

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
BOARD MEETING

10:00 a.m.
Tuesday,
January 17, 2012

Capitol Extension
Room E 1.028
1500 N. Congress Avenue
Austin, Texas

BOARD MEMBERS:

J. PAUL OXER, Chairman
TOM H. GANN, Vice-Chairman
LOWELL KEIG
DR. JUAN MUÑOZ
LESLIE BINGHAM ESCAREÑO (not present)

STAFF:

TIMOTHY K. IRVINE, Executive Director

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Item 1: Approval of the following items presented
in the Board materials:

- (a) Presentation, Discussion and Possible Action regarding the Board Minutes Summary for December 25, 2011
- (b) Presentation, Discussion, and Possible Action authorizing the Notice of Public Hearing for the issuance of Single Family Mortgage Revenue Bonds
- (c) Presentation, Discussion, and Possible Action regarding the 2011 Single Family Homeowner Rehabilitation, Homebuyer Assistance and Tenant Based Rental Assistance Programs contract award recommendations
- (d) Presentation, Discussion, and Possible Action on Tax Credit Assistance Programs contract award recommendations (pulled)
- (e) Presentation, Discussion, and Possible Action to ratify the award of Community Services Block Grant (CSBG) Program funds for Loving, Reeves, Ward, and Winkler Counties to the existing West Texas Opportunities, Inc., service area
- (f) Presentation, discussion, and Possible Action regarding an application to NeighborWorks America for the National Foreclosure Mitigation Counseling (NFMC) Program, Round 6, and the commitment of up to \$50,000 in Housing Trust Fund monies as matching funds
- (g) Presentation, Discussion, and Possible Action to approve a Housing Trust Fund (HTF) Affordable Housing Match contract with Habitat for Humanity of San Antonio, Inc.
- (h) Presentation, Discussion, and Possible Action on Housing Tax Credit Program Extensions

- (l) Presentation, Discussion, and Possible Action regarding the recommendation the Neighborhood Stabilization Program - Program Income (NSP-P) Reservation System Participants

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PROCEEDINGS

MR. OXER: Good morning, everyone. I'd like to welcome you to the January 17 Board meeting of the Texas Department of Housing and Community Affairs and say Happy New Year to everybody as well. So hope your New Year's off to a good start. I see everybody here. We'll be off to a good start here.

First thing we'll do is the roll call.

So Ms. Bingham, she is not here.

MR. OXER: Mr. Gann?

MR. GANN: Here.

MR. OXER: Mr. Keig?

MR. KEIG: Here.

MR. OXER: Dr. Muñoz?

DR. MUÑOZ: Present.

MR. OXER: And I'm J. Paul Ozer. I am here.

So we have four here. We have a quorum.

Good. All right. First, please stand and salute the flags.

Dr. Muñoz, would you lead us?

(Pledge of allegiance.)

MR. OXER: To the Texas flag, please.

(Texas pledge of allegiance.)

MR. OXER: We'll get that right next time.

(Pause.)

MR. OXER: Okay. We are honored today to have

Representative Rafael Anchia with us, there in the back. Thank you for coming.

Representative Eric Johnson, good morning.

REP. JOHNSON: Good morning.

MR. OXER: Julie Frank. Julie?

(No response.)

MR. OXER: Julie, there she is. She's hiding over there in her go-to-the-vet clothes, by the way.

And we have a few staff changes.

MR. IRVINE: Yes, Mr. Chair. I'd like to introduce Barbara Dean.

Barbara, would you please stand and be recognized. Barbara has just joined us. She was our division chief at the Attorney General and a much-beloved division chief there, generally regarded as the best of the best. She has joined us as our general counsel and we're thrilled to have her on board.

MS. DEAN: Glad to be here.

MR. IRVINE: I'd also like to mention a couple of losses but gains for other people. Two of our fine team, Teresa Shell, who is widely known in this crowd as the largest tax syndicator on the planet, having successfully navigated the exchange program, has left the Department to go and have some real fun; and Raquel Morales, who was the administrator of the 9 percent tax credit program, has also left the Department. They've just been incredible stars and contributors and I'm glad they'll still be part of this

community. So that's all I've got. Thank you.

MR. OXER: Thank you. Yeah, one of the things you learn from some organizational dynamics is that it becomes a compliment to the Agency when you're a source of candidates rather than -- for recruiters to take, rather than a place to put them, so we've got both this time.

So welcome aboard, Barbara.

MS. DEAN: Thank you.

MR. OXER: Okay. Consent agenda?

MR. IRVINE: Mr. Chairman, staff would like to request that Item 1(d) regarding the Tax Credit Assistance Program be pulled from the consent agenda.

MR. OXER: Okay. 1(d) is the Cevallos Lofts.

Any board member have any other action?

(No response.)

MR. OXER: Any questions?

(No response.)

MR. KEIG: Move to accept the consent agenda with the changes Mr. Irvine mentioned.

MR. OXER: Motion by Mr. Keig to accept the consent agenda with changes.

Second?

MR. GANN: Second.

MR. OXER: Second by Mr. Gann. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: Motion carries.

MR. IRVINE: Mr. Chairman, with respect to 1(d) Cevallos Lofts has already resolved their issue. They've gotten their certificates of occupancy and Magnolia Trace has a little bit of an unusual situation in that they have been granted temporary certificates of occupancy. We believe that meets the spirit of the requirements under the awards. It certainly enables people to go ahead and move in and staff would request that Board acknowledge that that is an acceptable way to consider that matter handled.

MR. OXER: Any questions from the Board?

(No response.)

MR. OXER: Okay. Entertain a motion.

DR. MUÑOZ: So moved.

MR. KEIG: Second.

MR. OXER: Motion by Dr. Muñoz and second by Mr. Keig to accept the staff recommendation on Item 1(d).

All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: Motion carries.

MR. OXER: What else, Mr. E.D.?

MR. IRVINE: That's all under that agenda item, sir.

MR. OXER: Okay. Do we have any -- hold on just a second. There are quite a number of requests for public speaking but as many of you have probably guessed, they're not for the next item, they're for one later in the agenda.

So, okay, Financial administration.

David? Good morning.

MR. CERVANTES: Good morning, Mr. Chair, members of the Board. Mr. Irvine, good morning.

For the record, I'm David Cervantes, director of financial administration. Item 2(a) is a proposed amendment for a net increase of \$359,172. The primary purpose for the amendment is to add four temporary 100 percent federally funded Article 9 FTEs or full-time equivalents and five previously unfunded cap FTEs.

In respect to the four temporary positions, two of them will assist with the administration of approximately \$20 million of NSP funds that were returned from the Texas Department of Rural Affairs. As you know, the TDRA -- there was a discontinuance there effective September 1 so some funds that were previously going to be administered by TDRA have returned back to the agency to be administered by TDHCA.

The two remaining temporary positions are associated with the administration of a new \$50 million Money Follows the Person program, or as it's referred to, the MFP program.

In the case of the MFP program, TDHCA, in conjunction with the Texas Department of Aging and Disability Services, or DADS, will assist

Texans who are eligible for Medicaid and who are current residents of nursing facilities, intermediate care facilities for persons with retardation or of state-supported living centers to choose an appropriate community setting and receive community services support.

TDHCA currently participates in this effort through its Section 8 Project Access voucher program. That describes the first portion of the amendment which relates to four temporary FTEs.

