas, so -- have I
misrepresented anything?

MR. BARINEAU: No. You've said kind of what I
was thinking. Thank you very much.

MR. JONES: Thank you, sir.

Mr. Chuck Washburn.

MR. WASHBURN: Chuck, Charles, whatever.

MR. JONES: Excuse me. I'm sorry.

MR. WASHBURN: That's okay.

MR. JONES: I couldn't -- I apologize.
MR. WASHBURN: I wanted to read this letter that myself and my fellow developers within my company have written concerning some of the problems that were just spoken about, and if I might, I'd just like to go ahead and read the letter since this states it so much better than I can anyway.

My name is Charles Washburn -- I would like to thank the board first for allowing me to speak and to listen to me.

My name is Charles Washburn, and I am here on behalf of LCJ Management, Inc., the developer of proposed Parkside Terrace Apartments in Houston, Texas. I am here today to express our concerns about the current structure and viability of the private activity bond program and how it relates to the tax-credit program.

Under the current lottery structure first priority is given to developments which target 100 percent of units at 50 percent of AMI. Based on both past lottery results and the sheer number of applications submitted for the lottery, any affordable housing developer who wishes to have a chance at receiving an allocation submits an application to meet this 50-percent AMI requirement.

Unfortunately, this priority system by its design severely limits the geographical areas where these types of developments can be built; specifically
metropolitan areas with high median income in order for
them to work at a 50-percent and only a 4-percent tax
credit. They're just not viable in lower income areas.

Also many times they have to seek out a QCT in
order to meet what the lenders want. It's not so much we
have to meet your requirements. Sometimes we can go 1.1,
but a lot of times with them we have to have better than
1.15. And you're right on that border line, so we have to
use these -- it really limits us because of this 50-
percent requirement.

Also in most cases developers need to find -- I
already stated that. I'll go on.

Another problem with the current law concerning
developers of affordable housing which in hindsight
appears to be an oversight by the drafters of the
legislation is that there is no income limit for occupants
of these proposed rent-restricted private activity bond
developments. This is unfair to both market rate and
affordable developments. Together these limitations are
creating a severe problem for both past and future tax-
credit developments.

Developers are being forced into markets where
there are already existing tax-credit developments, thus
creating a saturation of affordable units, much as we just
talked about. Without a change in the structure of the
lottery system, we are compromising the success of all
tax-credit developments.

As you are probably aware, a proposed Houston
development which was one of approximately four or five
developments located -- that were approved by the bond
lottery, which is located within a four mile radius were
one of them. Additionally, there are three existing 9-
percent tax-credit developments within the same radius.

Due to the close proximity of these
developments and due to our uncertainty of how the
department would rectify the situation, our company became
increasingly concerned of how the market would be impacted
should all of these developments come on line. After
concluding that none of the other developers receiving the
allocation would fall out of the running, we withdrew our
reservation.

And we didn't come to this decision very easy,
because we lost a lot of money in doing so. There was a
lot of discussion and debate between the partners and
actually prayer, which is kind of old fashioned in this
day, but there was prayer over it.

Although our company felt that we had the best
opportunity to be successful of all the proposed
developments -- we were the furthest out of this market
glut -- we felt this decision was in the best interests of
both past and future affordable developments. It was our contention that the statement needed to be made regarding the way the lottery system is administered.

If the TDHCA and the Texas Bond Review Board do not work together in restructuring the lottery system, affordable housing is not getting the best use of the funds made available to the State of Texas. Representatives from our company as well as other developers and lenders in the industry would be happy to discuss our concerns and possible solutions with both departments. I am sure that TDHCA and Texas Bond Review Board are aware of this dilemma and are interested in, as we are, in making sure that affordable housing needs in Texas are met in a fair and equitable way.

In the meantime our company is hoping to utilize completed plans and specifications for Parkside Terrace Apartments. Our company is pursuing another affordable housing need by seeking HUD approval for a 221 D3 loan which would serve tenants of all three categories: 50, and 60 to 80 percent -- which the 60 and 80 we think is really undersold.

Thank you for the opportunity to speak, and we look forward to working to create quality affordable housing in Texas.

Some of the thoughts that just kind of ran
through my mind is why couldn't they do a lottery, say, on
gеographic areas like you have specifically put out so
that when the ball falls, you don't have all of them fall
in Houston, which is just the luck of the draw any time --

MS. BINGHAM: I've been saying for four years

that the focus in the tax credit doesn't look anywhere but
in the high income markets like Houston and Dallas --

MR. WASHBURN: Exactly.

MS. BINGHAM: -- and you put them in 50-percent

you just create a monster. And guess what happened? They

have all fallen in Houston.

I live in Houston. I support affordable

housing in Houston. But I think I'm bright enough to see

that you can't put a 60-percent deal right here and a 50-

percent over here and you're just right around the corner

and keep going, and they all were lucky enough with the

ball.

But we have talked about that, and even there's

some legislation now that I think the staff has put in

this book that makes the situation worse. It goes against

what we are talking about now. If this legislation is

approved, instead of four deals you're going to have ten

the next time, because they're not going to Lamesa. They

can't build with the income limits there, so they all

concentrate in Houston and Dallas, and they are now not
around the corner but right across the street from the 9-percent tax-credit deals.

So that is a legislative issue. The Bond Review Board really can't deal with it. The legislators have -- they have to notify their legislators who keep sponsoring -- this bill that the staff sent out is sponsored by Ms. Earhardt, but this session of the legislature compounds the problem that you're talking about. It does not help that problem. It makes it much worse.

MR. WASHBURN: One of the suggestions, as I've said --

MS. BINGHAM: The suggestion is that you all go over to the legislature and make the information that you all --

MR. WASHBURN: That was my next suggestion.

MS. BINGHAM: -- just made known to us known to them, because we are dealing -- I've read the staff's recommendations for Houston. We are dealing with it as best we can by not oversaturating the market, but a focus in tax-credit deals does not look anywhere but in Houston and Dallas, maybe Austin and maybe San Antonio. It don't work any place else.

MR. WASHBURN: If you get in San Antonio you probably have to get in a QCT there to make --
MS. BINGHAM: You just -- so here all these lottery deals come out in Houston, and it's not just painful for this agency. It's painful for us in Houston. Which ones do we support? It's a nightmare, but it's a legislative nightmare.

MR. WASHBURN: My second --

MS. BINGHAM: So they're in session. March over there and talk about this --

MR. WASHBURN: We're going to do that tomorrow.

MS. BINGHAM: -- because you're preaching to the choir right now.

MR. JONES: Mr. Bethel.

MR. BETHEL: Mrs. Bingham, wasn't it last session that the legislative -- they passed legislation with -- their intent was if you got a lottery that you got the deal no matter what, and this board had no discretion over that, I think --

MS. BINGHAM: And that's still the case today unless we find a technical problem, and in this case we have found technical problems in terms of the market studies not supporting some of these deals, because they are just too close to --

MR. BETHEL: The legislation is --

MS. BINGHAM: So you're right. We don't have much choice other than go to -- there's some technical
issues or go to the market study and say, Look. You came out the lottery first but, oops, you're right across the street from a 9-percent tax-credit deal, so it doesn't make market sense. You're a victim of it. The -- Mr. Barineau is almost, depending on what the board does today, a victim of it.

It's just -- but we -- obviously it's unlawful for our staff to lobby the legislature.

MR. WASHBURN: Well, ours --

MS. BINGHAM: We can't -- the staff cannot lobby the legislature. It is against the law.

MR. WASHBURN: Can I ask a question?

MS. BINGHAM: Okay.

MR. WASHBURN: Well, I know --

MS. BINGHAM: They can answer questions but they can't lobby the legislature.

MR. WASHBURN: Right. When rural development ran into a lot of problems, they had what they called stakeholders conferences where they put together like the board and developers and syndicators and bankers and legislators --

MS. BINGHAM: Right.

MR. WASHBURN: -- in the case of them, it was congressmen out there.

MS. BINGHAM: Right.
MR. WASHBURN: And they worked out a lot of problems that way. I don't know if that's possible or not, but that was my second --

MS. BINGHAM: That's another suggestion. However, if the staff is attending those and is intending to lobby the legislature, I think they can't be paid for their expenses and time by state funds, so it would have to be something that the -- I have attended the meetings, and I do it on my own time and I pay the expenses, but I can't get reimbursed from the state for sitting in sessions to present legislation to the legislature and use state vouchers to pay for it. I can't get the travel reimbursement.

So from a local standpoint I could do it -- I use the City of Houston's phones when I'm doing it. I don't use the state's, because it's against the law.

MR. WASHBURN: I think you'd probably find that most of the developers would be more than willing to set up something like that.

MS. BINGHAM: Right. So I think that needs to be done, that you work with -- I think the developers got a group now called the Affordable Housing whatever, and --

MR. WASHBURN: I'm going to join that. It's another one I need to get into

MS. BINGHAM: -- and as opposed to sending
emails about the executive breakfast, they need to be
sending emails about policy over to the legislature about
how this 4-percent tax-credit can't be done in a rural
area, if they really care about rural initiatives.

They can be done in Houston and Dallas, and
guess what? They can't be done there any more because
we've got too many of them, and they're all popping out of
the lottery at the same time, because everything has to be -- like Mr. Bethel said, it has to be 100 percent at 50
percent of median income, and you got -- I see members of
that group in the back. I see members of the non-profit
groups. Those are the kind of things that you all need to be over at the legislature talking about.

She cannot lobby the legislature. She can
answer their questions. It is illegal to lobby -- for
this staff to lobby the legislature. They can answer
questions that they pose to them, but that's what the
stakeholder groups need to do. They're in session. Go
tell them your problem.

We recognize the problem. You're preaching to
the choir.

MR. WASHBURN: Well, I think there's some real
important committee meetings tomorrow at 4:00 or 5:00, if
you guys want to show up.

MR. JONES: Thank you.
MR. WASHBURN: Thank you very much.

MR. JONES: Thank you, sir.

Mr. Chris Bergmann.

MR. BERGMANN: Good morning. My name is Chris Bergmann. I'm affordable housing partner for Trammell Crow Residential. I'm the guy that's across the street from John Barineau.

I've been in this business a long time, probably since it started as far as the tax credits are concerned, and Trammell Crow Residential is probably one of the -- we claim to be the premier -- or built more apartment units in the United States than any developer in the country.

We're financially strong as I think the name indicates. We understand this program, and we understand markets and we understand product, and we feel that we have a very good handle on our business.

I think that some of the comments Ms. Bingham has made this morning are socialistic in basis. If we have a conventional type product that we want to build and there's a competitor across the street that's up and running, we don't have any -- the only thing that can stop us is a zoning ordinance or a decision business wise not to proceed.

If our lenders and our equity providers and
partners want to proceed and want to take that risk then
we're in a free market economy, and I don't think anybody,
especially a governmental body, has a right to justify
those type of situations for one individual or one
project.

That said, our project is in a market where
there's roughly 900 units in a three mile radius that are
slated in the lottery queue as I call it. We are
currently number three in the three that are in the
lottery. In other words, the other two have lower lottery
draws than we do.

Approximately three weeks ago through the
finance division of the TDHCA, I received a phone call
from Mr. Robert Onion and there was a meeting between Ms.
Stiner and I think her people concerning this issue, and
through the finance department and not the tax-credit
department, I received word that there was a decision made
that there was only going to be two projects, roughly 500
units, allowed in that market. Since my lottery number
was the third lowest, my deal was more than likely not
going to make it.

At that point in time -- and before I go any
further, I have firm financing commitments from Bank of
America, one of the largest lenders in the country, firm
equity commitments from our equity provider, which is Sun
America. I've expended roughly 210- $220,000 at that point in time, three weeks ago. I made a decision not to proceed because of that phone call.

And personally, I'm very upset about that, because -- and nothing against my fellow developers out here. I believe I have the best site, and I have the strongest financing and development team of any of the developers that I'm competing against, and this decision was made or at least not made but kind of back through the grapevine given to me that because of the lottery number, my deal wasn't going to make it, and that's a decision that you all have to make.

I think that when you look at the concentration issue, there's a problem there. I don't think all these projects should be built, but the best ones should be built, and that's a decision that the staff has to make based on the market studies, based on the development team, based on the financing package. The other two deals -- I don't know if you even have firm commitments from any of the lenders or anything else out there. I got paper right here, signatures that are dated probably 30 days. I could have closed this deal.

This deal is not -- we have a model -- a profitability model. This deal does not meet our profitability model. We are not making -- and not that we
make a lot of money on these deals, but we're not making
the money on this transaction that we typically -- as our
risk profile has generated and determined how much money
we have to put at risk and how many people have to sign on
the dotted line.

It doesn't meet that, but we felt that it was a
good project for the community, and the only people that
came to the TEFRA hearing that were against the project
were developers that were -- had their special interests
because of competition.

I have here a letter that I'll give -- and I
guess this could go to Cherno.

Now, when people make decisions because we have
a very short period of time to go from start to closing,
and if somebody would have told me -- this was all known
when the lottery balls dropped at the end of October.
This was all known when the allocations were passed out at
the beginning of January. And --

MS. BINGHAM: And I agree with you --

MR. BERGMANN: -- and if somebody would have
said something and said, Chris, this is what we're trying
to do --

MS. BINGHAM: Let me go -- since you talked
about my socialist theory, let me go back to something
else that has occurred since the lottery ball dropped in
October. We had -- our staff led by Brent Stewart recommended to this board in October of 2000 17 lottery deals for your company.

MR. BERGMANN: That's correct.

MS. BINGHAM: I voted for each and every one of those.

MR. BERGMANN: I know you did.

MS. BINGHAM: And the few months previous to that, he made a recommendation on your last lottery deal. I think I even made the motion -- he recommended that we waive the fees. I think I made the motion to approve that.

But guess what you did in January or February? That same employee that made a recommendation to this board -- and I would vote for it all over again. I'd vote for your previous projects all over again -- you hired that employee for your company at Trammell Crow.

MR. BERGMANN: That's correct.

MS. BINGHAM: Now, if a developer had hired Cherno after he had referred 17 deals to this board, you all would be trying to send him to jail. I wish Brent Stewart well, but he recommended 17 deals from your company to this board in October of 2000, and you talk about the finance division, what the finance division told you. That's the division that he headed.
MR. BERGMANN: Margie, I don't think this is the time or the place to do battle like this.

MS. BINGHAM: I'm not doing battle. You're talking about my socialist theory. I am simply telling you --

MR. BERGMANN: No. I don't mean that in a derogatory way. I think if we have to look at the way the markets operate and to make a decision that one project shouldn't go across the street from another project --

MS. BINGHAM: And that was a judgment decision that you should have made when you filed that application.

MR. BERGMANN: The rules do not state that.

MS. BINGHAM: I understand.

MR. BERGMANN: And what's happening here is this rule that is being proposed to the board should be considered in the QAP. I don't think the staff has the right to make policy for the board.

MS. BINGHAM: Well, they're not going to make policy. It's being recommended for the board's consideration.

MR. BERGMANN: And I think there needs to be more public comment. This is a QAP issue.

MS. BINGHAM: I agree. That's what we have as public comment. But I am just letting you know that I know --
MR. BERGMANN: You and I have gotten along a long time --

MR. JONES: Mr. Bergmann, if you would address the chair?

MR. BERGMANN: Excuse me.

MR. JONES: And Ms. Bingham too.

MR. BERGMANN: Ms. Bingham.

MS. BINGHAM: I have no problem with Trammell Crow. I voted for the 17 deals. I would do it all over again. But you hired an employee who made that recommendation a month ago.

MR. BERGMANN: That has nothing to do with it.

MS. BINGHAM: I think it should be known.

MR. JONES: Mr. Bergmann, do you have anything else for the board?

MR. BERGMANN: No. I have my termination letter for my project. I want to thank you for allowing me to speak. I think that when considering this policy issue that it's the right thing to do but it's the wrong time to do it.

Thank you.

MS. BINGHAM: Thank you. I sincerely appreciate your bringing your viewpoint to us, but I knew when all these lottery balls fell that that was going to be a problem.
MR. BERGMANN: Let's go out to lunch, Margie, if you want to --

MR. JONES: Ms. Antoinette Jackson.

MS. JACKSON: I'm going to pass my time to Bill Wenson.

MR. JONES: Mr. Bill Wenson.

MR. WENSON: Good morning. My name is Bill Wenson, and I'm here today to talk about one of the other Houston properties that received an allocation of 4-percent credits.

Unlike the other ones, I'm not a new construction project. I'm a preservation project, and I'd like to talk a little bit about that, and the reason I'm here is to discuss the underwriting that has occurred on the property and the fact that staff is recommending a reduction in the credits that we have requested.

However, in light of the timing issues with the bond allocations, regardless of my comments today I am asking that the board approve the project as suggested by staff today and allow me the appeal process over the next couple of weeks to work with staff and try to iron out the issues that we have.

As I mentioned, this is a preservation property, and it's a Priority One bond, tax credits, Section 8, requiring subsidy layering review, and we're
using FHA financing. All of those together make it a very
difficult project to put together.

The other comment that I'd like to make is that
we have to remember there is a finite number of bonds that
have been allocated to this property, and going out and
getting more financing is not really an alternative on
these kinds of properties. By definition we're here to
preserve existing affordable housing.

The tenants and the rent structures -- I have
submitted a packet of information. If I could direct you
to two letters in there? The first one is a letter from
Danter Company, who is the company that did the market
study for us, and in response to the underwriting, they
have written this letter that was received by your staff
this morning, and I'd like to just highlight a couple of
areas on it.

On page 2 you'll see I have highlighted -- and
it's easy to follow -- while TDHCA target rents are based
on the comparable market rents, these higher rents will
significantly impact the marketability and potential
absorption of the project. In each case the lower rent
either maximum tax credit or market rent was considered.

The number of units proposed at the site must
be considered relative to the project's ability to achieve
a given rent level. Previous research conducted by the
Danter Company indicates that all other factors being equal, large properties must be a better value in the marketplace than smaller properties due to the high number of units that must be rented each month. To generate a sufficient number of potential renters, larger properties typically need to set rents below comparable market rent to represent a value within the area -- the market area.

If we could go to the next page, page 3, the next thing I've highlighted there is the fact that we would derive 11 percent of the market out of our property if we go to the higher rents than what we are proposing.

Page 4 is a table that breaks down the tax-credit properties that are surrounding us currently, and that doesn't include the properties that are going to come online and definitely affect our market. The tax-credit properties in our market area are renting on one bedrooms from 51 cents to 54 cents per square foot. Our recommended or proposed rents are 61 cents a square foot, higher than what is being -- gotten in the market today.

Staff is recommending we charge 75 cents a square foot.

Two bedrooms are the same thing, where the market is 49 to 54 cents. We are recommending 55 cents, higher than the market. Staff is underwriting us at 70 cents.
Those are the two that are the problem I think in -- or the discrepancy in our underwriting. The other highlighted sentence on that page, the three tax-credit properties all offer larger units than those at Palomino Place. There can always be discussion on whether a one bedroom's a one bedroom and the size makes no difference. I feel that the discrepancies between these two, the one and two bedrooms, is just far too great to consider that.

On page 5 there is another table -- I did not highlight it -- but at your leisure please take a look at that and that will show you that we are still in the range of all of the existing units there.

The rents as proposed are very reflective of current standards among the three tax-credit properties in the area. The rents TDHCA would like to implement are among the highest compared to existing tax-credit alternatives, and the subject units are among the smallest.

Their estimation -- at our proposed rents we would need an 11- to 14-month absorption period to reach our rent structure. The rent structure that's proposed by staff would take between 24 and 30 months to absorb, and could potentially be longer than that. That's two to three years of absorption time.

MS. BINGHAM: Are you going to be here when
they make this recommendation?

MR. WENSON: I'm sorry?

MS. BINGHAM: Are you going to be in the building when they make the recommendation?

MR. WENSON: Yes, ma'am.

MS. BINGHAM: Maybe we can take up some of that when they -- Mr. Chair, can we bring him back to the podium when staff makes the presentation?

MR. JONES: We can if that's the way you'd like it.

MS. BINGHAM: Yes. I can miss these numbers. I think when the staff makes the presentation you just come back up and present it at that time so we can --

MR. JONES: Mr. Wenson, is that okay with you?

MR. WENSON: Yes, sir.

So do you want me to stop at this point?

MS. BINGHAM: Yes. All underwriting -- when the staff makes their presentation, you can come up with them and just -- because we'll forget the numbers. I'll forget the numbers by the time they get to the project. It would be more useful if --

MR. WENSON: Thank you.

MS. BINGHAM: -- if you'd come up as they're making the presentation and we can compare what you are saying against what they are saying.
MR. WENSON: Thank you.

MR. JONES: Don't let us forget you.

MR. DAROSS: Mr. Chairman, I'd like to make a comment if I could, please.

MR. JONES: Sure.

MR. DAROSS: I sat here during the last gentleman's presentation thinking about whether or not to say something, and I decided I need to say it just to -- feelings I've had for a long time.

Last summer when Ms. Bingham raked Brent Stewart over the coals, I sat here and didn't say a thing. Today she has in effect alleged that he got a job with Trammell Crow as a reward for recommending projects of theirs.

MS. BINGHAM: I didn't say that.

MR. DAROSS: Everybody in this room knows that's what the implication was, Mr. Chairman.

And I resent that implication. I think Brent Stewart is one of the finest people who ever worked for this agency, and I just wanted him to know that at least for this board member that opinion is definitely not shared.

MS. BINGHAM: I don't believe that he did that. I do not believe he did that. I wish him well. I have no problem with him. The statement I made that if another
employee did it, that would be an issue. That's what I said.

MR. JONES: Thank you, Mr. Daross.

Is Stephanie Graves?

MS. GRAVES: I'm going to defer my time to Bill Wenson later on.

MR. JONES: Thank you, ma'am.

Mr. John Garvin.

MR. GARVIN: Good morning. My name's John Garvin. I'm with the Texas Affiliation of Affordable Housing Providers, earlier referred to as Affordable Housing Whatever. Just a quick comment.

We appreciate the need for a concentration policy. I've received a lot of calls from my membership over the last couple of days and we'd just appreciate more time to evaluate the outcome of that.

Thank you.

MR. JONES: Thank you, sir.

Is there anyone else that would like to speak to the board?

(No response.)

MR. JONES: I have no other requests or affirmation forms. Is there anyone else?

(No response.)

MR. JONES: One more time?
(No response.)

MR. JONES: One more time?

(No response.)

MR. JONES: Hearing none, I will close the period for public comment subject to Mr. Wenson. I believe he would like to testify at the time that the matter comes up.

We will then turn our attention to Item Number 1 on our agenda, which is the presentation, discussion, and possible approval of the minutes of the board meeting of January 26, 2001.

MR. DAROSS: Mr. Chairman, I'd move the minutes be approved as submitted, except that on page 7 I believe there's a word that needs to be corrected. There's a one-line statement that says Mr. Jones rested the motion for the record. It probably should read Mr. Jones restated the motion for the record.

MS. BINGHAM: Mr. Chairman, I have one other amendment to the minutes on page 6.

MR. JONES: Yes, ma'am.

MS. BINGHAM: The third paragraph from the bottom. It says, In properties that are designed as townhome units, the project owner must include one bedroom and one bedroom on the ground level of all units. For staff clarification, I think that meant all tax-credit
units?

VOICE: That's correct.

MR. JONES: We have two amendments. I take that as a motion to approve the minutes with the two amendments that have been noted.

MR. BREWER: I second.

MR. JONES: There's been a second. Discussion?

(No response.)

MR. JONES: Are we ready to vote? I assume that we are. All in favor of the motion please say aye.

(A chorus of ayes.)

MR. JONES: All opposed to the motion please say nay.

(No response.)

MR. JONES: The ayes have it.

Item Number 2, presentation, discussion, and possible approval of programmatic items: approval of appeals process for housing finance programs, Ms. Stiner.

MS. STINER: Thank you, Mr. Chair.

At the last meeting of the board the board appointed members of a committee to work on an appeals process, including board member Ms. Marsha Williams. That committee has met a number of times and has concluded with the recommended policy to present to the board today. I'm going to ask David Burrell, director of housing programs,
to come forward and make the presentation on that particular item.

MR. BURRELL: Good morning. I'm David Burrell, director of housing programs.

Back during the fall of 2000 we went through a Sunset review process, and during that process it was recommended by the Sunset Advisory Commission that the Texas Department of Housing and Community Affairs develop a board appeals process. I'm going to ask Ms. Groneck if she will --

MS. GRONECK: They've been handed out.

MR. BURRELL: Okay.

Ms. Groneck has given you all a short handout which is the exact recommendation which we received from the Sunset Commission. On the top page in the second will be a copy of the appeals process in our CDBG program, and I'll explain that a little bit further.

On January 26, which was our last board meeting, the board established an appeals process committee in order to develop an appeals process for the board. On that committee we have Ms. Marsha Williams, who is our board member, Delores Groneck, who is in our executive division, Sandy Mauro, who is director of our CDBG program, Anne Paddock, deputy general counsel, Tom Gouris, director of underwriting, and myself as director...
of housing programs.

   Also in attendance at those meetings were individuals from the specific housing programs. We had Pam Morris, director of housing finance, Cherno Njie, manager of the Low Income Housing Tax Credit Program, Robert Onion, who is now director of our multifamily finance, Keith Hoffpauir, manager of the Housing Trust Fund program.

   In developing the policy we primarily followed the recommendation of the Sunset Advisory Committee to follow the outline of our CDBG program for appeals process, and we gave you all a copy of that. During the process of preparing our policy we also reviewed information from several other states, those states being Oklahoma, Nebraska, Florida, California, Colorado, Michigan, New Mexico, and Pennsylvania.

   During the process the committee met four times as staff and came up with the recommendation which we presented to Ms. Williams. At the time that we presented our recommendations to Ms. Williams, she did a thorough review and she approved what we had presented. That policy is what you have in your board today.

   Under the policy we are recommending that there be a committee established by the board to consist of three members, and that those three members would be board
members. Under the policy an applicant could apply under the funding of tax credits or just normal funding under the Home program or under the Housing Trust Fund program when there is an appeal of a disposition that has been made by the board.

Under that policy an individual or a company could appeal based upon three reasons. Number one, the misplacement of an application; number two, because of a mathematical error; or number three, because of a procedural error.

When filing an appeal, the individual or company must file the appeal within five days of the board decision. When the appeal is filed, then staff will prepare a packet for the board appeals process committee, and it has to be done within two weeks. Once the appeals process committee receives the information, then they have approximately two weeks until the next scheduled -- regularly scheduled board meeting to present their findings to the full board.

The decision of the full board is the final decision in the matter.

There are two decisions that can basically be made under this appeals process. The board can concur with the appeal and make restitution or provide funding to the Claimant, or they can disagree and just give
recommendation -- explanations as far as the reason for
not approving that particular item.

In instances where the appeal is sustained and
we find that there is justification to continue forward,
we will go ahead and fund you the current year's funds
allocations if there are any available, and if there is
not then we can go to the next year's funding allocation
and do a forward funding. In instances where the appeal
is turned down, then the board will have someone to
explain to the individual or company the reason for the
denial or rejection of that claim, and that will be final.

This policy does not cover the 4-percent bond
lottery credits in the tax-credit program, primarily
because of the fact of -- the reason that 4-percent
credits are allocated at the end of October and because of
deadlines which has to be met, the appeals process
committee wouldn't be able to move fast enough to get the
appeal made. However, the Multifamily Housing Finance
Division has an informal process that they're currently
using for handling appeals, and that has worked very well
from what I understand.

So what we're doing is we're recommending that
the board approve this board appeals process as we have
recommended today, and we are also going to recommend that
the board between now and the next board meeting appoint a
board appeals process committee, which will consist of
three members of the board.

MR. BREWER: Mr. Chairman, I have a question.

MR. JONES: Yes, sir, Mr. Brewer.

MR. BREWER: If we're going to continue the old
Low Income Housing Tax Credit program, the ad hoc
committee being the entire board, do we really want to
appoint for appeals three members or just bring it to the
entire board? Do we want to have a committee just to have
a committee?

MR. DAROSS: Well, I have another question that
sort of relates to that. Essentially what this appeals
process is is something like a motion for reconsideration,
because we're appealing to the same body who made the
decision in the first place. Was there consideration
given to and is there any sort of statutory authorization
for there to be an appeal from this board to somebody with
authority over this board?

I'm thinking of course in terms of the judicial
system where you have an appellate court and the Supreme
Court, and I don't know that we have the authority to do
anything like that. Have any of the other states looked
at something where you'd be appealing to an entity of some
sort outside the agency?

MR. BURRELL: We didn't find any. In fact, our
process is probably a lot more detailed than most of the other states.

MS. BINGHAM: Could you explain again why you said that you didn't include the 4 percent I guess that fall out of the lottery, and they have 120 days, but it's not really a selection process. You get your lottery ball. But you -- like this issue this morning. Do you have a process where -- I guess it would be too late, but do you have a process where you -- I guess we need to air it out at the full board level as to like we have today about the market studies and all those issues. Any other thoughts?

Marsha, did that come up?

MS. WILLIAMS: No. Not that I'm aware of.

MS. STINER: Mr. Chair, may I?

MR. JONES: Yes.

MS. STINER: In the staff review of the recommended policy that was to be presented this morning around the table a couple of the directors raised the issue about the 4-percent credit, and it was determined at that time because of timing issues you wouldn't be able to come back to this board and still make your reservation date, and we thought we would bring it to the attention of this body today and allow the board to determine if there needed to be a compressed process for the 4 percent so at
least get it out for discussion.

But it did not come up I understand in the committee, but when we were having our general staff meeting with the directors, someone raised that issue, and that's why we're raising it today, to let you know it's not included in here, and the reason it wasn't included by the committee members and those who worked with you was because it was their thinking going in that the timing element of getting an appeal lodged, having the board to consider it and back, you would be beyond their reservation date.

So it's an issue that's out on the table for discussion and action if appropriate by the board today.

MR. CONINE: If I could follow up on that question, Ms. Stiner, if a situation like Mr. Bergmann relayed to us a few minutes ago about getting a call three weeks ago, if that process could be say 30 days. In other words, we set an internal staff limit of 30 days ahead of the board meeting to make those determinations where the appeals process could go in front of the board meeting instead of behind the meeting, would that not be a way to resolve that issue?

MS. STINER: The appeals process to go before --

MR. CONINE: Right.
MS. STINER: -- any action by the board?

MR. CONINE: That's correct. If an applicant understands he's getting kicked out 30 days prior to the board meeting, for whatever reason, markets or whatever, then the applicant could appeal to the board or this subgroup of the board, whatever we decide to do, in the interim period and make an appeal at that point to get back in the underwriting game plan because of some error or some omission. Is that something we could consider?