The second portion of the amendment relates to the five cap FTEs, and for this portion of the amendment I'd like to kind of rewind a bit and take us back to the July 28 budget meeting that we had where the original budget was approved by the Board.

And at that time we were operating under several assumptions and facts at the time. We knew at that time that our legislative request to increase our appropriated receipts budget authority had been approved and that additional authority had been added to our bill pattern, and so that particular request had been included in the LAR for the purpose of -- primarily for the ongoing administration and asset management related to TCAP and Exchange.

The request also included funding for the ICP litigation and at the time it was slightly on our radar but, of course, the analysis for impediments was also out there as an item for consideration. So that was one of the facts that we knew at the time.

One of the other things that we were monitoring carefully was the status of our cap FTEs. Back at that time we knew that our cap was at

314, and that historically had been our cap. However, we were uncertain -- in relation to the business that was taking place with the disaster recovery programs, there were 12 FTEs that were originally in our cap. We were uncertain whether those FTEs would be reduced in our cap and reduce our numbers down.

In the final analysis the cap FTE figure that appeared in our Act continued to remain at 314. So the last time we were here discussing the budget, we took a very conservative approach to the FTE matter and we did not recommend any of the additional FTEs in the budget. Knowing now that we had an opportunity, or that there were additional FTEs, today we re-approach to possibly consider five FTEs being added to this budget.

I guess the other item that I would mention is the funding for these positions -- one of the things that has happened most recently was the procurement of the analysis for impediments for the balance of the state and we had a very favorable procurement in that the budgeted funds that we had placed in the budget -- we came in under budget, therefore creating some savings. So the five positions that are being recommended today are an offset of the savings that we generated primarily from the analysis for impediments procurement.

So, in summary, there are two major components to the request that we bring before you today. It's the four temporary Article 9 FTEs that I've described; the second portion deals with five cap FTEs.

There are, as you note in your writeup, there are a couple of times relating to restructure within our department that are also being

realigned within the budget and there's also a request from the State Auditor's office that we realign some direct/indirect costs associated with our audit costs.

So that concludes my remarks. I'm available to take any questions that you might have.

Mr. Chairman?

MR. OXER: Mr. Keig?

MR. KEIG: If our cap had been readjusted for those, I believe it was 12 FTEs that went to Land Office --

MR. CERVANTES: Right.

MR. KEIG: -- would we still be within our cap if we went forward with this proposal?

MR. CERVANTES: If the FTEs had been moved over to the General Land Office we would be over at this point.

MR. KEIG: Okay. I'd like to move to table this item for more consideration and maybe some input from the Governor's Office.

MR. OXER: Is there a second to that motion?

DR. MUÑOZ: I can second it.

MR. OXER: Okay. Let's have some discussion on that, then. Have we had any conversation with the Governor's Office on this?

MR. IRVINE: Not specifically.

MR. OXER: Okay. Speaking of the Governor's Office, we'd like to recognize Rebecca Martinez who's joined us. Good morning, Rebecca, and Happy New Year.

Okay. Any other questions?

(No response.)

MR. OXER: All right. There's a motion on the floor to table the item till the next meeting so that conversation can be had with the Governor's Office.

All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: Motion carries.

MR. CERVANTES: Okay. I guess moving on to Item 2(b). Item 2(b) is kind of a subset of Item 2(a). As noted in your packet, in accordance with Section 2306.113 of the Texas Government Code, there is a separate housing finance budget that we are required to maintain and submit to the Board that speaks of the fees that we use to administer the programs at the agency.

I guess, in line with the action on the first item, this is kind of a subset here and so I guess are we moving towards also tabling this component of --

MR. OXER: Sounds like it.

MR. KEIG: I move to table --

MR. OXER: Hold on a second. Let me just get a question or two in here. Are we clear that this is not going to have an impact on the agency's operation, if we don't deal with it this meeting?

MR. CERVANTES: No. I think it will not have an immediate impact on the agency.

MR. OXER: So nobody's bleeding to death. Right?

MR. CERVANTES: No, sir. No, sir.

MR. OXER: So if we take this up in February it's not going to have a material effect on the operation.

MR. CERVANTES: It will not have a material effect.

MR. OXER: Okay.

MR. CERVANTES: We can continue to operate.

MR. OXER: Mr. Keig?

MR. KEIG: Move to table.

MR. OXER: Do I hear a second?

DR. MUÑOZ: Second.

MR. OXER: Okay. Motion by Mr. Keig and second by Dr. Muñoz to table the item until the February meeting.

All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: Motion carries.

MR. CERVANTES: Thank you very much.

MR. OXER: And just so that we can have it read into the record here, Jeff would you confirm that we have a quorum of four, and it is a majority of the quorum, not a majority of the Board that's required for passage.

MR. PENDER: Jeff Pender, Deputy General Counsel. That is correct. If you have a majority of the persons present that can vote, you can bind the Board with that.

MR. OXER: Okay. Just wanted to have that into the record since we are short-handed today.

Okay. Anything we need on appeals, Tom?

MR. GOURIS: No.

MR. OXER: Looks like we're good?

(No response.)

MR. OXER: Okay. Item 4. Jeff, welcome back.

MR. PENDER: Thank you. Jeff Pender, Deputy General Counsel. This item is before you because the staff would like you to consider amending your rules concerning public comment. We've made a few changes and I'll just mention the top four there.

Basically, we're introducing a new concept this time of general public comment and specific public comment, general public comment being comment on items that are not posted and specific public comment being comment on items that are posted.

We're also proposing to do away with witness affirmation forms and to allow speakers to line up and present their testimony. That way there is no time limits unless Board chair believes that there's too many people and not enough time to conduct the business of the meeting. There are other factors, too.

Persons not wishing to speak have an opportunity to register

their comments in writing and it will be read into the record. And we're also introducing a provision here that would allow persons to file five business days prior to the meeting any materials that they would like to get before the Board.

If you have any questions, I'd be glad to answer them.

DR. MUÑOZ: Hey, Jeff, I've got a question.

MR. PENDER: Sure.

DR. MUÑOZ: How does this point about queuing themselves up -- once you eliminate the affirmation forms, speakers to queue up -- I mean, what -- are they going to line up or --

MR. PENDER: Basically, yeah. I guess, we'll have to --

DR. MUÑOZ: If you've got ten people wanting to speak to a specific issue, that could be a bit unruly.

MR. OXER: No much more than it was in the last time though.

MR. PENDER: Yeah. Let me say, you'll have to work with the individuals as they come up to the podium. If there's a large amount you'll treat that a little different than you would if there's just two or three.

I think, on average, at least the way I've seen, is that most items don't have significant problems with them. Every once in a while there is a large group that wants to speak and the Board chair has the discretion to look at the situation and deal with it as it comes by.

MR. OXER: I guess I'd like to make sure that it's in the record that our intent is to make sure that everybody who has something to say on an item, particularly on an agenda item, has the opportunity to say that and, as stewards of the process for the betterment of Texas, anybody who has

something to say before this Board that may not be on a particular item, we'll make an opportunity available to them as well to bring up any item they wish.

That said, we've still got to be -- at least have some process by which we manage the meeting and the option then becomes if there are -- as we had in September, I believe it was, had more than 140 requests --

MR. PENDER: Right.

MR. OXER: -- to speak. That, frankly, became a little unruly.

MR. PENDER: Right.

MR. OXER: We wound up spending another meeting, scheduling another meeting for them, so this is not in any way intended to limit anybody's opportunity to present or speak or air out whatever issue or grievance they have before this Board so much as it is to manage that process.