MS. STINER: You can consider any procedure you'd like to consider relative to the appeal process. That wasn't one that was considered in this committee, and I guess I just need to let the committee members come and talk because I didn't attend any of those meetings. I attended the meeting with the staff, but was that -- is that something that could possibly be considered? I know the committee did not deliberate on that.

MR. BURRELL: We did consider it. However --

MS. STINER: Good.

MR. BURRELL: -- because of the fact that this is a board appeals process, we felt that they could only appeal a board decision. As I understand it, though, from talking to Robert in the multifamily finance, that they're basically using an informal process such as that now, and I can let Robert address that.
MS. STINER: Robert Onion is the director --
MR. BURRELL: He's the director of
multifamily --
MS. STINER: And member of the committee.
MR. BURRELL: -- 4-percent bond lotteries.
MR. ONION: Good morning. For the record, my
name is Robert Onion, director of multifamily housing.
We currently have an informal process -- a two-
step process in the process of sponsoring applications to
the Bond Review Board similar to what we had last year
with Deerwood Pines or Maxey Road [phonetic]. The
applicant did not meet our underwriting criteria, just
missed our benchmark. We suggested that if you wanted to
be included to be sponsored that he could make an appeal
to the board to be included in that sponsor of that
application --
MS. BINGHAM: That was Mike Robertson
[phonetic]. Right?
MR. ONION: Correct.
With regard to the 4-percent credits, usually
the underwriting process is very compressed time
standpoint. The underwriting report comes out just before
the board has a chance to consider it.
MS. BINGHAM: And it's also with conditions,
isn't it, even then?
MR. ONION: Yes, ma'am. So there's not a time process to allow another board meeting to consider the appeals process. The informal process is being used today as you've heard from the developer on Palomino Place, which is Bill --

MS. BINGHAM: Bill Wenson.

MR. ONION: So that's the process we currently have as far as the informal.

MS. STINER: Mr. Chairman, may I ask a question?

MR. JONES: Sure.

MS. STINER: Robert, the difference -- I must tell you the difference I see with that is that that's an informal appeal process that has to do with the underwriting and the financial aspects of the application. The basis on which we're talking about -- the similar situation that was described by Trammell Crow is we made a decision based on something other than the financial aspect of the application about some concentration issues.

MS. BINGHAM: That's a market issue.

MS. STINER: Would that be covered by an informal appeals process that you have now?

MS. BINGHAM: Oh. We're talking about selection under the 9 percent --

MS. STINER: The selection of the 9 percent is
covered by this particular policy that's being recommended this morning.

MS. BINGHAM: Right.

MS. STINER: It's the 4-percent tax exempt developments that would not be covered because the committee had reached the conclusion that there were some timing issues.

Another matter was introduced this morning that they would maybe be covered by this informal appeals process that you're already -- you have in place in the multifamily, but your process does not cover the tax credits aspect of that, does it?

MR. ONION: That is an informal process that --

MS. STINER: It covers all of it?

MR. ONION: All of it.

MS. STINER: Okay.

MS. BINGHAM: Now, is the -- Marsha, under the 9 percent are we primarily talking about selection versus underwriting? I guess underwriting issues because you may not get selected because of an underwriting issue, but are we talking about selection or are we --

MS. STINER: Well, Ms. Williams of course can answer. She's on the committee.

MR. BURRELL: Can I state one thing?

MR. JONES: Certainly.
MR. BURRELL: Under our normal board appeal process as we're presenting, there are only three reasons that a person could appeal --

MR. JONES: Okay.

MR. BURRELL: -- and it really doesn't have to do with underwriting.

MS. BINGHAM: Could you go over those again, please.

MR. BURRELL: It would be for the misplacement of an application, a mathematical error, or a procedural error.

MS. BINGHAM: That's based on the application submission items -- application selection and submission. That is not underwriting per se.

MR. BURRELL: That's right.

MS. BINGHAM: Okay.

MR. CONINE: No. The way I read that, I beg to differ I guess, but if the application is not processed by TDHCA staff according to the procedures in effect; in other words --

MS. BINGHAM: In the QAP?

MR. CONINE: Yes. The QAP and then there's the rules of the game, but --

MS. BINGHAM: That includes underwriting?

MR. CONINE: I would think so.
MS. BINGHAM: Okay.

MR. CONINE: I would think that's a catch-all to include everything is the way I read it.

MS. BINGHAM: That would include if the staff said you didn't get a project because your market study didn't support your project you may dispute that, but you're saying that is not in this recommended appeals process?

MR. CONINE: No, it is.

MS. BINGHAM: It is?

MR. CONINE: It is. The way I read it it is. Maybe I'm reading it differently.

MR. BURRELL: No. It has to be a procedural error. That would just be where one of --

MS. STINER: Again, Mr. Chair --

MR. CONINE: Let me put a hypothetical in front of you. If the market study says do the project, which all of them do, and you choose not to do the project, is that a procedural error?

MR. BURRELL: No.

MR. CONINE: It's not? Why wouldn't it be under the way I read this, because the market study said do it. They all say do it.

MS. STINER: Mr. Chair --

MR. JONES: Sure.
MS. STINER: -- may I -- it would not be procedural because if a -- the underwriting on these developments are an exercise in determining the creditworthiness, and that's not procedural in my estimation, but again, this is open to interpretation. So since it's open to interpretation, maybe what we need to do is let the board talk about what their interpretation of this is, because when we talked about it as a committee that was not our interpretation, but certainly that's not to say that that's the last word on this. It's the board's decision. It's the board's policy.

But it was not anticipated when this policy was written that underwriting decisions, staff decisions on whether or not the criteria met the criteria in the application would be a part of this process, but certainly that's open for discussion now and inclusion as the board wishes it to be included. But that was not an anticipated inclusion.

Tom, I'm looking directly at you. Tom Gouris, director of underwriting. He's bowed his head.

But certainly that is open to the board's wishes at this particular time.

MR. JONES: Mr. Conine.

MR. CONINE: Mr. Chairman, I think I'd like to move to table this item. I don't have enough information
to make an intelligent decision here, and I don't like the fact we've left the 4-percent credits out of this thing. I'd ask staff to get us some time lines and come back to us with some graphical time lines so we can better understand the timing issues with respect to the 4 percent.

I think you've got the same timing issues with respect to the 9 percent because of the July 31 deadline in our QAP, because of the forward reservation limitations that we normally max out on forward. There's a lot of issues here that I think still need to be addressed, and so I'd move to table this item.

MR. JONES: We have a motion.

MS. SAENZ: I second.

MR. JONES: We have a second to the motion.

Discussion of the motion?

(No response.)

MR. JONES: Hearing no discussion, are we ready to vote?

(No response.)

MR. JONES: All in favor of the motion please say aye.

(A chorus of ayes.)

MR. JONES: All opposed to the motion please say nay.
(No response.)

MR. JONES: All abstentions.

DR. GRIFFIN: I abstain.

MR. JONES: We then move to Item 2(b), which is approval of policy on concentration issues for multifamily projects.

MS. STINER: Thank you, Mr. Chair. I'm going to ask Cherno Njie, the manager of the Tax Credit program, to come forward and make that presentation on behalf of staff.

MR. NJIE: Good morning. For the record, my name is Cherno Njie, manager for Tax Credit program.

Assuming all the concentration issues are something that we deal regular with on the 9-percent tax credits, the policy we are putting forward will encompass not only the tax-credit program, the 9 percent, but as well the 4-percent tax credits as well as the other programs the department administers.

We recognize that in order to -- we recognize the need to ensure that the location of multifamily projects is done in a manner to enhance the viability of those projects. Securing this means exercising control of where these projects are and the number of units that are put in particular markets. With this policy we hope that developers will get a clear idea of what the department's
thinking is when we say concentration and when we apply it in the tax-credit program as well as the other multifamily programs.

Essentially the policy defines the market by using the metropolitan statistical area or the boundaries of a city or county. Secondly, in a market in excess of half a million persons sub-markets will be further defined to contain individuals between 50,000 to 500,000. In a case where the market is in excess of half a million, the city boundary should be used to delineate the sub-market to contain again persons between 50,000 and half a million persons.

In cases where the city as a sub-market is out of this range, the department will use a three-mile radius to define the market for that particular property. If the three mile radius is either too large or too small to contain persons between 50,000 and 500,000 in population, we will adjust that range by one-mile increments until we're able to define an area with a population of between 50,000 and 500,000.

Addressing concentration involves dealing with a lot of variables. The policy is being proposed subject to quality review and modification as we review all the variables and as we become more experienced and get a better handle on the impact of this policy.
Number one, the policy will allow the department to limit the issuance of determination notices for 4-percent tax credits, allocations for 9 percent, and the award of department funds for new construction projects of not more than 560 units -- comparable units, that is, within any market or sub-market if that area is defined as I have outlined.

MR. CONINE: Can I stop you right there?

MR. NJIE: Yes.

MR. CONINE: I think you read some words that weren't in my particular paragraph. Could you reread that one more time, because I --

MR. NJIE: I'm reading number one.

MR. CONINE: I know. Go right ahead.

MR. NJIE: The department may limit annually the issuance of determination notices, the allocation of tax credits, and the award of department funding --

MR. CONINE: Right.

MR. NJIE: -- for new construction projects to not more than 560 comparable units within any market or sub-market if the market area has been defined in accordance with the population range described above.

MR. CONINE: I don't think that's what you said the first time but that's what's written here, so go ahead.
MR. NJIE: Or the department may limit annually
the issuance of determination notices, the allocation of
tax credit, and the award of deferment funding for new
construction projects to not more than 280 units within
any market or sub-market if the market area has been
defined in accordance with the population range described
above and includes existing or approved but not completed
comparable tax-credit projects totaling 500 units or more
that have maintained stabilized occupancies of at least 90
percent for less than a year.

Thirdly, in making a decision about the
issuance of a determination notice on the items one and
two above, the department shall act in accordance with the
order in which the bond reservations were issued subject
to a project's feasibility, a determination by the
department that the site is acceptable, and the project's
consistency with local needs.

Number four, the department will not issue a
determination notice, allocate tax credits, or award
department funds to any project that it determines would
have a significant negative impact on existing or approved
multifamily housing projects. In making this
determination, the department will take into account all
pertinent information, including the data and conclusions
of the market study.
The findings of the market study should result in an appropriately calculated capture rate of not more than 25 percent. In general the capture rate is calculated as the sum of all proposed new units divided by the total income eligible rent [inaudible] market or sub-market as appropriate. Additional definitions of capture rate and demise have been promulgated in the market study and appraisal guide.

What we hope with this policy to do is to begin the process of defining in more objective terms and addressing forthrightly the issue of concentration.

I have a map here that I'd like to show the board on the impact of this policy currently in Houston. The area that we have defined in that square there is the area in question in which a Trammell Crow property is located. We have, as you know by the numbers 1412B, 248 units of family proposed there. There's another project, 1410, also 240 units, and then 1423B, the Trammell Crow property, 240. We have another one that Mr. Washburn talked about. He has withdrawn his application at 1421B. Again, 220 units.

The existing tax-credit projects in that sub-market are shown as the numbers indicate, 95120, 98008, 95149.

This is the issue that we are confronted with.
The bond lottery basically ensures that developers go into specific markets, and they do that because they need the equity from the tax credits to make the deals work. This means choosing qualified census tracts. As has been mentioned --

MS. BINGHAM: Keep the 130-percent credits. Right?

MR. NJIE: That's correct. So you get 30 percent additional credits than you would normally qualify for, so it's an issue that we hope to address with this policy. And there is no better way to handle it now because the bond lottery is entirely out of the control of the department.

We're given these projects and they come to us, and we have to rationalize the market.

MS. BINGHAM: Let me say something, Mr. Njie. When you look at a situation like this where you have these tax-credit deals within this bar right here, when Trammell Crow talks about business decisions, when you noted that project -- that '98 deal was sitting there, you know that '95 deal was sitting there. You have to make a business decision who you want to go there when you spend your money. This is the concentration issue.

MR. NJIE: I am sympathetic to the idea of letting the market decide. I'm a libertarian at heart, so
I'm sympathetic to Trammell Crow's sentiment. However, these projects were chosen not because of market reasons. They were bid in there because of specific government incentives. If this was entirely a market issue, we wouldn't be here. Accordingly, to advance the view that we shouldn't use the lottery as the basis for making decisions for a program --

MS. BINGHAM: The sole basis.

MR. NJIE: As one of the basis. It is not the sole basis. What we're saying is we'll use it subject to the site being acceptable, subject to the project being financially feasible. The irony is that the lottery process is a random process, and we're giving some numbers and the order in which the lottery is set the projects with the lower numbers get the reservations first, so we're using that order subject to the site being acceptable, subject to feasibility.

MS. BINGHAM: Subject to market conditions I hope.

MR. NJIE: Well, that is part of feasibility.

MS. BINGHAM: Okay.

MR. JONES: Mr. Conine?

MR. CONINE: Cherno, we don't have any more bond lottery issues. When's the next -- next October? Is that when the next one is?
MR. NJIE: As far as the lottery, yes, in October.

MR. CONINE: Although we'll have private activity stuff going on year round.

MR. NJIE: There are other projects in the pipeline that could also potentially raise concentration issues. Sometimes these properties drop on their own or the developers could choose not to proceed, so we may be confronted with this again. That's why we're rushing to --

MS. BINGHAM: Right. Because as some deals fall out, other ones are going to pop out, and they're in similar locations.

MS. STINER: May I just add a statement that -- Mr. Chairman?

MR. JONES: Yes.

MS. STINER: As happy as the State of Texas and I guess every state in the nation is that Congress saw fit to increase the private activity bond cap, an unanticipated result of that is that we have all of these deals now coming out of the lottery that wouldn't have before, so we're going to see this problem again before all of those funds or reserves are used up for this year.

MR. NJIE: That is correct. We have additional monies coming from the increase in the bond cap, both in
the 9-percent and the 4-percent, so this is something that is an enduring issue unless the bond lottery is fixed somehow.

MR. CONINE: Is there a process -- I guess I'm sympathetic to the public comment discussion where we could get some public comment on this policy prior to board action. Can we not take this policy into a public comment period for 30 days and then bring it back to this board at a future date?

MR. NJIE: Sure. That is entirely up to the board.

MR. CONINE: Then, Mr. Chairman, I'd move to table this item as well, and let's try to get some public comment back and bring it back to the board after we've received public comment so that we once again as board members can fully understand some of the impact issues, get some feedback from the development community as it relates to both the lottery system as well as private activity bonds.

It is an important issue because Congress has increased the cap, and it's one that I would rather make in an environment of being fully informed, having feedback from the participants rather than where we are today.

MR. BREWER: Mr. Chair, should we really table it or should we just make a motion on this to go -- to
direct staff to go to the public hearing on the issue.

MR. JONES: He can make whatever motion he wants to, Mr. Brewer. I won't advise him on that either way. I think he could do it either way.

MR. CONINE: I'll do both. I'll make a motion to table it and direct staff to go to public comment and come back to it. How's that?

MR. BREWER: I'll second that.

MR. CONINE: Thank you.

MR. JONES: We have a motion that's been made and seconded.

MS. BINGHAM: But the motions conflict each other, the tabling --

MR. JONES: I don't believe so, because all he's doing is tabling the --

MS. BINGHAM: Board action.

MR. JONES: -- board action on the policy.

MS. BINGHAM: And sending it for public comment.

MR. JONES: Right.

MS. BINGHAM: Okay. Thank you.

MR. JONES: It could certainly be removed from the table at the next board meeting after the --

MS. BINGHAM: Thank you.

MR. JONES: Any further discussion, comments on
MR. JONES: Are we ready to vote?

(No response.)

MR. JONES: I assume we are. All in favor of the motion, please say aye.

(A chorus of ayes.)

MR. JONES: All opposed to the motion please say nay.

(No response.)

MR. JONES: All abstentions?

DR. GRIFFIN: I'll abstain.

MR. JONES: The motion carries.

Item Number 2(c) on our agenda, approval of Section 8 payment issues standard for housing choice vouchers in accordance with 24 CFR Part 982.503.

MS. STINER: Thank you, Mr. Chair.

Mr. Burrell, are you still here? Will you come forward and make this presentation on behalf of staff, please?

MR. BURRELL: The TDHCA Section 8 program -- it's required by the US Department of Housing and Urban Development to adopt a payment standard schedule that estimates voucher payment standard amounts for each fair market rent area in which it has jurisdiction.
MS. STINER: Excuse me, Mr. Chair.

David, may I interrupt -- Mr. Burrell. Has the board gotten the new resolution here?

VOICE: Yes.

MS. STINER: Thank you.

Go ahead.

MR. BURRELL: In prior years the payment standard has been handled by the executive director of TDHCA. However, Ms. Stiner and HUD has decided that they would like to elevate the payment standard to board level.

In the last several years HUD has been wanting to get considerably more representation of the Section 8 program at the board level of which you all are probably aware. TDHCA in operating as a public housing authority in non-participating areas is required to have a payment standard, but we can set that payment standard anywhere from 90 percent of the HUD posted rate up to 110 percent.

In this particular case what we're recommending to the board is that we be allowed to set our standard at 100 percent with one exception, that being that the executive director be given the authority to go up to 100 percent when there are extenuating circumstances.

MR. BREWER: 110.

MR. BURRELL: 110 percent. Yes, sir.

There are a few cases when there being such
issue high utility bills which would require that the executive director try to increase those rents up to the 110 percent which we're allowed by HUD.

If you'll look in the packet we gave you, there is provided a list of payment standards in the 39 counties in which we are currently participating, and that would give you our rent for zero, one, two, three, and four bedroom housing for Section 8 tenants.

We're recommending that you all do approve this policy that we're --

MR. JONES: Discussion. Ms. Stiner?

MS. STINER: No. None from me.

MR. BETHEL: Mr. Chair --

MR. JONES: Yes, Mr. Bethel.

MR. BETHEL: -- I had an urge to follow Mr. Conine's lead in tabling the whole agenda, but --

(General laughter.)

MS. BINGHAM: Well, I've got an idea about that, but --

MR. BETHEL: But I think I'll make a motion to pass Resolution 01-04 --

MS. BINGHAM: I will second that, Mr. Bethel.

MR. JONES: We have a motion --

MS. BINGHAM: Mr. Conine, I want to table that too.
MR. JONES: We have a motion to approve Resolution Number 01-04, and it has been seconded. Discussion?

(No response.)

MR. JONES: Hearing no discussion, are we ready to vote? I assume we are.

All in favor of Resolution Number 01-04 please say aye.

(A chorus of ayes.)

MR. JONES: All opposed say nay.

(No response.)

MR. JONES: All abstentions.

(No response.)

MR. JONES: Let the record reflect that Dr. Bell Griffin is out of the room and did not vote.

Item 3 of the agenda is the presentation, discussion, and possible approval of financial items, (a) approval of recommendations relating to the issuance of residential mortgage revenue and refunding bonds and other related matters, Program 57.

Ms. Stiner.

MS. STINER: Thank you, Mr. Chair. The board may note that this item has changed somewhat from the first time we submitted these in our books when we were anticipating meeting last month.
At that time we were anticipating the vote going on into the market and with our intention to do smaller issuance so as to allow us to take advantage of what was going on in the market that we would be coming to you with a different recommendation, but due to the timing issues and the time that would have available to us to take the issue to the market, we are recommending one issue this year.

But just before Mr. Johnson, who is director of bond finance, comes forward and makes his presentation, I just want to say in terms of what we're considering here at the agency is that when we do these issues in smaller pieces, it gives us the flexibility of having a little bit more control of the market. At this point in time I don't know who has control of the market.

MS. BINGHAM: You'll never have that, but --

MS. STINER: So we're going to ask him to come forward and make the presentation. I think you've got the revised recommended board write-up. I think they went out in your packages and just wanted to explain why we have revised that.

Mr. Johnson, will you make the presentation, please?

MR. JOHNSON: Sure.

Mr. Chairman, members, Ms. Stiner, we are here
to present to you our plans for issuing the next single
family mortgage revenue bond transaction. We are looking
at issuing all of the volume cap. Thanks to the increase,
our volume cap went from 83 million up to 108 million.
We're looking at refunding some commercial paper we have
outstanding and we're looking at refunding an old series
of bonds, the residential mortgage revenue bond Series 88A
and 89A, and we also added $10 million. We may issue
bonds to fund down-payment assistance or we may come up
with some other ideas on how we could use that 10 million.
But the final deal size we estimate will range
from 150 million to 160 million.
The bonds will have below market rate
interest -- below market interest rates. We anticipate at
the time of pricing be about 90 to 100 basis points below
the market. Currently if we were in the market today,
that rate would be in the low sixes, and because of the
subsidy we're receiving from the refunding, it may be
about 6 percent. That's if we were in the market today.
We anticipate issuing premium bonds, another
source of down-payment assistance. Contrary to the
perception that we have a pot of gold in the bond
indentures, we don't, and as you will hear later, we're
running out of CMO funds which we've dedicated to down-
payment assistance, so we have to start coming up with
innovative and creative ways of raising down-payment assistance.

So we're looking at possibly issuing bonds for that or premium bonds to fund down-payment assistance.

MS. BINGHAM: I have one question.

MR. JOHNSON: Yes, ma'am.

MS. BINGHAM: I don't have a problem with this item. Mr. Chairman, is there any reason it didn't come through committee process?

MR. JONES: No. We just have had -- we didn't have the committee meetings this month.

MS. BINGHAM: Okay. Thank you.

MR. JOHNSON: And we anticipate pricing in September and closing in about 30 days after that. That's basically the transaction as we see it right now.

This is preliminary. We'll come back to you approximately in July or August for your final approval.

MR. BETHEL: Mr. Chairman, I make a motion we pass the preliminary recommendations of staff for Program 57.

MS. BINGHAM: I second.

MR. JONES: Any further discussion?

(No response.)

MR. JONES: Hearing none, are we ready to vote? I assume we are.
All in favor of the motion please say aye.

(A chorus of ayes.)

MR. JONES: All opposed to the motion please say nay.

(No response.)

MR. JONES: The record should reflect that Dr. Bell Griffin is out of the room and not voting.

Item 3(b), Ms. Stiner.

MS. STINER: Mr. Johnson will make the recommendation for staff and the underwriting team on 57.

MR. JOHNSON: In conjunction with the issuance of the program I just described, we would like to select the underwriting team at this time to start the cash flow documentation structuring and preparation. As I mentioned, the refunding is the old Series 88 and 89 bonds haven't been refunded up to this point because they present some unique tax and structuring challenges, and one firm -- or a firm has brought to us some interesting recommendations.

And if you take a look at the next page, you'll see that firm is Salomon SmithBarney, and so we would like to recommend them -- that's one of the reasons we'd like to recommend them as senior manager, and we're recommending Bear Stearns as co-senior, First Southwest Company as co-manager, George K. Baum as co-manager, M.R.
Beal and Company as co-manager, Morgan Keegan and Company as co-manager, and Siebert Brandford as co-manager.

If you take a look at the fee structure, it's identical to the prior three deals we've done since '99, and I mentioned Salomon SmithBarney. Some of their attributes are they have about $2 billion in capital and nine housing bankers who do nothing but housing, an extensive distribution network. And they've been in the senior pool for five years and I've never seen them [indiscernible] a deal, so with those qualifications I thought it was time for them to --

MS. BINGHAM: And we are rotating where possible?

MR. JOHNSON: I'm trying to rotate where possible.

MS. BINGHAM: The other question I have is can you make this clear that we do have Salomon SmithBarney as your senior manager; that is, senior book running manager?

MR. JOHNSON: Yes, ma'am.

MS. BINGHAM: Right. Thank you.

MR. JOHNSON: And that's my presentation.

MS. BINGHAM: I move for approval, Mr. Chairman.

MR. BETHEL: Second.

MR. JONES: We have a motion and a second.
Further discussion of the motion?

(No response.)

MR. JONES: Hearing none, are we ready to vote?

(No response.)

MR. JONES: I assume we are. All in favor of the motion please say aye.

(A chorus of ayes.)

MR. JONES: All opposed to the notion please say nay.

(No response.)

MR. JONES: All abstentions?

DR. GRIFFIN: I abstain.

MR. JONES: The motion carries.

Item 3(c), Ms. Stiner.

MS. STINER: Mr. Johnson, will you make the presentation, please?

MR. JOHNSON: Yes, ma'am. Fasten your seat belts for this one.

We have an old issue CHMRB '92 A, B, and C deals -- this deal was executed in 1992. It's a very unique transaction. At that time the flavor of the month maybe was inverse floaters, and everybody was doing inverse floaters so we did it also. It's a good deal. We're not here to second guess why they did it and what not, but it was a good deal. They've had considerable
basis point savings, but on the other side of that was a cost and that cost was there are no optional redemption privileges and if we sell the collateral -- the Ginnie Mae collateral, we cannot use those sale proceeds to call the bonds. It's specifically stated in the indenture.

So the challenge was how do we preserve the volume cap and comply with those two requirements? A particular firm brought to us an idea that we could take the existing collateral, sell that collateral, use those proceeds to buy taxable collateral and place that back in the structure so you'd still have the bonds outstanding. You have new collateral paying down the bonds, but we could take that collateral we sold and recycle that as long as the bonds are outstanding. So that's the idea.

There are two major risks. One risk --

MS. BINGHAM: You're not giving away any trade secrets, are you? You're not talking too much, are you?

MR. JOHNSON: I just want everyone to be aware of what we're doing.

MR. BETHEL: Under the recommendation, it says that we authorize staff to engage George K. Baum to further research --

MR. JOHNSON: Yes, sir.

MR. BETHEL: We're not authorizing any --

MR. JOHNSON: You're not authorizing the
execution of the transaction.

    MS. BINGHAM: Of the sale. You're authorizing them to go over the structure.

    MR. JOHNSON: To do more research in structuring and cash flow analysis.

    MS. BINGHAM: I think there's a problem when you say research -- you said model the sale and substitution, but you really don't intend for them to sell anything --

    MR. JOHNSON: No, ma'am.

    MS. BINGHAM: -- just to come up with the format?

    MR. BETHEL: Okay. I make the motion then that we authorize them --

    MS. BINGHAM: I second.

    MR. JONES: We have a motion made. It's been seconded. Further discussion?

    (No response.)

    MR. JONES: Hearing none, are we ready to vote? I assume we are.

    All in favor of the motion please say aye.

    (A chorus of ayes.)

    MR. JONES: All opposed to the motion, nay.

    (No response.)

    MR. JONES: All abstentions.
DR. GRIFFIN: I abstain.

MR. JONES: The motion carries.

Item 3(d).

MS. STINER: Mr. Johnson, since you're still at the podium you may take this as well. Are you giving away trade secrets?

MR. JOHNSON: We have I guess an underwriting pool. We have investment banks set we draw from to do the transactions, issue the bonds on the single family side. This pool has been in existence since 1996. In other words, we have not gone out for or issued an RFP since 1996 to select firms.

We have 14 firms currently. Of the 14 firms seven actively visit the department, submit ideas, and call on the department to keep us abreast of what's happening in the market. The other seven -- I've been here 19 months and I haven't heard from them or anything like that, so I think it's about time that we reconsider our pool. And I'm coming to you to ask that you authorize us to issue an RFP to select a pool of underwriters.

MR. BETHEL: I make that motion.

MR. BREWER: I second.

MR. JONES: The motion's been made and seconded. Further discussion?

(No response.)
MR. JONES: Hearing none, are we ready to vote?

All in favor of the motion please say aye.

(A chorus of ayes.)

MR. JONES: All opposed to the motion, nay.

(No response.)

MR. JONES: All abstentions.

(No response.)

MR. JONES: Are there any abstentions?

(No response.)

MR. JONES: Dr. Griffin, are you voting?

DR. GRIFFIN: Yes.

MR. JONES: Is there a motion to withdraw that vote by the board?

MR. DAROSS: So moved.

MR. JONES: Is there a second?

MR. CONINE: Second.

MR. JONES: All in favor of that -- any discussion on that motion?

MS. BINGHAM: Which motion was that?

MR. JONES: It was a motion to withdraw the prior vote.

VOICE: A proposal, a policy vote.

MR. JONES: All in favor of that motion please say aye.

(A chorus of ayes.)
MR. JONES: All opposed, nay.
(No response.)

MR. JONES: At this time the chair would entertain a motion to adjourn the meeting.

MR. DAROSS: So moved.

MR. JONES: Second?

MS. SAENZ: Second.

MR. JONES: All in favor of the motion please say aye.

(A chorus of ayes.)

MR. JONES: Thank you.
(Whereupon, a short recess was taken.)

MR. JONES: I will call the meeting back to order.

The chairman would entertain a motion once again with regard to Item 3(d). Is there a motion that it be approved?

MR. DAROSS: So moved.

MR. CONINE: Second.

MR. JONES: We have a motion made and seconded. All in favor of the motion please say aye.

(A chorus of ayes.)

MR. JONES: All opposed to the motion please say nay.

(No response.)
MR. JONES: All abstentions.

DR. GRIFFIN: I abstain with the record showing that I disagree with the Attorney General's Office that this is a policy decision which I should not be banned from. However, in the best interest of the citizens of Texas, I won't stop the meeting today.

MR. JONES: The motion carries.

Item 3(f).

MS. STINER: We have 3(e).

MR. JONES: Excuse me. Item 3(e).

MS. STINER: 3(e).

MR. JONES: If I could for the record I'd like to read this letter. It's dated today's date to the Chairman, Texas Department of Housing and Community Affairs.

"Dear Mr. Jones, due to the concern regarding the impossible conflicts of interest, I wish to recuse myself on the vote of the approval of the extension of the origination period for Program 55 because of our firm's representation of residential mortgage lenders. Thank you for your consideration, Marsha L. Williams."

For the record, please note that Ms. Williams has left the room.

Ms. Stiner?

MS. STINER: Thank you, Mr. Chair.
Mr. Johnson?

MR. JOHNSON: In December of '99 we issued a series of bonds, the 99Bs and Cs. The origination period or the time in which we make mortgages with that money will end on May 21. We have approximately $9 million outstanding in that acquisition account, and staff, based on conversations with single family lending and bond finance executives feels that we can originate the funds, so we would like to extend the origination period for up to one year.

The resolutions you have now may be modified to state up to one year. Right now it states one year.

MS. STINER: Mr. Chairman.

MR. JONES: Yes, ma'am.

MS. STINER: I'm sorry. Which one did we just get passed out? Is this one the new resolution?

MR. JOHNSON: That's not the new resolution.

MS. STINER: Thank you.