MR. PENDER: That's right. And I believe the addition of that new opportunity for individuals who do not speak, for whatever reason, either they don't want to or can't, there's an opportunity for them to register their position on items and that tally will be read into the record.

MR. OXER: What's the mechanics on that, just state it into the record?

MR. PENDER: Well, the rule isn't specific as to how it'll happen but I imagine that there'll be forms available out at the desk or out in front of the public meeting and individuals who ahead of time know that they don't want to speak can actually fill that form out. The Board secretary, or

someone that the Board secretary allows, can then tally these up and read them into the record after the item, or at the end if it's general public comment.

MR. OXER: So literally just Brooke or her designee -- good morning, Brooke -- would be able to say that there were so many that this list opposed; this were in favor -- read off those names.

MR. PENDER: Right. And I imagine for a specific comment it would have to happen before the final vote took place. General public comment can wait until the end of the meeting to be summarized and read into the record.

MR. OXER: Yeah, but on a particular agenda item, for those that were for and against -- I can't imagine somebody's going to be for or against an item that has just come up or they're airing their position -- well, okay.

MR. PENDER: Right.

MR. OXER: There is that option but for a particular agenda item there will be those who are for and those who are against. We'll go through the process, listen to the comments, and those who wish to have their concurrence or opposition registered -- will be have that allowed to be read into the record and then the Board would vote.

MR. PENDER: Right. That's correct.

MR. OXER: Okay.

MR. IRVINE: And one other key concept that's created is that persons can only speak with respect to award matters when the actual award is under consideration as an action item.

MR. PENDER: Right.

MR. OXER: Give us an example

MR. IRVINE: Can't talk about forwards.

MR. OXER: Well, we can't talk about forwards anyway because now there aren't any.

MR. IRVINE: We can't come in and talk about how wonderful it's going to be to have your project which will be considered two or three months down the road. You can only speak to projects when the matter is specifically under consideration.

MR. OXER: Mr. Keig?

MR. KEIG: Under (b)2, Section (b)(2), the opportunity for general public comment of this subsection may not be used to advocate for or against any specific action relating to any award. You and I'd discussed changing that to posted agenda item.

MR. PENDER: Right. That would make it more general, so basically anything that's posted for that meeting would not be fair subject for general public comment, only specific public comment.

MR. OXER: So say that again.

MR. PENDER: If you use -- instead of the word "award" put in relating to "any posted item," it'll generalize this rule a little more and basically, I think, probably --

MR. OXER: So keep the commentary lined up with the agenda item we're considering --

MR. PENDER: Right. Right.

MR. OXER: -- or is intended to, we hope.

MR. PENDER: Right.

MR. OXER: Right. So that when we get to the general comment, you don't wind up commenting on the thing that's already happened.

MR. PENDER: Correct.

MR. OXER: Okay.

MR. PENDER: So just one change that we discussed.

MR. OXER: Well, we Texans, being a voluble lot as we are, liking to speak, trying to corral us into categories is going to be difficult, I guess.

MR. PENDER: This is going to be change, all right.

MR. KEIG: Mr. Chair, I appreciate all the work staff did on putting this together, and if we do pass this by a vote, and if something doesn't work we can always come back and tweak it if we need to, I think.

MR. OXER: That's correct.

MR. IRVINE: And I would point out that you would not be taking final action to adopt this as a rule; you would simply be posting it for public comment.

MR. OXER: Right. We're in actually the second step because the first step was to go through the effort that you've done to create the rule.

MR. IRVINE: Right.

MR. OXER: Second step is to is to post it for comments.

MR. PENDER: Yes, I'm sorry. I --

MR. OXER: Everybody here is welcome to comment --

MR. PENDER: Yeah, I wasn't --

MR. OXER: -- at the meeting and on online.

MR. PENDER: I wasn't clear but this item is before you for permission to post it for public comment.

MR. OXER: One of the components that we used -- process components that we used to develop the QAP which got a lot of compliments was being able to take comments online.

MR. PENDER: Right.

MR. OXER: Will we be able to do that also?

MR. PENDER: Sure, absolutely. Yeah, I mean we --

MR. OXER: I'm requesting that we be able to do that.

MR. PENDER: Yeah. I think we can do that; I know we can do that during the public comment period. We do have suggested ways of providing your comments in the rule and it will be posted in the *Texas Register* how to make those public comments, but any way you can get them to us in written form, we'll accept them.

MR. OXER: Okay. So staff recommendation is to go forward, posting this as a proposed rule change.

MR. IRVINE: Correct. With the change suggested by Mr. Keig.

MR. OXER: Okay.

MR. KEIG: I move to approve that recommendation.

MR. OXER: Motion by Mr. Keig to approve the recommendation by staff with changes as defined.

Second?

MR. GANN: Second.

MR. OXER: Okay. Second by Vice-Chairman Gann.

All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

VOICE: Did you have public comment on this?

MR. OXER: Yeah, we're -- speaking of public comment --

VOICE: Good point.

MR. OXER: We had no public comment listed on -- hold on a second. I think we have one --

Kevin, good morning.

MR. HAMBY: Good morning.

MR. OXER: Kevin Hamby had a request to speak on Item 4.

MR. HAMBY: I'd request to speak just slightly against.

MR. OXER: Okay. Then Kevin's against. Are you -- any more than that, Kevin? -- just you're opposed to that rule change.

MR. HAMBY: The rule as written, yes.

MR. OXER: Okay.

MR. HAMBY: But I'll share comments during public comment.

MR. OXER: Okay. Well, that's -- that's just the first of many, I expect, on this.

Okay. Shall we go through the vote again or accept the one as done?

MR. PENDER: I think we got the motion seconded.

MR. OXER: Motion seconded and passed.

MR. PENDER: Yeah.

MR. OXER: Okay. So it's post -- when will it post?

MR. PENDER: First Friday -- not this Friday but the Friday following. I believe that's the date it'll post.

MR. OXER: 27th.

MR. PENDER: 27th. Right.

MR. OXER: Okay.

MR. PENDER: Thank you.

MR. OXER: Thank you.

All right. On to Number 5.

Good morning, Cameron.

MR. DORSEY: Good morning.

MR. OXER: So far.

MR. DORSEY: Cameron Dorsey, director of Housing Tax Credits. Item 5(a) is our tax credit amendments. I've got two amendments for you this morning. The first one is for Park Place Apartments. It's a 2009 Exchange deal and it is -- they requested a reduction in the square footage.

It was an acquisition rehab so it's not technically a reduction in square footage from what was originally there but it was incorrectly

represented in the original application and throughout the review process, mostly likely as a result of use of marketing materials from the previous owner to define the square footages that were in the application.

We reviewed it. It didn't have an impact on the recommendation or the financial viability of the transaction so staff is recommending approval.

MR. OXER: Any questions?

(No response.)

MR. OXER: Entertain a motion.

MR. KEIG: So move.

MR. GANN: Second.

MR. OXER: Motion by Mr. Keig, second by Mr. Gann. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: Motion carries.

MR. DORSEY: All right. The second amendment is a 2011 transaction that received a forward commitment as the October 4 Board meeting. This one we are not providing a recommendation to the Board due to the fact that the Board had its own reasons for making this forward. We're bringing it to you because they're making a change that was specifically -- they specifically stated in the public comment that they would have -- that they had local support and local financing.