MR. BREWER: This is (e). Right?

MR. JOHNSON: (e). Yes.

And another reason we believe we can originate the funds is that the funds will be opened up to the first come, first served system as opposed to a lender participation allocation system.

MR. CONINE: Move for approval.
MR. BREWER: Second.

MR. JONES: We have a motion made and seconded that we approve the extension of origination period for Program 55. Further discussion?

(No response.)

MR. JONES: Hearing none, are we ready to vote? I assume we are.

All in favor of the motion please say aye.

(A chorus of ayes.)

MR. JONES: All opposed to the motion please say nay.

(No response.)

MR. JONES: All abstentions.

DR. GRIFFIN: I abstain.

MR. JONES: The motion carries.

Item 3(f).

MR. JOHNSON: Thank you very much.

MS. STINER: Thank you, Mr. Johnson.

Mr. Chair, thank you.

I'll ask William -- Bill Dally to come forward, CFO of the agency, and make the presentation on the CMO transfer of unencumbered fund balances to the Housing Trust Fund.

MR. DALLY: Good afternoon, chair and members, Ms. Stiner.
As part of our legislation each year, an unencumbered fund balance report is prepared by our CPA. This year that report was done and it was determined that we needed to make a transfer of unencumbered fund balance of $2.1 million, so this is just bringing that action before you for your approval.

Are there any questions?

MR. CONINE: Move for approval.

MR. JONES: The motion's been made --

MR. DAROSS: Second.

MR. JONES: The motion's been made and seconded. Further discussion?

(No response.)

MR. JONES: Hearing none, are we ready to vote?

I assume we are.

All in favor of the motion please say aye.

(A chorus of ayes.)

MR. JONES: All opposed to the motion please say nay.

(No response.)

MR. JONES: All abstentions.

DR. GRIFFIN: I abstain.

MR. JONES: The motion carries.

MR. DALLY: Thank you.

MR. JONES: Item 3(g), Ms. Stiner.
MS. STINER: Pam Morris, will you come forward and make the presentation, please?

MS. MORRIS: Good afternoon. I'm Pam Morris, director of housing finance programs.

I wanted to just ask for your approval to use the last remaining balance that we have in the CMO funds that we had set aside for down-payment assistance for the single family mortgage revenue bond program. The million dollars that you approved back in November has almost run out in commitments. Not in funding, but in commitments to borrowers, so we were trying to look ahead and make sure that we don't stop the program, because it is very important that we continue to offer down-payment assistance to make sure that the program keeps going forward.

MR. BETHEL: I so move.

MR. CONINE: Second.

MR. JONES: The motion's been made and seconded. Any further discussion?

(No response.)

MR. JONES: Hearing no discussion, are we ready to vote? I assume we are.

All in favor of the motion please say aye.

(A chorus of ayes.)

MR. JONES: All opposed to the motion please
say nay.

(No response.)

MR. JONES: All abstentions.

DR. GRIFFIN: I abstain.

MR. JONES: The motion carries.

Item 3(h), Ms. Stiner.

MS. STINER: Mr. Onion, would you come forward, please?

MR. ONION: For the record, my name is Robert Onion, director of multifamily. I'm here to recommend approval to transfer $495,000, which represents private activity as well as bond profits, 501(c)(3) fees to the Housing Trust Fund department.

MR. BETHEL: I move that we transfer $495,000 to the Housing Trust Fund.

MR. BREWER: I second.

MR. JONES: The motion's been made and seconded. Any further discussion?

(No response.)

MR. JONES: Hearing none, are we ready to vote? I assume we are.

All in favor of the motion please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)
MR. JONES: All abstentions.

DR. GRIFFIN: I abstain.

MR. JONES: Motion carries.

3(i), Ms. Stiner.

MS. STINER: Yes, sir.

Mr. Onion, you're on a roll, so will you continue please?

MR. ONION: I'm here to recommend the approval of the memorandum of understanding between the US Department of Housing and Urban Affairs and the Texas Department of Housing and Community Affairs to provide for standardized documents where HUD would have the first lien, the department either under Home or Housing Trust Funds would have a second lien, thereby allowing a transition for the combination of finance between the two parties.

MR. DAROSS: So moved.

MR. BREWER: Second.

MR. JONES: The motion's been made and seconded. Any further discussion?

(No response.)

MR. JONES: Hearing none, are we ready to vote? I assume we are.

All in favor of the motion please say aye.

(A chorus of ayes.)
MR. JONES: All opposed, nay.  

(No response.)  

MR. JONES: All abstentions.  

DR. GRIFFIN: I abstain.  

MR. JONES: Ms. Stiner, I think we're at 3(j).  

MS. STINER: 3(j). Michael Lyttle, director of communications and government relations director as well, will you make the presentation, please?  

MR. LYTTLE: Good afternoon, Mr. Chair, members, Ms. Stiner.  

In the last legislative session the legislature directed the agency to put $30 million of its housing funds towards families and individuals that were in the zero to 30-percent of median family income. This is called Rider 3 and it was attached to our appropriations.  

This rider has been revised during this current legislative session. It is being -- the revised rider is in your packet in the board book, and then you'll see one of the most significant changes is that specific family incomes as well as persons in the family are listed in this rider. In addition, the rider also includes for each additional person adding $1,500 to the maximum annual income.  

I do want to point out that this particular rider is not in the committee substitute for Senate Bill 1
which will be heard tomorrow on the senate floor.

However, it is in House Bill 1, which has been passed out of the House Appropriations Committee and will be before the full House at some point in the near future. So the rider is -- no doubt will be worked out in conference committee to one degree or another.

MR. BREWER: Mr. Chair, I just have one question. How do these figures work with HUD? In other words, would you use like one person $13,000. Are we going to get into any differences because HUD's building a lot of places where we do and getting -- looking at same incomes. Do you know if these figures are pretty much what HUD has for one person, two persons and things like that, or doesn't it matter?

MR. LYTTLE: Well, I would say it doesn't matter. I have a limited understanding of the correlation with the HUD figures, and to be honest, there are some discrepancies. In sharing some information with Suzanne Phillips, our compliance director, there are issues with compliance and how tracking these figures will add a whole new dimension to what we're doing with this particular rider.

MR. BREWER: Mr. Chair, the only concern I have really is that -- is on the dollar amounts and everything as how they reflect against what HUD does with theirs,
because we don't want to be more restrictive or anything in what we -- I wouldn't think at the state level on the people to be eligible is my only concern.

MR. CONINE: Mr. Chair, I'd also reflect those concerns I guess. I'd be curious to see about -- I guess we have our highest income county, whichever that is in the state of Texas median income 30 percent of that number. Is that -- where does that fall in relation to these absolute numbers, and then of course the flip side, our lowest income county.

I'm not so sure that actual numbers aren't a good idea though, because it helps in somewhat dispersion activities. It gets rid of the 30 percent and gets to actual income. I would hate to trap ourselves into the specific incomes without some sort of indexing though, because we have a session every two years, thankfully, and we want to make sure that these numbers progress if we establish the numbers, so indexing I think would be in order.

Can we get some more input from you or anyone else related to maximum -- 30 percent of our maximum income county versus our minimum income county and let me know where these numbers fall?

MR. LYTTLE: Certainly. I can report back to the board on that. In fact, most likely this week I'll
get with Sarah Dale from our Housing Resource Center. She
was working with myself and the committee on this.

MR. CONINE: Is she here?

MR. JONES: Sarah.

MR. CONINE: I'll be glad to listen now. I
don't want to table another one.

MS. DALE: For the record, Sarah Dale,
[indiscernible] director of strategic planning and Housing
Resource Center.

Off the top of my head, because I don't have
all my notes regarding this down here, the 13,000 is above
the highest metropolitan 30 percent, so that one was above
the Dallas --

MR. CONINE: Okay.

MS. DALE: -- figure, so there's no problem
with that.

The others correlate pretty much along the
lines of the median income for the state, but they are a
little bit lower for some of the metro areas when you
start doing the increments. The reason that this rider
was changed is we understand it is because there were
concerns that the rural areas were being left out, so
it -- I guess really these figures were determined more
based upon the rural figures as opposed to the metro.

MR. BETHEL: Thirty percent on one person in
your lower rural counties is about 8,500 or 9,000, so I think it's what it -- I think this was recommended by Chairman Carter, wasn't it?

MS. DALE: Yes.

MR. BETHEL: What he's trying to do is raise the lower limit in keeping the other median income at about the same of 30 percent.

MS. DALE: Exactly.

MR. CONINE: So in effect we would get credit -- the agency would get credit for doing a deal for a $13,000 income individual in rural counties --

MS. DALE: Right.

MR. CONINE: -- as opposed to the 30-percent number, so we'd meet this particular rider.

MS. DALE: Right.

MR. CONINE: Can you address my concerns about indexing or can we add that language?

MS. DALE: Well, you have the same concerns that we have that with two years in between the legislative session, especially with the fact that these are based upon 2000 median income -- the 2001 have not come out. There have been changes in the way the incomes have been determined so it's entirely possible that the median incomes could jump up significantly and this could fall well under the 30 percent.
And these are concerns we've expressed to Chairman Carter and I suppose will be worked out in committee.

MR. CONINE: Can we -- can someone better than me come up with some indexing language that we can add to this before we move it on from a board standpoint?

MS. DALE: Certainly. And I think the only thing we can do is give that to the committee, because we have nothing to do with this process. It's purely legislative, and we've just been asked to bring it before the board as an FYI.

MR. CONINE: I'll make a motion to approve subject to some indexing language.

MR. JONES: What if we did this -- and this is just a suggestion before any motions are made -- what if we let the staff proposal slide and circulate it among the board members and let board members then have the opportunity to give comments to the staff based upon that, so that as much input as possible could be given back to the committee, because I think she makes a real good point. We're just supposed to review it. I don't think us approving anything is --

MS. BINGHAM: Yes. It's the legislative process.

MR. JONES: -- and I would say this. We might
let the staff take a first stab at it. I'm sure they will include whatever comments --

MS. BINGHAM: When does the committee meet again?

MS. DALE: Tomorrow.

MS. BINGHAM: Mr. Conine, since you -- don't you spend a lot of time in Austin? Can't you bring our concerns on your own time and on your own money to the committee's attention?

MR. CONINE: I was just under the impression though that we sent over our 2001 and 2003 legislative appropriations request, and I would assume that this language is going to be on the document we send over there, and I wouldn't want it to say something that I didn't want the board to agree upon.

MS. BINGHAM: I understand, but what I'm saying the process is pretty much out of the staff's control. It's a legislative issue, but you as a board member on your own time without using agency money can attend the committee meeting and talk about why the indexing language is required, because you know how they're going to treat the staff when they get there.

They're not going to listen. We're not going to have them interrupt them to give them that information. It's just a waste of time.
MR. BREWER: Well, I have a question, Mr. Chairman. It says on here this is a presentation, discussion, and possible approval of revision to Rider 3 to be included in the 2002-2003 legislative request.

MS. BINGHAM: But that's just like an order for the legislature.

MR. BREWER: So why can't he make the motion and just suggest the index?

MR. JONES: He certainly can. I didn't mean to suggest you couldn't, Mr. Brewer.

MR. BREWER: Yes. And with the stipulation of the indexing if the board agrees with that.

MS. BINGHAM: Mr. Brewer, I agree with you, but the way it's read it's like an order. You bring it back to me. And he's saying bring it back with -- we'll send it back to you with these stipulations. The board could vote for that and then he go over there and explain why as opposed to the staff getting shot up, because that's exactly what's going to happen.

MR. CONINE: I'll be glad to go and express my opinion over there, Ms. Bingham, but I think it's like Christmas -- Santa Claus. If it isn't on the list, you won't get it delivered there, and I want it to be on the list. That's all.

MS. BINGHAM: Okay. So, Mr. Brewer, you were
saying just -- Mr. Chairman's saying something different, but you're saying we should vote the way Mr. Conine is suggesting it?

MR. BREWER: Yes. I think we ought to vote on his suggestion and then that just be given -- they can either listen to what we're suggesting or do what they want to do.

MR. LYTTLE: I think what we can do is certainly share the new language with not only Chairman Carter but with members of the Appropriations Committee, because it's certainly not finished yet.

MS. BINGHAM: But what I'm saying is they dictate to you what they want and say go approve it and bring it back to me, so we're saying we'll do that but with this language added --

MR. CONINE: Thank you. I'll repeat my motion. I'll make a motion for approval subject to some indexing language added to this particular --

MS. BINGHAM: I second your motion.

MR. JONES: The motion's been made and seconded. Any further discussion?

(No response.)

MR. JONES: Hearing none, are we ready to vote?

(No response.)

MR. JONES: All in favor of the motion please
say aye.

(A chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: All abstentions.

DR. GRIFFIN: I abstain.

MR. JONES: The motion carries.

MS. STINER: Mr. Chairman, I guess I should have introduced this as a discussion, so am I understanding that the staff will work on some indexing language to include in that on behalf of the board?

MR. BREWER: I think that's all we've got to say.

MS. STINER: Okay. So all you want to say is you approved it based on some indexing language and let that be worked out in the committee?

MR. CONINE: Take the specific income limits, put a CPI index on it from whatever year that they're operating off of.

MS. BINGHAM: And Chairman Carter's meeting is tomorrow, so you have to do that tonight.

MR. JONES: I suggest that we take a five minute break. Thank you.

(Whereupon, a short recess was taken.)

MR. JONES: Item Number 4, Ms. Bingham.
MS. BINGHAM: Item 4 is Presentation, discussion, and possible approval of Low Income Tax Credit Program items. Item (a) is the approval of request for extension of the deadline for commencement of construction of Project 0005, Heatherwilde Park Retirement Apartments; for Project Number 99173, Huffman Hollow Apartments; and Project Number 0000-2 Lakeside Village.

Mr. Njie, are you covering those items? Before you go into those, are any of these projects covered under the tax credit -- the QAP that was just approved?

MR. NJIE: No. These were 2000 and I believe '99 applications.

MS. BINGHAM: '99 and --

MR. NJIE: Two of them are 2000. One is a '99 project. Two of them were allocated in 2000 and one in 1999.

MS. BINGHAM: So the QAP that we have now covers 2000 --

MR. NJIE: 2000 projects.

MS. BINGHAM: Do you have a 2000 project on this list?

MR. NJIE: No.

MS. BINGHAM: Lakeside is not a 2000?

MR. NJIE: Lakeside is a 2000. I don't have a 2001.
MS. BINGHAM: Lakeside is a 2000?
MR. NJIE: That's correct. So is Heatherwilde.
MS. BINGHAM: So is Heatherwilde?
MR. NJIE: That's correct.
MS. BINGHAM: Okay. I have one question before you -- okay. Could you go on, please.
MR. NJIE: Pursuant to the QAP, there are certain time lines for developers to meet, and this includes the commencement of construction. We have been petitioned by these three applicants to extend the deadline for doing so because of a variety of reasons indicated and the fact that construction for the Heatherwilde project, which is in Pflugerville.
They are development issues that the project is working through with the City of Pflugerville and some unanticipated costs. They're also going to reapply in the 2001 to close the funding gap. They are requesting an extension until August 31 to do the necessary post foundation activities for that project.
The second property is in Lakeside; Lakeside Village, Number 00002. They have commenced construction. They needed to be at the post foundation stage, and because of rain delays, they are asking for an extension to be able to do that by May 15.
The third project is Huffman Hollow. Again,
that project has experienced rain delays, and the
developer is asking for an extension to be able to meet
the deadline, and we're recommending a time line of May 15
to comply. Those are the three projects in question.