So it's Aster Villas. It's in Del Rio. It's an 80-unit new construction deal. They got a commitment for a \$180,000 construction loan from the city of Del Rio. They're requesting to remove that from the financing structure and not take that loan because of just economic hardships faced by the city. It's not necessary for the financial viability of the transaction.

We're bringing it to you again because they specifically stated that that was a source of financing and a reason that the Board should consider providing a forward commitment and so we would ask you to clarify the record, and whether or not that amendment is accepted to remove that financing, or whether or not they'll need to continue to pursue that financing.

MR. OXER: Mr. Gann?

MR. GANN: I had a question in that the staff understands that the city supported the development and the potential loan still exists. What are you basing that on? I'm just curious.

MR. DORSEY: The applicant. The applicant indicated that they could still get the financing, that it was really unnecessary to the viability of the transaction, that the city still supported the deal, but it just made sense given some of the economic realities right now faced by cities and counties and states also that they --

MR. GANN: But we've had no rejection by the city of any loan or anything like that to this date?

MR. DORSEY: Not -- that is not my understanding that there was any kind of rejection at all.

MR. GANN: So there's still a letter or whatever in the file

saying that they were going to make the loan if we did --

MR. DORSEY: That's right.

DR. MUÑOZ: So the city remains supportive. They don't necessarily require this \$180,000 loan as an expression of support on behalf of the city and they are still only the viable rural project in this region.

MR. DORSEY: That's right. Yes.

DR. MUÑOZ: And the absence of this loan, according to your notes, would not affect negatively the viability of the project.

MR. DORSEY: That's right. It was a scoring item. They received 18 points for it, and given that it was done as a forward commitment, the kind of scoring criteria is -- although while considered not the fundamental decision-making factor, so that's what's going on.

MR. IRVINE: And with respect to Dr. Muñoz's question about viable deals in the rural area, are there viable, or potentially viable, deals in the current round?

MR. DORSEY: Oh, yes. I'm certain that there are. This was -- I believe that in this region last year there was a forward commitment -- if I'm remembering correctly -- from 2010, and so this deal didn't get an award through the regular kind of allocation and wasn't underfunded enough to get funded during the rural collapse so you all awarded it a forward commitment, but those credits would come out of the 2012 tax-credit ceiling, thus reducing the amount available in this region for this year.

MR. OXER: What's the amount available in that region for this

year, more or less? I understand we don't know exactly.

MR. DORSEY: I don't have that right in front of me?

MR. OXER: What was it last year?

MR. DORSEY: I've got it up on my phone here.

MR. OXER: It's okay. Take your time.

MR. DORSEY: Bear with me. There were 387 preapplications submitted so I'm scrolling through quite a few here.

MR. OXER: This week?

MR. DORSEY: What's that?

MR. OXER: For this round?

VOICE: Last round.

MR. DORSEY: Yes, for 2012.

MR. OXER: Right.

MR. DORSEY: The estimated amount available was \$621,000.

MR. OXER: So this is 20 percent of it, more or less -- or let's see, 20 --

MR. DORSEY: Well, this one receives --

MR. OXER: -- 25 percent.

MR. DORSEY: -- an actual award of \$1 million so it's reducing it to \$621,000. If this forward commitment wasn't made then it would have been roughly a million dollars higher for this year.

MR. OXER: Okay.

MR. GANN: And one more question, Chairman, if you don't

mind.

MR. OXER: Yes, sir.

MR. GANN: Latest thing says right now that if they don't ask for this request, they've got this project for next year. Is that correct?

MR. DORSEY: If this request is not approved, it will require that they get the loan from the city but I believe that that's still feasible.

MR. GANN: So my point is this is a done deal because the city'll make the loan. We're just helping out the city is all we're doing here, giving the city a pass for 180,000 and we'll put plumbing in or whatever else they want to do.

MR. DORSEY: That's right.

MR. GANN: So we're actually helping the city out here. This deal is a done deal. All they got to do is go back and get the loan.

DR. MUÑOZ: Then why not get the loan to begin with, as originally proposed?

MR. DORSEY: They've indicated that they're trying to help the city out.

VOICE: Mr. Chair, do we have any public testimony?

MR. OXER: Yes. We're trying to get through the rest of these first.

MR. OXER: Okay. Sit tight, Cameron.

Mr. Clifton Phillips, good morning --

MR. PHILLIPS: Good morning.

MR. OXER: -- so far.

MR. PHILLIPS: Chairman Oxer, members of the Board, my name's Clifton Phillips. I'm with Roundstone Development. The reason we were asking for it is in the normal cycle if this could be made at the staff level because it wouldn't have impacted whether we got an award or not. Our points would be reduced. We'd be the only one in the region and it didn't affect the economic viability and so --

At this point, we have adequate sources so -- yeah, our point was, you know, why -- it will be a financial burden on the city even if we don't use the loan. If they make the commitment, they'll have it on their books, and so it will still impact the city even if we don't use the sources.

MR. OXER: So you're trying to take the high road on this.

MR. PHILLIPS: Well -- and then we do have some letters from the city that we just got today and also from the rep, stating some of these facts that I could read in but I don't know about the exercise of going through reading both. The city letter's pretty short.

MR. OXER: Let's hear it.

MR. PHILLIPS: Okay. It's dated, as I guess --

MR. OXER: Take a deep breath and relax.

MR. PHILLIPS: It says, "Dear Mr. Irvine, we at the city of Del Rio wish to express our thanks and gratitude for granting a forward commitment to Aster Villas. The city still strongly supports this development. However, we respectfully request that the loan from the city be removed from the forward commitment documentation.

"Again, this in no way diminishes our strong need and desire for

this development. Thank you for your consideration.

"Sincerely, Robert Eads, City Manager, Del Rio."

And the other's from Representative Pete Gallegos, and it is dated yesterday as well, and I just want to point out one part. He said I can tell you that the economic climate of the last couple of years has strained the budget of most all of the municipalities in House District 74. I also can tell you that this development is needed and desired. I have been told that the development is economically viable without the loan from the city.

And in the end he said, "It is my sincere desire that the City of Del Rio's request be given --

"Relief from the loan does not impact Aster Villas from moving forward. I hope you will give this the consideration it deserves. If my office can be of any further insight or assistance in the process, please do not hesitate to call me."

And that's, again, Pete Gallegos.

MR. OXER: Okay. Good.

MR. DORSEY: Okay. Thank you.

MR. OXER: Okay. Cameron, so what's the issue on this? So what we're saying is they can get out from under this but because it's a change in the financing they were obliged to tell us.

MR. DORSEY: The issue is at the October 4 Board meeting the applicant and representatives of the applicant indicated that they had city support and indicated that this financing from the city was a key reason that the Board should consider awarding a forward. And in the record of the

Board's action they indicated the city support for this transaction as a reason for the forward being made. We would like to clarify that the reason we brought it here because typically it would be administrative except that because that was part of the Board's action, we'd like the Board to have the opportunity to consider this change.

MR. OXER: Okay. Any questions?

(No response.)

MR. OXER: Any other comment?

Mr. Keig?

MR. KEIG: I am sensitive to the financial needs of cities during this economic downturn but since I was against forwards to begin with, I am inclined to vote against it because it had to do with a forward.

MR. OXER: Noted. Okay. So the option would be, in the event that we did not prove this or did not recognize this, they should take this loan -- what would keep them from taking it and just paying it back off?

MR. DORSEY: Nothing.

MR. OXER: Since you're not writing the check, I'm going to ask him.