MR. DAROSS: Mr. Njie, I have a question on the
request by the Encinas Group. Is there other
documentation that was provided to staff besides the
letter here from Mr. Encinas dated March 19? The only
thing that's in our board pack is one letter --

MR. NJIE: (Perusing documents.) That is
correct. That is the --

MR. DAROSS: -- held up by weather, et cetera,
and et cetera could mean I had to take a trip to the
Caymans. I'd like to think there's more documentation
that's been provided than this to justify the request for
extension.

MR. NJIE: No. This is the only request
towards the payment of the fee. I have talked to the
general contractor and the syndicator on this project and
they have started. They just needed to be at a post
foundation state, meaning start framing the property.

MR. CONINE: We do have confirmation that the
loan has closed on the project?

MR. NJIE: That's correct.

MR. CONINE: Mr. Chairman, I'd like to take
these I guess separately as a vote. I know we've lumped
them all together here.

On the first one, Cherno, I've got some
questions on that. This is back on Heatherwilde. Okay?

MR. NJIE: That's correct.

MR. CONINE: This is a forward commitment from
the 2000 round or the '99 round?

MR. NJIE: It's a forward commitment from the
'99, so the allocation was made in 2000.

MR. CONINE: Right. So that means this
project's been teed up since 1999 and they're still having
problems getting the thing put together and done. Is that
correct?

MR. NJIE: No. The allocation was made in
March of 2000, so March 2000 to March 2001. It's been a
year. [indiscernible] of allocations, meaning the
expenditure of the 10 percent started in -- the deadline
was March 31.

MR. CONINE: There has been no loan closed on
this one. Correct?

MR. NJIE: The loan closings -- I'm not sure
the loan has closed yet.

MR. CONINE: Because the way it reads, because
of equity problems and everything else, I don't think it
has. They haven't even gotten their building permit yet
because they're still working with the city on various
issues.

MR. NJIE: The developer is on the -- I would
call him to talk to us about that.

MR. CONINE: Say that again.

MR. NJIE: I said the developer is in the
audience. I will call him to talk to us about that.

MR. CONINE: Okay.

MR. SALING: Good afternoon. My name is David
Saling with Campbell Hogue and Associates, and we're the
developers of the Heatherwilde Park Retirement Homes in
Pflugerville, Texas.

Board member, you had a question?

MR. CONINE: Well, my question -- that the
loan's not closed yet, syndication's not done yet, you
have a reservation of credits and you're still trying to
negotiate with the city for various and sundry reasons.

MR. SALING: We have closed the loan. That was
done in October with Key Housing Corporation.

MR. CONINE: You have closed the loan?

MR. SALING: Yes, sir.

MR. CONINE: And you got that done without a
building permit or all the approvals necessary?

MR. SALING: Yes, sir.

MR. CONINE: I guess my feeling is on this one
that there's an admitted shortfall here in total dollars
to do the project, and what we're doing here is extending
the old tax credits that you got and we're saying that
we're coming on this coming round to fill the gap. And
you don't know whether you're going to get the gap filled,
and you probably won't do a whole lot of construction
between now and then because you don't know whether you're
going to get the gap filled.

It just seems to me to be a little bit loose
relative to something that started in 1999 or applied for
in 1999, and I guess I want to know the ramifications if
we reject this request. What are the ramifications to
you?

MR. SALING: As Mr. Njie stated, we didn't get
the allocation for the credits until March of 2000. At
that point, we closed on the property. We had it under
contract through the application cycle in 1999 and carried
it, paying monthly extension payments until we actually
did get the reservation letter.

MS. BINGHAM: The tax credits didn't become
lawful until -- even though the board voted in '99 the tax
credits did not -- you couldn't get the tax credits by
law until 2000?

MR. SALING: That's correct.

MR. CONINE: Right. Because of the forward
reservations. I got it.

MS. BINGHAM: The forward commitment.

MR. CONINE: I got that.

MR. SALING: At that point in time we had done due diligence in '99 with the City of Pflugerville on building codes. After we had gotten the credits and closed the property and began design development stage of the product to get construction drawings, the City of Pflugerville changed a building ordinance, if you will, superseding their existing fire code, and basically they are now requiring that single-story duplex buildings have a fire protection system, including sprinklers and monitored alarm systems.

We are going before the board of adjustment to request a variance on that and expect to have an answer by the end of April. We also anticipate building permits being able to be pulled some time in April as well, of this year.

MR. CONINE: And we've met -- is there the 10-percent test requirement that's been met so far --

MR. SALING: Yes, sir.

MR. CONINE: -- or is that not applicable?

MR. NJIE: Yes. That was met in March.

MR. CONINE: Last March?

MR. NJIE: That's correct.
MS. BINGHAM: Right.

MR. CONINE: Land purchase and whatever else?

MR. NJIE: Land and material.

MR. SALING: Yes, sir.

MR. CONINE: No further questions.

MS. BINGHAM: I can't make a motion, can I?

MR. JONES: You sure can.

MS. BINGHAM: I move that we approve staff recommendation for the extensions.

MR. BREWER: I second.

MR. JONES: The motion's been made and seconded. Further discussion?

(No response.)

MR. JONES: Hearing no further discussion, are we ready to vote?

MR. BETHEL: We're on one -- just that one project?

MR. JONES: Just Heatherwilde Retirement Apartments is the motion. Is that right, Ms. Bingham?

MS. BINGHAM: Right.

MR. JONES: That motion has been made and seconded. Further discussion?

(No response.)

MR. JONES: Hearing none, I assume we're ready to vote.
All in favor of the motion please say aye.

(A chorus of ayes.)

MR. JONES: All opposed to the motion please say nay.

(No response.)

MR. JONES: Abstentions.

DR. GRIFFIN: I abstain.

MR. JONES: Thank you. The motion carries.

MS. BINGHAM: Mr. Njie, will you present the next one, which is Huffman Hollow?

MR. NJIE: The next project is 99173, Huffman Hollow. There is a question of extension again to --

MS. BINGHAM: And go back over this. With this '99 number, that gives me an indication that we voted on this in '99, but was it a forward as well?

MR. NJIE: No. This was not a forward.

MS. BINGHAM: This was a '99? This is Huffman Hollow. Okay.

MR. NJIE: That's correct.

MS. BINGHAM: Lakeside is 0002 -- okay. So Huffman Hollow is a '99. Okay.

MR. NJIE: That's correct.

Again, the foundation has started. They wanted to be able to meet the post foundation activities --

MS. BINGHAM: Is the developer here?
MR. NJIE: I think he is. It was Charlie Washburn.

VOICE: He left.

MR. NJIE: He left?

He is asking for an extension to be able to meet the post foundation activities. They've already poured slab on the ground, and they wanted to be able to technically comply by the deadline or by the time it has established, so he's asking for an extension, citing the wet weather conditions as the reason for not advancing beyond that stage.

MR. DAROSS: I move the extension be granted.

MR. JONES: We have a motion. Is there a second?

MS. SAENZ: I second.

MR. JONES: Seconded by Ms. Saenz. Further discussion?

MR. CONINE: So he's in technical default now. By moving the date to May, he preserves the tax credits. Is that correct?

MR. NJIE: Yes.

MR. CONINE: Does that boil it down to something simple?

MR. NJIE: Well, generally, yes, that is correct. He wants to be able to say he's a deferment
stage and not just a foundation.

    MS. BINGHAM: Speak up please.

    MR. NJIE: He wants to comply with every aspect
of that condition; that is, to be generally post-
foundation as to the framing at the time.

    MR. CONINE: All right.

    MR. JONES: Hearing no further discussion, are
we ready to vote? I assume we are.

    All in favor of the motion please say aye.

    (A chorus of ayes.)

    MR. JONES: All opposed to the motion please
say nay.

    (No response.)

    MR. JONES: All abstentions.

    DR. GRIFFIN: I abstain.

    MR. JONES: The motion carries.

    Lakeside Village Apartments.

    MR. NJIE: Lakeside Village is a 2000 allocation, and again, an extension request was submitted

    to the department. The project initially had some delays

    because of litigation. The city had changed the zoning

    when the approval was given back in 2000 so they had to go

    to court and sue the city, and ultimately a work-out was

    made, and the project was commenced as a result of that

    settlement, so there were additional delays that occurred
prior to the project commencing.

And again, the loan has closed on this project and they are asking for an extension until May 15.

MR. BETHEL: I make a motion we approve the extension.

MR. JONES: We have a motion. Is there a second?

MS. BINGHAM: Second.

MR. JONES: The motion's been made and seconded. Further discussion?

(No response.)

MR. JONES: Hearing none, I assume we're ready to vote.

All in favor of the motion please say aye.

(A chorus of ayes.)

MR. JONES: All opposed to the motion please say nay.

(No response.)

MR. JONES: All abstentions.

DR. GRIFFIN: I'll abstain.

MR. JONES: The motion carries.

Item 4(b).

MS. STINER: Mr. Njie, will you make the presentation for the determination notices?

Mr. Wenson --
MR. WENSON: Yes.

MS. STINER: Do you want him to take it out of order or just wait?

MR. JONES: I think what we contemplated was that after staff made the presentation, we'd let him speak.

MS. STINER: Okay. Thank you.

MR. NJIE: The first --

MR. CONINE: Can I ask a quick question before you get started here? I assume we can take these one at a time rather than a blanket --

VOICE: Right.

MR. CONINE: -- and can you give us some indication of the process that you went through getting down to this and how many -- I'm curious as to how many applications were kicked out based on some of the earlier comments we heard, and how many we've got versus how many we've got here.

MR. NJIE: I believe we have about ten projects submitted for determination notice. There are other projects to my knowledge that the department has indicated that it will not proceed because of the concentration issue. The Trammell Crow project is the only one that has been affected by that.

We have a number of these projects that
received the reservation that pulled out on their own, including the Washburn project and other projects such as the [indiscernible] variety of reasons decided not to proceed.

The projects have different time lines for closing the bonds so that they are submitted to us to review. It is a very compressed time frame as has been indicated, so the ones that we are recommending right now are the ones that need to be approved because the closing deadline is upon the developers.

As a general matter, the process is similar to the 9 percent in that we review them for threshold requirements. We don't score them obviously, because they're not competing. The reservation of tax credits is subject to underwriting. It's subject to concentration issues. It's subject to compliance with the qualified allocation plan. They don't compete for them, because federal law requires that they will be eligible if they meet certain requirements using tax exempt financing.

And so we treat them similar to tax-credit projects. We treat them similar to the 9-percent projects in terms of the way we review them for underwriting. They go through that same process. They go through the same guidelines, but I think generally we are more lenient as a matter of fact in the way we underwrite these deals, and
there are a lot of deficiencies coming in, a lot of opportunities for developers to bring back supplemental information much more than would obtain in the regular 9-percent tax credits.

So by and large I think the process we have is a very open process, a vigorous process, and a fair one for the developers. The concentration issue is one that needs to be addressed by all concerned. What we face right now is with the housing finance corporations do not in my opinion do a good job in screening these projects before they issue the reservation. The department has a process in place with the multifamily division where we require developers who receive more than one reservation on the same tract of land to [indiscernible] for one reservation, because we only proceed with one.

No similar policy exists to my knowledge with respect to the other issuers, so all of them put these bonds in the lottery and we are left with the unenviable task of trying to rationalize this and to make judgment as to which ones shall be allocated for this and which ones shouldn't be. So this is a long-term process that perhaps can be rectified through the legislative process. Hopefully that will be done.

MS. BINGHAM: What's the first one on your list, what determination notice?
MR. CONINE: Can I ask one more quick question about scoring?

MS. BINGHAM: Oh, sure.

MR. CONINE: You said they're not scored because it's not competitive, but could that not be a tool for the board to use in its evaluation with the thought process being we're always thinking about the 9-percent realm, and we would know how that 4-percent project scored? We could get a score of 50 and still be passing unless you tell me there's a problem with that analysis.

MR. NJIE: There is very little that distinguishes these projects from each other except for site locations and maybe the financing. They all tie within 100 percent or 50 as required by the --

MS. BINGHAM: Which is the first required to do under the law.

MR. NJIE: -- by the bond lottery, so they're not competing on the basis of providing additional units for low income tenants, so the basis for charging them beyond that I think would be based on site location, maybe -- certainly on compliance history.

If there is any issue of non-compliance, that will potentially kill a property. But then apart from that, they are identical in many respects.

MS. BINGHAM: They just fall out of the ball,
the lottery.

MR. CONINE: I understand that, and again, I'm asking -- let me just ask the question differently. Would you go back and score all ten of these for me based on our current rules under the 9 percent and send me an email on what the score is on all these?

MR. NJIE: Okay. I will do that.

MR. CONINE: Thank you.

MR. JONES: At this point I think it might be appropriate to give Mr. Wenson a chance to comment.

MS. BINGHAM: I don't think he is the first one.

MR. JONES: Okay.

MS. BINGHAM: He is not the first one. The first one is my book is Greenville, One Ranch View, Ltd. The developer is Mr. Ken Mitchell. That's the first one.

MR. BREWER: (Perusing documents.) I've got Roseland Fellowship. I've got a different one.

MR. NJIE: 1401.

MR. BREWER: That's what I've got.

MS. BINGHAM: 1401. I've got 1402. Okay. (Perusing documents.) All right. This is Rosewood Fellowship.

MR. NJIE: That's correct. Project Number 1401, Roseland Gardens in Dallas.
This is an elderly property and the tax credit recommend amount is 276,650. It's a new construction project and there are no non-compliance issues relating to the development team. We have several conditions outlined in the underwriting report subject to -- for the developers to comply with, so the board's action will be subject to those conditions enumerated.

And these are 101 units of new construction.

MR. BETHEL: I make a motion we approve Roseland Gardens, Number 01401 subject to underwriting --

MS. BINGHAM: Subject to those four conditions.

MR. BETHEL: Right.

MR. BREWER: I second.

MR. JONES: The motion's been made and seconded. Further discussion?

(No response.)

MR. JONES: Hearing none, I assume we are. All in favor of the motion please say aye.

(A chorus of ayes.)

MR. JONES: All opposed to the motion please say nay.

(No response.)

MR. JONES: All abstentions.

DR. GRIFFIN: I abstain.

MR. JONES: The motion carries.
MR. NJIE: The next project is 01402, Ranch View Town Homes in Greenville. Again, this is a new construction project comprised of 250 units. We are recommending an allocation amount of $868,699.

MS. BINGHAM: I have one question. The developer is here. Right?

MR. MITCHELL: I'm here.

MS. BINGHAM: Okay. Is this a 2000 --

MR. NJIE: This is a -- I believe this is a 2001 lottery.

MS. BINGHAM: Is it covered under the current tax-credit QAP that we voted for recently?

MR. NJIE: Yes. All these are covered.

MS. BINGHAM: Okay. That was my question.

Now, I have a letter -- we have ex parte rules we voted on -- I have a letter from the developer that was sent to Mr. Njie. It has March 3, 1999. It talks about he'll be here on March 27 of 2001. I assume that was March of 2001.

It is cc'd to Ms. Stiner, Mr. Jones, Mr. Daross, Robert Brewer, Lydia Saenz, Marsha Williams, C. Kent Conine, Don Bethel. My name is omitted I guess for obvious reasons.