MR. PHILLIPS: Well, like I said, I mean, we have adequate sources and especially due to the change in credit pricing from when we originally put in the application that's gone up so much the loan is not needed.

And I will not that we didn't pull out the other loan from our private source simply because it won't be needed either really, but we weren't trying to just strip things out of the application and make blanket changes.

MR. OXER: Okay. So essentially, the summary is that you're trying to do the right thing on behalf of the city.

MR. PHILLIPS: Right.

MR. OXER: You're accepting the forward, trying to do the right thing on behalf of the city.

MR. PHILLIPS: Right. And the city is asking if it can since it doesn't affect the viability --

MR. OXER: And they're still in favor of it.

MR. PHILLIPS: Yes.

MR. OXER: Okay.

MR. PHILLIPS: And like I said, both letters are -- I can turn the letters in. They're dated yesterday for the support.

MR. OXER: We'd like to have copies of those in for the record.

MR. PHILLIPS: I'm sorry. We just didn't get them -- couldn't get them in front of me in time.

MR. OXER: It's okay.

Okay. Dr. Muñoz?

DR. MUÑOZ: Well, Mr. Chair, given the nature -- given the circumstances of this particular case and, although this sort of changing it after the fact I have a natural aversion to, but, you know, then, again, we're always asking for the developers that take a great deal of personal onus in these projects and here's an occasion where they're trying to abdicate the role or relieve the city of a role and assume a greater degree of responsibility.

That part of the state -- very needy of these kinds of projects. It doesn't negatively affect the likelihood, the viability of the project so, in the interest of moving forward, I'd move to grant the amendment.

MR. OXER: Okay. Motion by Dr. Muñoz to grant the amendment. Is there a second?

MR. GANN: Second.

MR. OXER: Second by Mr. Gann. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

MR. KEIG: Nay.

MR. OXER: Opposed by Mr. Keig. Motion carries.

MR. PHILLIPS: Thank you.

MR. DORSEY: All right. Item 5(b). This item is being brought to you all to clarify the record with regard to one of the forwards and a couple of issues with the application that were not explicitly addressed in the Board's action at the October 4 Board meeting.

MR. OXER: For the record, the reason for that is there are no implicit waivers.

MR. DORSEY: That's right. It's Champion Homes at Copper Ridge. It is the transaction that received the forward at the October 4 Board meeting. The two issues are as follows: First, it has more one-bedrooms proposed than would be allowed under the 2011 QAP so it's got -- 46 percent of the 250 units are one-bedroom units and the QAP restriction is for no more than 30 percent of the units being one-bedroom.

So this issue is one that would require Board action to waive the QAP rule requirement and accept the applicant's unit mix.

The second issue is with regard to the QAP rule on the \$2 million cap. The rule indicates that the cap will be applied to applications awarded during a calendar year so for a forward -- if a forward was made in 2011, as this one was, then that award would count toward the cap for 2011 for that applicant and development team.

In this case, the applicant had received a forward the year before and that forward -- at the Board meeting when that forward was made, the Board explicitly expressed their desire to apply that award in the 2011 calendar year for that applicant.

This is a related -- an affiliate of that same applicant and so when the Board made the forward in October, we would generally, based on the QAP rule, apply that \$2 million in 2011. Doing that would cause the applicant to violate the QAP rule with regard to how the \$2 million cap is applied.

So we need clarification with regard to how the Board would like to deal with the situation. Like I said, in a couple of years past, the Board has moved to apply the forward commitment in the year that the credits are coming from rather than in the calendar year that the award was made and so that would potentially be a way to resolve this issue if the Board wanted to do what it's previously done.

MR. OXER: We have a number of requests for public comment on this that I think the discussion and motion might be better formed

if we have those before we have a motion. So --

MR. KEIG: I would prefer to have a motion that -- if it would please the Chair -- if there's a motion to be had.

MR. OXER: Well, it sounds like there would be someone coming from over there so --

Is there any more comment from the Board?

MR. KEIG: Sure. I've got comment.

MR. OXER: Let's have it.

MR. KEIG: Just to be clear in terms of exceptions to the unit mix, they don't meet any of the exceptions. Correct?

MR. DORSEY: That's right.

MR. KEIG: And some of those exceptions would be qualified elderly developments, transitional housing for the homeless and SRO, single-room-occupancy units, and they don't meet any of those exceptions.

MR. DORSEY: That's right.

MR. KEIG: And the fact that they don't meet an exception makes them ineligible. Correct?

MR. DORSEY: That's correct.

MR. KEIG: Okay. One other question -- it escapes me right now. Okay.

MR. OXER: Mr. Vice-chairman, did you have a comment?

MR. GANN: Well, I'd like to reiterate what he said because that it a contention with myself also. And the \$2 million cap is -- there's been three forward commitments during this time frame. And this is some of the

quagmire that developed when you did with the forward commitments and problems that it causes.

And then our rule this year happened to be that we kept them in the same year that they were issued last time -- this year anyway. And that's what doubled up on whoever received those cap distinctions. Okay?

And I think we've had some instruction that we're not supposed to be giving too many more waivers, and I'm kind of against waivers myself. I just want to make that statement when we go into this.

MR. KEIG: Mr. Chair, I remember what my question was.

MR. OXER: By all means.

MR. KEIG: Do you have any institutional memory as to whether we granted a waiver in a similar situation in the past few years?

MR. DORSEY: I can recall one application from 2011 where we terminated the application and they appealed. This is Greenhouse -- they actually also received a forward commitment. And the Board asked that staff go back and work with the applicant to allow the unit mix to comply rather than rendering the application ineligible and terminating it.

So it ultimately was reinstated on the basis that they could redesign their unit mix to comply.

DR. MUÑOZ: Yeah, Cameron, hey, was that the project for like teen mothers that transitioned out of foster care and that there was a unique therapeutic purpose for the specific configuration of the properties?

MR. DORSEY: They had a concept that I believe they termed "shared housing," and it was a supportive housing kind of conceptual plan that

they were trying to implement.

DR. MUÑOZ: Yeah, for a highly unique population.

MR. DORSEY: That's right.

MR. OXER: That was an exemplar of a project that was sort of a few sigmas out on the average, not exactly something you'd encounter all the time.

MR. DORSEY: That's right. And just to be clear, I'm not sure exactly what they originally intended with regard to how they were going to target populations that would comply with the tax credit program but they are attempting to make sure that their concept will fit within the program requirements.

MR. OXER: Okay. I think we'll entertain a motion and then engage public comment.

MR. GANN: I move that we deny both requests.

MR. OXER: Okay. Motion by Mr. Gann to deny both waivers. Is there a second?

MR. KEIG: Second.

MR. OXER: Second by Mr. Keig. Okay. I'm going to read off the requests for public comment. As a courtesy to our legislators, we're going to receive them first -- ask them first.

First, Representative Anchia, do you have a comment you'd like to make? And welcome, by the way. We're glad to have you.

REP. ANCHIA: Thank you. And with your permission, Mr. Chairman, could we invite up Representative Johnson as well?

MR. OXER: Well, I was going -- he was -- he's next but if you would like to come up together, by all means please come on.

REP. ANCHIA: I don't want him to think that I'm big-timing him.

(Laughter.)

REP. ANCHIA: I'm trying to handle my politics back home.

MR. OXER: Watch it. He outweighs you now.

REP. ANCHIA: I understand.

MR. OXER: And what school did you go to, Representative Johnson?

REP. JOHNSON: Greenhill School.