Mr. Chairman, I didn't vote for the ex parte rule. There are a lot of laws I don't like but I try to

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follow them and obey them. Mr. Bethel, when he voted on
the ex parte rule, he said does it include faxes and other
information? This is a clear violation of our ex parte
rule, so that is the reason I'm not going to vote -- I
don't have a problem with the project or the developer,
but if we've got rules, they ought to be followed.

Now, maybe he didn't fax it. Maybe he just
cc'd it to the board members to intimidate the staff, but
here is a copy of it.

Is this your fax number, Mr. Mitchell?

MR. JONES: Also, I think that Mr. Njie brought
that to the attention of Ms. Marks --

MS. BINGHAM: Okay.

MR. JONES: -- and Ms. Marks handled that
matter for us, Ms. Bingham.

MS. BINGHAM: How did she handle it?

MR. MITCHELL: I'd like to address the
audience. My name is Ken Mitchell. We never sent that
letter to any board members.

MS. BINGHAM: You just put the names on --

MR. MITCHELL: That's correct.

MS. BINGHAM: You just --

MR. MITCHELL: That's right.

MS. BINGHAM: You led the staff to believe they
were getting --
MR. MITCHELL: I changed my mind and never sent it.

MS. BINGHAM: You've changed your mind and you never sent it?

MR. MITCHELL: That's right.

MS. BINGHAM: But you wrote it?

MR. MITCHELL: That's right.

MS. BINGHAM: Okay.

MR. MITCHELL: But I did not send it.

MS. BINGHAM: Okay. When people see a cc to a board member and you just change your mind and don't cc it, you just --

MR. MITCHELL: That's right.

MS. BINGHAM: You just decided that I cc'd it to them, but let me go over some more information on it. It addresses -- and I'm assuming the staff has worked this out if they're recommending the project. I don't have a problem with the project or the town or the developer or anybody else. We're talking about compliance issues on 15 previous projects, and it is written to Mr. Njie and cc'd to seven board members, which is a clear violation of the ex parte rule that this board approved and the governor signed in the QAP that is applicable to the projects on the agenda, Mr. Chairman.

So Mr. Developer, we can hear from you.
MR. MITCHELL: I'm sorry. It wasn't sent --

MR. JONES: Could we hear from Ms. Marks --

MS. BINGHAM: Oh, sure.

MR. JONES: -- if you don't mind.

MS. BINGHAM: Sure.

MR. JONES: Mr. Njie referred the matter to Ms. Marks, and I would like her to address how it was handled by our staff.

MS. BINGHAM: Thank you.

MS. MARKS: Basically, the question was raised as to whether or not it would go to the parameters of whether the ex parte rule would apply where somebody was cc'd, and so it would have to be a determination. I called Mr. Mitchell and asked him if he had sent the fax or if he had faxed any of the board members on this and told him it would have to be determined whether or not this was a violation, that while there might be differences of opinion as to whether or not this actually was a violation that he had the right to come here and to make public comment on the basis of it and to talk about his credit project, but that it was not -- that he assured me that he had retrieved -- that they had not been faxed and he -- I made that clear to Mr. Njie as well.

MS. BINGHAM: You said retrieved or had not --

MS. MARKS: That it had not been sent.
MS. BINGHAM: Okay.

MS. MARKS: Had not been faxed.

DR. GRIFFIN: I have a question.

MS. BINGHAM: You can't participate in this.

DR. GRIFFIN: But I have a question.

MS. BINGHAM: You can't participate in --

DR. GRIFFIN: Not in this. It's just a --

MS. BINGHAM: You can't participate in this, Dr. Griffin. You should not be in this. You probably should leave the room.

DR. GRIFFIN: No, I'm not leaving.

MS. BINGHAM: Ms. Marks, so the developer told you that he -- even though he wrote the names of the board members and he used this fax that he had not submitted it?

MS. MARKS: That's correct.

MS. BINGHAM: He put the names on here. He intended to fax it but he changed his mind.

MS. MARKS: I believe that's right.

MS. BINGHAM: Okay. Thank you. That's all I need to know.

DR. GRIFFIN: Mr. Chair, may I ask a question?

MS. BINGHAM: Dr. Griffin, you should not participate --

DR. GRIFFIN: Ms. Bingham --

MS. BINGHAM: You should not participate in
Mr. Chair, like I said, I didn't vote for the ex parte rule. There are a lot of laws and rules on the books that I don't like, but as a law-abiding citizen I try to abide by them. This gentleman violated our ex parte rule. Either he sent this to the staff, cc'd to the board members with the intent of intimidating them by putting seven board members.

If you don't intend to send something to them why did you put it in writing and say you're cc'ing us?

So that's my only point. Now, I'm not -- I don't have a problem with the developer or his project, but I do have this, so may we continue? I'm through with this.

MR. BETHEL: I don't think I received anything.

MS. SAENZ: I didn't either.

MS. BINGHAM: I did not, not from him. I got his fax number on here but it didn't come --

MR. CONINE: I guess I'd be curious, Ms. Bingham, how you got that letter.

MS. BINGHAM: That's -- why don't you leave that to your imagination. We'll leave that to your imagination.

MR. MITCHELL: Can I say something?

MS. BINGHAM: Is this your letter?
MR. MITCHELL: Yes. I just want to say if -- I probably caused a lot of confusion, and for that I apologize. It's a new rule. I was not aware of it. I didn't know that it applied to bond projects, and that is my mistake. I'm just glad nothing was sent.

Thank you.

MR. BETHEL: So, Mr. Chair, what did our legal counsel say? Did she make a determination whether this violated it or not?

MS. MARKS: On the representations of Mr. Mitchell which basically were that it had not been faxed or mailed to any of the board members who were cc'd, I went back to Mr. Njie and said that -- and told staff who the letter was addressed to that I didn't believe there was a violation.

MS. BINGHAM: Thank you, Ms. Marks.

Mr. Njie, will you continue the presentation?

MR. NJIE: Yes. The project in question is Number 01402, Ranch View Town Homes in Greenville. We're recommending an annual allocation of 868,699. The project is comprised of 250 units, and we have four underwriting conditions listed in the summary. And we're recommending an allocation.

MR. JONES: Is there a motion?

MR. CONINE: Move for approval.
MS. SAENZ: I second that.

MR. JONES: The motion's been made and seconded. Further discussion?

(No response.)

MR. JONES: Hearing none, I assume we're ready to vote.

All in favor of the motion please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: All abstentions.

DR. GRIFFIN: I abstain.

MS. BINGHAM: I abstain as well.

MR. JONES: The motion carries.

MS. BINGHAM: Mr. Njie, the next one is 01403 in the book.

MR. NJIE: Yes. Bent Tree Town Homes in Waxahachie by the same developer. Total units 250, annual allocation recommended 870,246, subject to the two underwriting conditions outlined.

MS. BINGHAM: And this is also covered by the same letter that I talked about?

MR. NJIE: That's correct.

MS. BINGHAM: Same developer, same letter.

MR. CONINE: Move for approval subject to staff
MR. DAROSS: Second.

MR. JONES: The motion's been made and seconded. Further discussion?

(No response.)

MR. JONES: Hearing none, are we ready to vote? I assume we are.

All in favor of the motion please say aye.

(A chorus of ayes.)

MR. JONES: All opposed to the motion please say nay.

(No response.)

MR. JONES: All abstentions.

DR. GRIFFIN: I abstain.

MS. BINGHAM: I abstain, Mr. Chairman.

MR. JONES: The motion carries.

MR. NJIE: The third project on the list is Silverton Village Town Homes in Ennis, Number 01404.

MS. BINGHAM: And, Mr. Njie, let me make for the record, the same developer, also in the same letter. Please proceed with your presentation.

MR. NJIE: We're recommending an annual allocation of 870,086, subject to the two underwriting conditions outlined.

MS. BINGHAM: You've got two conditions.
MR. NJIE: Yes.

MR. CONINE: Move for approval subject to staff conditions.

MR. DAROSS: Second.

MR. JONES: The motion's been made and seconded. Discussion?

(No response.)

MR. JONES: Hearing none, I assume we're ready to vote.

All in favor of the motion please say aye.

(A chorus of ayes.)

MR. JONES: All opposed to the motion, nay.

(No response.)

MR. JONES: All abstentions.

DR. GRIFFIN: I abstain.

MS. BINGHAM: I abstain, Mr. Chairman.

MR. JONES: The motion carries.

MR. NJIE: Next project is Number 01410, Cullen Park Apartments in Houston, number of units, 240. Staff is recommending $720,010 annually subject to four underwriting conditions.

MR. DAROSS: Move approval, subject to the recommendations --

MR. CONINE: Second.

MR. JONES: The motion's been made and
seconded. Further discussion?

(No response.)

MR. JONES: Hearing none, I assume we're ready to vote.

All in favor of the motion please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: All abstentions.

DR. GRIFFIN: I abstain.

MR. JONES: The motion carries.

MR. NJIE: Next project is Number 01411, Newport Apartments in Houston, 224 units. It's an acquisition rehab project. We're recommending $351,036, subject to the five underwriting conditions outlined.

MR. DAROSS: Move approval, subject to the five conditions.

MR. BREWER: Second.

MR. JONES: The motion's been made and seconded. Further discussion?

(No response.)

MR. JONES: Hearing none, I assume we're ready to vote.

All in favor of the motion please say aye.

(A chorus of ayes.)
MR. JONES: All opposed to the motion please say nay.

(No response.)

MR. JONES: All abstentions.

DR. GRIFFIN: I abstain.

MR. JONES: The motion carries.

MS. STINER: Mr. Chairman, may I just ask for a point of clarification on this?

You said five underwriting conditions. I have six conditions on mine, or do I have the wrong --

MR. NJIE: Do you have it on the board summary?

MS. STINER: Yes.

MR. NJIE: You have six?

MS. STINER: Yes. Maybe it's an old one.

Thank you.

MR. CONINE: I have six on mine too.

MS. STINER: You've got six on yours?

MR. CONINE: Yes.

MR. NJIE: What is the sixth condition?

MS. BINGHAM: The fifth says -- mine says receipt, review, and acceptance of a commitment to provide credit enhancement.

MR. NJIE: That is the fifth.

MR. DAROSS: The sixth one is reduction in tax-

credit allocation to not more than 351,036 annually.
MR. NJIE: Well, that was implemented -- that is what we recommended.

MR. DAROSS: So that's not really a condition. That's what you do.

MR. NJIE: That's correct.

MR. JONES: Next one.

MR. NJIE: Next is Bellfort Pines, 01412 in Houston, 248 units. The recommendation states an annual allocation of 760,470, subject to the four underwriting conditions.

MR. DAROSS: Move approval, subject to those four conditions.

MR. CONINE: Second.

MR. JONES: Further discussion?

(No response.)

MR. JONES: Hearing none are we ready to vote? I assume we are.

All in favor of the motion please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: All abstentions.

DR. GRIFFIN: I abstain.

MR. JONES: The motion carries.

MR. NJIE: The next project is in Dallas,
01414, 117 units. It's a rehabilitation of an existing property. We are recommending an annual allocation amount of 206,922, subject to the five conditions outlined.

MR. CONINE: I have four.

MS. WILLIAMS: I have five.

MR. CONINE: I'm on the wrong one, then.

MR. NJIE: This is Las Colinas.

MR. JONES: Do we have a motion?

MR. DAROSS: I'll move we approve --

MR. BREWER: I second.

MR. JONES: We have a motion and we have a second. Further discussion?

(No response.)

MR. JONES: Hearing none, I assume we're ready to vote.

All in favor of the motion please say aye.

(A chorus of ayes.)

MR. JONES: All opposed to the motion please say nay.

(No response.)

MR. JONES: All abstentions.

DR. GRIFFIN: I abstain.

MR. JONES: The motion carries.

MR. NJIE: The next project is Starcrest Apartments in Beaumont, Project Number 01415, 150 units.
We are recommending an annual allocation of 248,630, subject to three underwriting conditions.

MR. JONES: Thank you. Is Mr. Wenson here? I know he wanted to speak to this.

MR. NJIE: He wants to speak to the next one.

MR. JONES: Okay. Do we have a motion?

MR. DAROSS: So moved.

MS. SAENZ: Second.

MR. JONES: The motion of approval has been seconded. Further discussion?

(No response.)

MR. JONES: Hearing none, I assume we're ready to vote.

All in favor of the motion please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: All abstentions.

DR. GRIFFIN: I abstain.

MR. NJIE: The next project is Palomino Place Apartments in Houston.

MR. CONINE: Mine's not in the book.

MR. NJIE: I think that was a supplemental.

MR. JONES: Mr. Njie, if you would, describe it to us while we're finding it.
MR. NJIE: In Houston, Texas, a 272 units. It's an existing property being rehabilitated. We have two underwriting conditions that have been outlined here, and Mr. Wenson wanted to address I believe the reduction in the tax-credit amount.

MR. JONES: Mr. Wenson.

MR. WENSON: I'm Bill Wenson. Mr. Chairman, I'd like to thank you for giving me this opportunity.

MR. JONES: I tried hard.

MR. WENSON: You did.

Going back to our discussion in the evaluation and underwriting of this property, staff is recommending a substantial reduction in the tax credits based on what I can perceive from underwriting, which I received this morning and in my review of it -- shows that the change is that they believe I can get higher rents in my one and two bedroom units.

We have gone back to our market analyst and they have reviewed this situation, and as we were going through earlier we were talking about some of the statistics that they had determined, and if you'll indulge me to go to page 4 of the Danter Company letter one more time, we talk about price per square foot and my markets in my one bedroom of tax-credit properties in my area are 51 to 54 cents.
We are proposing 61 cents a square foot. Our units are smaller than the market and they talk about that. However, we are at 61 cents, which is higher than what the market study is showing our immediate tax-credit competitors to be, and staff is recommending that we should go to 75 cents, which is what the market study says market rate projects without any restriction should rent for. The same thing with our two bedroom. We're recommending 55 cents a square foot. Our highest competitor is at 54. Staff is recommending 70.

The threes and fours -- they're not nearly the number of units in our market as there are in one and two bedrooms. There's like almost 11,000 units in our estimated market area. Almost 10,000 of those units are one and two bedroom units.

We commissioned Danter Company because we think they're a good market study company, and I think we have market studies so that we can use them as a guide for determining what our rents are going to be.

On page 5 of the Danter letter, some of the comments that they make here are, "The rents as proposed are very reflective of current standards among the three tax-credit properties in the area. The rents TDHCA would like to implement are among the highest compared to the existing tax-credit alternatives, and the subject units
are among the smallest.

One of the telling things as a developer for us is considering absorption rates, because that directly reflects in the cost of our development and reaching our sustained occupancy levels, and our proposed rents were at eleven to 14 months. Our market analyst believed that if we go to the recommended rents, we're going to be 24 to 30 months and possibly even longer.

On the final page, page 6 of his letter, it's his opinion that while new rents will decrease the amount of tax credits needed for Palomino Place, the TDHCA recommended rent levels will significantly impact the overall performance of the property and make the project vulnerable in the market. Those are the comments of our market study analysts, and as a developer, we make decisions based on our market study analysts.

If I could direct your attention to the cover letter that I put in the package, I'd like to just make a couple of comments there. On page 2 the second paragraph is where I'd like to start, and it's the second sentence.

It says, "In order to hit the rents that we are forecasting, HUD has to prove a 26-percent increase in our one bedrooms, a 23-percent increase in our two bedrooms, a 66-percent rent increase in our three bedroom, and a whopping 80-percent increase in our four bedrooms."
is a preservation project. It does have existing multiple Section 8 contracts on it, and we are asking HUD to increase our rents substantially just to reach what we think the market is.

If we could go back to page 1 of this same letter, under our development budget with the credits we have requested we are deferring 62 percent of our developer fee. With the reduced credit amount, staff is recommending we are forced to defer 100 percent of our developer fees and probably reduce our scope of work which creates us a problem because we are mandated by FHA on our scope of work.

They send out their own inspectors. We have already gone through that process and determined what that scope of work should be.

MS. BINGHAM: So your issue is that by decreasing your tax-credits amount they are forcing you to increase your rents and on and on. Now, these tax credits are not competitive. I don't even know if they are scarce, so where is the staff underwriter who worked on this one? Where is your heartburn with the additional amount of tax credits? What harm would it do to us if it would do any? What's the deal?

MR. GOURIS: Tom Gouris, director of credit underwriting.
We're mandated under Section 42 to provide no more credits than are necessary for a project.

MS. BINGHAM: Reasonableness. Okay.

MR. GOURIS: Yes. And we've defined reasonableness with all our programs to be at 125 debt coverage ratio, so we valuate what the potential of a project is. In this case there's nothing in the information we were provided with thus far that would mitigate the ability of the applicant to raise rents the maximum 50-percent rent --

MS. BINGHAM: To the maximum what rent?

MR. GOURIS: To the maximum 50-percent rent limit --

MS. BINGHAM: Okay.

MR. GOURIS: -- minus utility allowance. And he's prepared some additional information that we would be glad to take into consideration and come back to the board at subsequent --

MS. BINGHAM: Let me ask the developer a question. What is your lottery date that you have to have if you're --

MR. WENSON: May 15.

MS. BINGHAM: May 15.

MR. WENSON: Is when we have to close.

MS. BINGHAM: Yes. You've got a problem. You
can't sit around and wait for us to come back and resolve this. This is going to have to be resolved today.

Could I make a recommendation that we allow the higher amounts of credits and give him time to justify that later? Can we do that? We're just going to kill the deal if we sit around arguing about --

MR. NJIE: We were going to recommend that the amount that is in the board summary, 299,000, be awarded, subject to him providing additional information to evaluate and go up to the maximum 334,000 --

MS. BINGHAM: Why don't we do just the opposite, because you can't give more credits than we vote for. You don't have authority to give higher credits, but you can come -- could I make a motion, Mr. Chairman, that we approve the higher amount that the developer is requesting and give him the opportunity to negotiate with the staff on how he uses them or if he needs them, but we don't have time to come back another month, because he's got 120 days --

MR. BETHEL: I second that motion.

MS. BINGHAM: My motion is that we approve the higher amount.

MR. CONINE: Which number is that, because he said a number different than what's here on the page.

MS. BINGHAM: What's the number you requested,
because you did your own number --

MR. BREWER: 377.

MR. WENSON: I think it was --

MR. BREWER: 377.

MR. WENSON: Let me see if I have that with me here. I'm sorry. One moment. I thought it was 397.

MS. BINGHAM: That's a big step --

MR. WENSON: (Perusing documents.) I'm looking at staff underwriting and that's what they say I'm eligible for.

MS. BINGHAM: But you should know what your own request was.

MR. WENSON: I believe it was 380.

MR. BREWER: It says 377,899.

MR. WENSON: Then that's it.

MS. BINGHAM: So we're talking about $100,000 in tax credits over ten years, which is a million dollars times -- what percentage on that? How much percent on a dollar?

MR. WENSON: They used 84 but my syndication letter is 77.5.

MS. BINGHAM: 77.5. So how much in real dollars are we talking about?

MR. WENSON: The difference in that? It's $620,000.
MS. BINGHAM: $620,000. We're talking about how many units?

MR. WENSON: 272.

MS. BINGHAM: Staff, does that give you a real hard burn that that's something you can negotiate on? Can we vote for the higher amount and then you all work out with him the numbers without this killing the deal?

MR. NJIE: I believe your syndication letter says 84 cents, isn't it?

MR. GOURIS: The one that was provided for the underwriting report? Yes, but that's not the question.

MS. BINGHAM: Could we take a five minute break and let the developer go get his own -- did you bring your application today?

MR. WENSON: No, ma'am. I didn't, but they have the syndication letter that is 77.5 that we have executed.

MS. BINGHAM: Can we take a five minute break and go get the syndication letter?

Can we take a five minute break, Mr. Chairman?

MR. JONES: Yes. We can --

MS. BINGHAM: Because we can't wait until next month.

MR. WENSON: Excuse me. That syndication letter is in your package. It's Apollo Housing, and it is
the same syndication letter that we have provided staff
this morning.

MR. GOURIS: The syndication letter that was in
the application was considerably more restrictive than
that syndication letter. We asked for --

MS. BINGHAM: I don't have a problem with that.

Can we take a five-minute break and you all get both of
the letters, the ones that you got this morning.

MR. JONES: We'll take a five-minute break, and
when we come back, please report to Ms. Bingham.

(Whereupon, a short recess was taken.)

MR. JONES: Mr. Njie, would you please answer
Ms. Bingham's question.

MR. NJIE: What is the question?

MS. BINGHAM: The question is to justify or
defend your recommendation based on the information you
got from the developer's document and from his syndicate.

MR. NJIE: The recommended amount here -- the
developer has the opportunity to exceed the amount
recommended, provided he provide additional information
that would justify a higher allocation amount, and this is
the process we do with all 4-percent tax-credit
allocations.

His problem, however, is that he indicated to
Tom that he is doing FHA financing, and the 299,000 will
not be adequate to enable him to close the transaction, and he was looking at a higher number of 334,000 to be able to close and then come back to the department with additional information that we can reevaluate.

MS. BINGHAM: To justify that amount?

MR. NJIE: To justify --

MS. BINGHAM: The increased amount.

MR. NJIE: That's correct.

MS. BINGHAM: Okay.

MR. NJIE: And I guess I'm waiting for Tom to see what he thinks about that, and then we can amend our recommendation to that.

MS. BINGHAM: Well, I would make a motion that we amend our recommendation to the 330 something amount and give the staff the authority to have the developer to justify it in writing.

MR. JONES: We have a motion.

MR. BETHEL: Second.

MR. JONES: The motion's been seconded.

Further discussion? It was by Mr. Bethel. Further discussion?

MR. DAROSS: Yes. I have some discussion, and this may require a legal opinion, but I noticed in the packet that was faxed to us as a supplement to the board book, the bottom of the first page on the board's summary
under public comment it lists several different state and
city representatives and lists Margie Bingham as director
of Housing and Community Development Department, who I'm
sure because she is in that position was given this
application and asked for comment.

By the same token, we have got an ex parte rule
that says board members can't look at anything from
developers before the board meeting, so it would seem that
in her position --

MS. BINGHAM: Let me respond to that. I do not
have a copy of the developer's application in connection
with my job at the City of Houston. Let me make that very
clear. As the director of housing for the City of
Houston, what I do is write a statement on behalf of the
mayor and city council that this application -- and he
gives me -- the developer submits a number of units and a
location, and I say it is consistent with our consolidated
plan. That's the comment I give.

It is consistent, and I will state that over
and over again, and I do that, and that is a law that the
Texas Legislature passed that says I sit here as a public
member, and in that regard I don't have a conflict of
interest as it relates to the combining of this job and my
city job.

You're damn right I say that it's consistent
with my consolidated plan. It is. And that is what I reviewed.

MR. DAROSS: I'm not suggesting, Mr. Chairman, that this --

MS. BINGHAM: Just like I said on every other project in Houston. I said it's consistent with the consolidated plan. I said the Trammell Crow project was consistent with the city's consolidated plan, and that is the only comment that is requested from a city official. I have the same comment that the laws say that the public officials -- they have the right to comment on whether it's consistent with their local consolidated plan.

It is consistent. Every application from Houston that we discussed this morning is consistent with my consolidated plan, and I have said that on every application.

MR. DAROSS: Mr. Chairman, perhaps I didn't make myself clear. I'm requesting that we get verification from either the Attorney General's Office or general counsel's office as to whether any information about a plan which is given to a board member in whatever capacity the board member may be sitting in conflicts with our ex parte rule.

MR. JONES: Judge, I think that's a good idea, and I'll refer that to Ms. Marks.
MS. BINGHAM: Why don't you do that? It is in your legislation, and I told you that when you passed the ex parte rule, that you could not stop me doing my job at the City of Houston.

MR. JONES: Further discussion?

(No response.)

MR. JONES: Hearing none, we have a motion on the floor and a second. All in favor of the motion please say aye.

(A chorus of ayes.)

MR. JONES: All opposed to the motion, nay.

(No response.)

MR. JONES: All abstentions?

DR. GRIFFIN: I abstain.

MR. BREWER: And at this point we've got one more.

MR. NJIE: I believe that concludes our tax-credit items.

MR. JONES: Thank you, Mr. Njie.

MR. WENSON: Could I have one moment to say a couple of other comments? It's just that I appreciate what we've done here. I know that I started this discussion with I was happy with being approved under staff's recommendations and I could work it out with them, and I appreciate what the board has done today.
Thank you very much.

MR. JONES: Thank you.

All right. Let's move to Item 5 on the agenda.

Is there a motion?

MR. BREWER: Yes. I make a motion to renominate the vice-chair, James Daross.

MR. JONES: Is there a second?

MR. CONINE: Second.

MR. JONES: Discussion?

(No response.)

MR. JONES: All in favor of the motion please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, nay.

DR. GRIFFIN: I abstain.

MR. DAROSS: I'll abstain.

MS. BINGHAM: I vote nay.

MR. JONES: The motion carries.

Motion with regard to Item 5. I think we have a secretary.

MR. BREWER: I renominate Delores Groneck for the secretary position.

MR. CONINE: Second.

MR. JONES: Discussion?

(No response.)
MR. JONES: Hearing none, all in favor of the motion please say aye.

(A chorus of ayes.)

MR. JONES: All opposed, nay.

(No response.)

MR. JONES: All abstentions?

(No response.)

MR. JONES: The motion carries. Any further motions with regard to Item 5?

(No response.)

MR. JONES: Hearing none, why don't we move to the executive director report if we could, Ms. Stiner, before going in to executive session.

MS. STINER: Thank you, Mr. Chair.

The report items for the executive director -- Michael Lyttle, will you come forward and do a wrap-up on legislation that's been approved or passed and signed?

MR. LYTTLE: Not details.

MS. STINER: Not detail?

MR. LYTTLE: A brief summary.

MS. STINER: Yes. Thank you.

MR. LYTTLE: We have several major bills -- actually if you want to know the truth, we have over 270 bills that we're tracking right now that affect this agency. Many of them are general government bills but
it's quite a considerably busy time for my area and for
the agency with this session.

Two things to mention very quickly on
tomorrow's House Committee on Urban Affairs meeting, our
Sunset bill, House Bill 3449 filed by Representative
Gallego will be heard for the first time in House Urban
Affairs. The following week the committee hopes to pass
that bill out of the House into the full House, and then
the Senate side will take up their version of the Sunset
bill after that.

There are also several major bills that affect
our tax-credits program that affect sub-prime lending and
our bond cap that we're dealing with in the Urban Affairs
Committee and again, tomorrow's hearing will be
substantial with the amount of bills that are being heard.

And something else to mention, we are
thankfully through for the most part with the
appropriations and finance cycle with this legislative
session. I'm pleased to report that both the Senate
Finance Committee and the House Appropriations Committee
have passed our base line budget. In addition, on the
Senate side, they have approved approximately $740,000 for
compliance monitors that we requested over the biennium in
their base bill.

In Article 11, which is basically a legislative
wish list, they -- the Senate Finance Committee has put our request for a regional needs assessment in there. As well, they've included $40 million of funding for the department's office of portfolio preservation. Also in Article 11 the ENTERP [phonetic] program has a funding amount of 6 million and rural fire prevention volunteers request for $210,000.

Also to mention, the Finance Committee changed our rider dealing with site visits for the Low Income Housing Tax Credit program, which will allow a designated representative of a county or city official to visit with our staff when we're out there, and -- if the mayor cannot meet with our representatives.

Something else to mention, the Senate Finance Committee approved several riders that were new riders that basically directed us to utilize any surplus from our refunded mortgage revenue bonds into our Bootstrap program and to use US census tracts in considering statewide housing needs. The interesting thing is the committee substitute bill that we saw this morning from the Senate for Senate Bill 1 did not include those riders, so I need to clarify that with the Senate and I'll report back to you on that particular issue.

And also very quickly, on the House side, House Appropriations did pass us through with our baseline
budget. They've also added several riders that one of you had talked about earlier, which was Rider 3. Also the system benefit fund -- we received $24 million for the biennium from the system benefit fund to enhance our energy assistance and weatherization programs, and that initially didn't look very promising, but thankfully it came through, so we are very pleased with that.

And this sort of encapsulates some of the information that goes beyond what you've been receiving from Anne Paddock, our deputy general counsel, with her legislative summaries.

Are there any questions?

(No response.)

MR. JONES: Thank you.

Anything else?

MS. STINER: No. That's it. We'll defer our report on our neighborhood partnership program portfolio until next board meeting.

MR. JONES: With that then, we'll turn to Item 6 on the agenda, which is the presentation, discussion, and possible approval of report from the Evaluation Committee and discussion and possible action on the evaluation and continued employment of the executive director of the Texas Department of Housing and Community Affairs, and I'll call us into executive session.
On this March 27, 2001 regular board meeting of the Texas Department of Housing and Community Affairs held in Austin, Texas, the board of directors adjourned into a closed executive session as evidenced by the following:

the board of directors will begin its executive session today, March 27, 2001, at 2:20 p.m.

(Whereupon, a short recess was taken.)

MR. JONES: The subject matter of this executive session that we just had was personnel matters -- discussion and possible approval of performance evaluation for the executive director and to deliberate and to discuss action on the evaluation and continued employment of the executive director of the Texas Department of Housing and Community Affairs under Section 551.074 Texas Government Code. Action taken, none.

Number two, litigation and anticipated litigation (potential or threatened under Section 551.071 and 551.103, Texas Government Code Litigation Exception). Action taken, none.


Consultation with attorney pursuant to Section 551.071(2), Texas Government Code.

The board of directors has completed its
executive session of the Texas Department of Housing and Community Affairs on March 27, 2001, at 2:45 p.m.

I hereby certify that this agenda of an executive session of the Texas Department of Housing and Community Affairs was properly authorized, pursuant to Section 551.103 of the Texas Government Code posted with the Secretary of State's Office seven days prior to the meeting pursuant to 551.044 of the Texas Government Code, and that all members of the board of directors were present, and that this is a true and accurate record of the proceedings pursuant to the Texas Open Meetings Act, Chapter 551 Texas Government Code.

With that, we have concluded all the items on our agenda. Is there a motion --

MR. BETHEL: I make a motion we adjourn.

MS. SAENZ: I second that motion.

MR. JONES: All in favor of the motion please say aye.

(A chorus of ayes.)

MR. JONES: The meeting is adjourned.

(Whereupon, at 2:48 p.m., the meeting was adjourned.)
CERTIFICATE

MEETING OF: TDHCA Board
LOCATION: Austin, Texas
DATE: March 27, 2001

I do hereby certify that the foregoing pages, numbers 1 through 150, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the Texas Department of Housing and Community Affairs.

04/02/01
(Transcriber) (Date)

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