MR. OXER: Okay. And what college?

REP. JOHNSON: Harvard.

MR. OXER: Okay. Representative Anchia. Did you go to --

REP. ANCHIA: I went to Southern Methodist University undergrad and Tulane School of Law.

MR. OXER: Let's see. One of those has a football team --

(Laughter.)

REP. ANCHIA: Somewhere in there. I believe SMU's been to bowl games in three consecutive years which is exciting.

MR. OXER: Feels good, too, doesn't it?

REP. ANCHIA: I was there during the death penalty so it is a good feeling.

Mr. Chairman and members of the Board, thank you very much

for your action. Again, my name is Rafael Anchia. I am a state representative from District 103.

I want to begin by thanking all of you for service to the State of Texas. This is important work that you do and I regret that this is my first time before the TDHCA Board.

I stand before you not only as a state representative but also as a member of the Sunset Advisory Commission and I suspect we're going to have an opportunity to work together during the re-review of TDHCA during the upcoming year, and I look forward to that opportunity.

I was slated to ask you for the ultimate decision that you took, which was a rejection of Action Item 5(b), but I'm not here to offer comments for or against a particular project but mainly stating some policy considerations that I'm sure you've undertaken as is evidenced by your decision.

The first relates to forward commitments and there are at least concerns about their possible use and even perceptions about their possible abuse and I've heard some of you articulate your own concerns related to forward commitments.

Since we have representatives from the Governor's Office, I want to thank them for their foresight in placing a temporary moratorium and a QAP on forward commitments. I think that's wise policy as we all collectively study how they may be used and what parameters we should place on them.

I also think that it is important to have one set of rules for participants in any competitive process, and I fear that the forward commitments create two sets of rules for the people, those who go through the

competitive process, interact with your fine staff, and then score at a certain level; and then others who merely receive a forward commitment. And I think there are transparency concerns about two sets of rules and it certainly places participants in this process at a competitive disadvantage if they don't know --

And I frequently think about my daughters in this situation. We talked a little about Southern Methodist University. One of my fellow congregants at the 9:00 a.m. Catholic mass has seen both my daughters baptized and they both play soccer. And I'm very, very proud of them. They're both terrible, by the way.

(Laughter.)

REP. ANCHIA: And one is eight years old --

MR. OXER: They cannot be any worse than I am, I'm sure.

REP. ANCHIA: One is eight years old and one is five years old and they're works in progress. And there are fundamental rules that we set out in a soccer game and it's typically if you score more goals, you win. Now everybody gets a fifth place trophy; I understand that.

(Laughter.)

REP. ANCHIA: But we tell the girls what the rules and then if we -- if the Hawks -- that's the team of my oldest daughter -- scores more goals we think that they win. Right? Winning's not always everything but in the adult world it certainly is and in this process it is.

And if I were then to tell my daughter that, well, you scored more goals, yet the other team was awarded a victory over you. That would seem unfair, fundamentally unfair. And then if I further told my daughter they

also used a couple of players that were ineligible, older players that were decisive in getting that victory, that would also be unfair. So I'm pleased that the Board has taken what I perceive to be a very wise decision.

I want to talk about the waivers themselves and I've talked a little bit about my daughters' experience. But they have negative impacts on people they represent. I represent some wonderful communities in La Bajada and Los Altos and Far West Dallas. Representative Johnson and I both share the honor of representing West Dallas -- Northwest Dallas, slivers of Irving, Farmers Branch and Carrollton, all wonderful communities, all equally deserving of economic development and housing and all the help that the work that we do can provide them.

And I fear, had the waivers been granted, that there would have been a detrimental impact on my constituents and their ability to have housing in the future because the pie would have been reduced. So I want to thank each one of you, and it is truly an honor to be here before you.

Thank you for your foresight. I must commend your executive director who's been a delight to work with and I look forward to spending more time with him during the Sunset process.

MR. OXER: We're hoping you'll recall that during Sunset.

REP. ANCHIA: I -- absolutely.

(Laughter.)

REP. ANCHIA: Without a doubt. I believe the executive director's a fine and honorable man and I've really enjoyed getting to know him better.

MR. OXER: The rest of us can be damned. Okay.

REP. ANCHIA: And with that and understanding the political dynamics of the area that I live in, I will leave some meat on the bone for Representative Johnson.

MR. OXER: Good morning, Representative Johnson.

REP. JOHNSON: Good morning, Chairman Oxer, and everyone here on the panel. Thank you, Representative Anchia, for being here this morning. Thank you for inviting me, and thank you for the courtesy of letting us go first today.

I don't have a whole lot to add to what Representative Anchia said. I mean, he -- my distinguished colleague -- I mean, he does a good job of explaining things. I will say this, though, just to give you a slightly different perspective, although we are in agreement on the ultimate outcome. I'm new to the affordable housing tax credit process.

MR. OXER: So am I, by the way.

REP. JOHNSON: So you understand how much there is to know about this process -- very complicated; it's not simple. And my approach has been to the requests that I get in my office for letters for various projects has been to not look at who's making the request -- I don't care. I really don't.

I care about my district and I care about all the parts of my district and, frankly, I represent a district that is not wealthy, and there is really no part of my district that doesn't have some form of need or could not use affordable housing, but I don't get into the fine details of unit mixes and things

like that.

I ask questions; my staff ask questions to find out whether or not the project, in our estimation, seems workable, seems worthy, seems like it would do good for our constituents. And, then, at that point, we issue a letter of support. We've never denied anyone a letter of support for any political reason or any other reason, other than not believing that the project makes any sense.

And that's not that high of a threshold for us, frankly, because we're coming at it from the perspective of a legislator who is not an expert in affordable housing. But that being said, the reason we take that approach is because we are relying on process and that's a large part of what this city's about -- Austin, you know, where we do our work here in the Capitol -- process is very important.

Even when we think we know the outcome of certain things or when it's going to be, or even when we certainly disagree with how outcomes turn out, we can all go to sleep at night and come back the next day and fight again because we believe that the process is open and transparent and fair, and that rules will be followed.

And so that's how I'm able to not take on the responsibility of trying to sort through all the projects I get and rank them myself and score them myself and become an expert on affordable housing. I'm able to hope that the process will do that.

And so I was disturbed when I was informed that projects that scored higher, according to our established rules, were -- however it was

accomplished, whether it was accomplished through going through the competitive process ostensibly but then going through the forward commitment process later, the end result was lower-scoring projects were beating higher-scoring projects, and that didn't make me feel good.

It didn't make me feel good because, (a), it doesn't seem right but, (b), it's hard for me to look a constituent in the eye, which I have to do when they come and ask me, how did this happen? -- you know, explain this outcome to me, and I can't explain it. That's not a good feeling as an elected representative of a constituent.

So I rely very heavily on our processes being sound so I can say, weather we like the outcome or not, it's a fair process; it's a transparent process, and, you know, you got to just do better next time. But I can't say that when a score would dictate another outcome.

And I came today, and I apologize like Representative Anchia, for this being my first time here. But I haven't been here as long as you so I haven't had as much time to get here.

REP. ANCHIA: I don't have an excuse.

REP. JOHNSON: But I wanted to be here today --

MR. OXER: We're still not giving you a pass.

REP. JOHNSON: I understand. I won't be as much of a stranger in the future. But I will say this: I came today because the issue of the waiver of ineligibility seemed like another step in that direction towards working against the idea of transparency and accountability because, I mean, on its face, it sounds wrong. Right?

I mean, an ineligible project being sort of, you know -- or something that made a project ineligible being overlooked by the Board, without really an explanation as to even why they're in that position to begin with, didn't sit well with a lot of my constituents and they came to me and, again, I had no more answers.

So I wanted to come here today and just say that I think the process is better off. I think it makes our jobs easier as legislators; it makes your jobs easier as a Board. And it's better for the state and for the people we represent if everyone sort of just does it by the book. Let's just do it by the book and let the chips fall. And, again, I appreciate your time and I appreciate your letting me say all this but it was important to me to be here today and I appreciate you guys hearing me out.

MR. OXER: Well, for the record, we're more than happy to have you and we invite you to come back, and we would like -- I think any member here, and certainly the executive director, if there's any comments you need to make or want to make, or have your staff make, you can get our phone number from anybody so I personally am happy for you to be here and appreciate the interest that you've shown in this so --

REP. JOHNSON: And I appreciate the hard work that you guys clearly do. This is complicated stuff, I've found, and I appreciate you guys dedicating so much of your time to it.

MR. OXER: Before you leave I want to point out something that -- you know, the Governor's Office that had the Office of Appointments which is right down the hall here and when I was being considered for this the

early part of last year, a couple of folks in the Governor's Office said, you know, there's something you need to consider -- you need to recognize before you take this appointment.

And I say, okay, what's that? He says, well, this is going to be hard work -- okay, nobody's going to appreciate what you're doing, and every decision you make's going to piss off somebody. Okay?

(Laughter.)

MR. OXER: And so last month I reminded I reminded them that they're three for three on that, by the way.

REP. JOHNSON: Absolutely.

MR. OXER: So I guess if it was easy, anybody could do it, so --

REP. JOHNSON: Well, you appear to be doing a fine job at it.

MR. OXER: You don't see the leaks from all the bullet holes --

REP. ANCHIA: Mr. Chairman, might I offer just one final thought?

MR. OXER: Please.

REP. ANCHIA: With respect to forward commitments, it is not my -- I just want to be perfectly clear. It is not my position that, over the long term, forward commitments are per se a bad idea. There have to be some exigent circumstances, some information that comes to the Board, that allows you as policymakers to be able to do that.

My concern relates to the parameters around which forward commitments should be given because there seems to be quite a bit of

flexibility for that. Maybe that's -- I offer that up to you as Board members because I think we can take the interim to think about maybe what those parameters, what those emergencies and exigent circumstances might be that would occasion a forward commitment because I don't want my position here today to be construed as being an absolute bar.

I think the temporary moratorium by the Governor's Office is good. It hits the pause button and allows us to think on this, noodle on this, and maybe come up with a good solution.

So, Mr. Chairman and members, thank you for your time.

MR. OXER: Thank you to both of you.

And I'm sure that I don't have to remind anybody here in this room that the QAP that we're working on for the 2012 round -- if you look through it, the term forward commitment doesn't even show up in it. So that's an issue that we won't have to address in this round. However, we're actually having to deal with it now so --

All right. We have actually quite a number. Now, those of you who have been here before know that we'll do this on sort of an on-deck circle. So I'm going to read off the first three, and after somebody gets finished, well, the next one take the other mike and we'll rotate into this. Okay?

We have Henry Lawson, Anthony Lucky, and Kent Smith.
Good morning --

MR. LAWSON: Good morning.

MR. OXER: -- so far. Please state your name and who

you're with.

MR. LAWSON: I'm Henry Lawson. Okay. Well, I want to thank the Chair and the Board for allowing me to come speak this morning. I believe I want to temper my remarks. I came here to ask for the Board to consider the denial of the waiver. I see the motion before the Board and I don't believe I could say it any better.

MR. OXER: For the record, the motion has been made, has not been voted on yet.

MR. LAWSON: Yeah, okay. But that's what I'm here to say that -- okay. I would like to say that my comments focused on the spirit of the law, that in looking at the process it allowed for a lot of projects to be overlooked or higher score, what have you, and I just want to echo the comments made by the representative. And I want to thank the Board for their concern about this and taking the appropriate action to act on that.

I do want to say that we're one of those projects -- our project, the Hatcher Square project, was one of those that scored higher and so we're going to get in line next year and come in do our best again but it is refreshing to know that the state is looking at tempering that forward commitment process because we do believe it has been a tool by which the letter of the law is in place but the spirit of the law has clearly been challenged.

I'm going to temper my comments there and we just want to commend the staff for all the good work they're doing. Thank you so very much.

MR. OXER: Thank you. Okay.

Mr. Lucky. Wasn't there a TV show like that?

(Laughter.)

MR. OXER: Of course, nobody ever told you that before.

MR. LUCKY: Yeah, I get it --

MR. OXER: Go ahead. Good morning.

MR. LUCKY: Thank you, Board, Chair and committee members for allowing me to speak also. I'm a resident and a board member of the project that scored higher also. I represent -- and I'm going to be brief in comments too because, again, I want to thank you guys for making that decision you made earlier to deny that waiver but --

MR. OXER: The decision has not been made. For the record, the motion is on the table and comments being made, so --

MR. LUCKY: Okay. I'm being persuasive but --

(Laughter.)

MR. OXER: I accept that but just a point of clarification --

MR. LUCKY: And I just want to say briefly, I represent that soccer team that our great state representative was talking about that scored and won the game and was told that they didn't win. I represent his daughter, so I just feel like it'll be fairer that the Board hear from that team, that daughter, that was told that they didn't win when they really won.

I just want to say briefly, I grew up in that neighborhood; I spend all my life in that neighborhood. And I tell you I don't pride myself on it but I started a gang in that neighborhood. I went to prison for starting a gang in that neighborhood and this is kind of reminiscent a parole board. I feel

nervous a bit.

But I got out of the prison with the intent and the desire to help my neighborhood and I've been doing that for the last 12 years, and the reason why I believe that this Hatcher Square project is so good for our neighborhood because this can be the economic catalyst for a neighborhood that's in transition and that has the support of community, the residents, clergy, business leaders, and a project like this'll help our neighborhood that's in transition.

So I just -- you know, I had two hours' worth of stuff to say but I'm going to leave it at that. I thank the Board for making -- about to make the decision. Thank you.

MR. OXER: Thank you, Mr. Lucky. We appreciate your candor and coming up.

MR. LUCKY: Thank you.

MR. OXER: Mr. Smith. And following Mr. Smith will be John Owens and then -- I'm sorry, Saleem Jafar?

MR. SMITH: Thank you. My name is Kent Smith and I'd like to also thank you for your service. I am a resident of South Dallas and a supporter of the Hatcher development which was a higher scoring project than the project we're discussing, the Champion Homes.

I live and was born and raised in South Dallas, which is a low-income and moderate-income neighborhood, and by choice I live in that neighborhood now. I could live anywhere I want but I choose to live there.

And I am in real estate as a real estate investor and I'm a

long-time resident and also a member of the Revitalized South Dallas Coalition, which is an alliance of community groups and individuals wanting development in South Dallas, the low-income and moderate area which is almost a poster child for the criteria that we think the Board is looking for to develop.

And as a real estate investor, I own about five or six properties in South Dallas and I rent them and manage them at market rates. And there are a number -- I'm always surprised, and I shouldn't be, that people always want to live in South Dallas. I grew up there; it used to almost like a suburb is now. It was just a wonderful place to grow up. It has changed over time and we need a signature project like Hatcher Square that is right on the cusp of two major thoroughfares, right near Fair Park, five minutes from downtown, where people like myself and others who chose to live there can live there in a community that has mixed use.

The Hatcher Square project also is a total project that has support from the community and it also has different people at different levels proposing to live there and it's just a great project that I think that should be considered and reconsidered when it comes up again.

Thank you for your time. I know you have a vote to make after we make your comments. I echo and support what the state representative, I have said before, and I appreciate your time. Thank you.

MR. OXER: Thank you. Any questions from the Board?

(No response.)

MR. OXER: Okay. We've had three that were opposed to

this project and we have three asking to speak in favor of it.

Yes, good morning.

MR. OWENS: Good morning. My name is John Owens. I'm one of the senior partners of BGO Architects in Dallas. Our primary business is multifamily. We operate seamlessly working with market-rate projects, HUD 221(d)(4) projects and the LIHTC projects that we're talking about here.

We've been in business for 38 years and have done over 400,000 dwelling units. We've done about between 30 and 45 tax credit projects. To date, all of those have been suburban-style projects, not an urban-style project like we're talking about here, the Champion Homes.

Those all met the unit-mix requirements of the QAP. When we were asked to design this one and noted that it was an urban, transit-oriented location, we suggested that the number of required three-bedroom units dictated by the QAP we felt was higher than would meet the needs of that area and that the lower number of one-bedroom units would have been less.

So I volunteered today to come and tell you just our experience about the -- of the transit-oriented developments that we've done, and we've done -- in addition to this project, we've either designed, are designing, or have completed construction on nine other transit-oriented projects.

Of those nine projects, only two of them had any three-bedroom units at all. One of them had 1.3 percent three-bedroom units; the other had 6 percent. They all were in the neighborhood of fifty-fifty between one-bedroom and two-bedroom. It started at that level and they go up to -- the vast majority of the projects that we've done are in the

neighborhood of 67 percent one-bedroom and 33 percent two-bedroom, with no three-bedroom units at all.

And these are market-rate projects that I'm talking about, so the developer is on the hook to make sure that those projects meet the needs of the location that those projects are being constructed, and without assistance by tax credits or anything like that.

One of the projects actually has two phases, and it's at the intersection of Spring Valley and 75 in Richardson, Texas, which is north of Dallas. The initial phase of that project -- there were 45 percent one-bedroom units and 55 percent two-bedroom units. They'd had two and a half years to complete the lease-up of that first phase and then they came to us for the second phase and they've increased the one-bedroom unit count to 67 percent and decreased the two-bedroom count to 33 percent, with no three-bedroom units at all. And this project is within walking distance, the project I'm referring to in Richardson, is within walking distance of a Dallas-area transit station.

So their experience, that developer's experience with that -- again, this is a market-rate project and not a tax credit project, so the developer has the full risk of making that that development is viable and leases up.

The QAP -- and this is just --

MR. OXER: Mr. Owens, I'm going to have to ask you to wrap it up pretty soon.

MR. OWENS: Yes, sir. My opinion is that the QAP -- and this

is just opinion -- is that the QAP anticipates a garden-style project in either a suburban- or nearly suburban location and that the QAP doesn't adequately address the needs of an urban-style project.

So that pretty much takes care of my presentation. Do you have any questions?

MR. OXER: Any questions?

MR. KEIG: Yes.

MR. OXER: Mr. Keig?

MR. KEIG: Did you consider the exception for single-room-occupancy units?

MR. OWENS: That was not -- we didn't consider that. None of the other market-rate projects have been -- have used that.

MR. OXER: Any other questions?

(No response.)

MR. OXER: Thank you.

MR. OWENS: Thank you, sir.

MR. OXER: Okay. Saleem, Mr. Shackelford, and let's see -- Mr. Onion is giving, yielding his time to Mr. Shackelford, so Mr. Shackelford, you'll have five minutes; and then Tamea Dula.

Good morning.

MR. JAFAR: Good morning. Mr. Chairman, members of the Board, Mr. Irvine, ladies and gentlemen, thank you for the opportunity to appear before you. My name is Saleem Jafar, president of Fox Residential Holdings, LP, and I'm here to speak about Champion Homes at Copperidge,

Project Number 11139, in Region 3 which was awarded a forward commitment by the Board on October 4, 2011.

There are two matters regarding waivers that the staff believes that the project needs from the Board that we will address, the unit mix and the 2012 cap applicability. Mr. Owens already has spoken to the unit mix. Mr. Shackelford, counsel representing the developer and the project, will speak to the matter of the required waivers.

This project was proposed to Mayor Pro Tem Pauline Medrano of the City Council of Dallas who supported it as a quality, in-fill, affordable mixed-income transit-oriented development project to be located on a major DART rail station that would provide affordable housing in the largest sustainable employment area in Dallas. The UT Southwestern Medical District, for which the City of Dallas, evident to support, are providing \$4.5 million in soft funding.

Since February 2010, the Dallas City Council has not only voted to rezone this property to its multifamily use with opposition but has passed six unanimous support resolutions and/or consents in support of this project.

Regarding the matter of the unit mix, given the location of the project, which an urban, high-density, emerging location near downtown Dallas and based upon extensive research, there is little, if any, demand for three-bedroom units, given the market demographics, as the residents are likely working folks, couples and acquiring one- and two-bedroom units only.

The unit mix for the QAP is more applicable to suburban, row

garden apartment developments not urban high-density developments. The 2012 QAP provides an exception from the unit-mix percentages if the development is in CBD. We believe we conform to its intent.

In compliance with the intent of the QAP, we scheduled 25 three-bedroom units, striving hard to keep a balance but being conservative financial underwriting and the requirements of the QAP. If the unit mix was unacceptable to staff for any reason, which we asked several times to provide guidance on, or to take to the Board for a waiver, it would have been mutually beneficial for the product to have been killed early in 2011.

When the Board awarded this project a forward commitment, we relied upon that and have invested in excess of \$300,000 in this project in addition to unnecessary legal fees to fend off certain third-party attacks, and at least \$200,000 has been spent since the October award.

In reliance upon the October award and compliance with the QAP and TDHCA policies regarding the credit cap, we have not filed any preapps for the 2012 round because that would exceed the cap, due to the forward commitment for Copperidge.

Odyssey has always complied with the QAP cap limits and has only been awarded \$6 million in the last five years, including this allocation, rather than the \$10 million it could have in each of those years. Hence, there has been no disproportionate awards of credits to Odyssey. On the matter of the two forwards in the last two years, Mr. Shackelford will address that.

Our application has been transparent and fully compliant with the rules since last February. All the waiver requests are duly noted in our

application and notice responses. There is noted and sufficient good cause, as you noted in the record in October and in December.

In conclusion, I would like to reiterate that the unit mix for this project should be for an urban in-fill transit-oriented development which lies in a CBD rather than a suburban garden-style development. The project has continued support from the city, the state representatives and the mayor pro tem. It falls within the guidelines for significantly improving fair housing in Dallas. It is located in a high-opportunity area with good schools and access to transit. Thank you.

MR. OXER: Any questions from the Board?

(Pause.)

MR. OXER: I have a question.

MR. JAFAR: Yes, sir.

MR. OXER: You say that the project enjoys the support of the state representatives.

MR. JAFAR: Yes.

MR. OXER: Okay. And then can you explain Representative Johnson's and Representative Anchia's position just a minute okay.

MR. JAFAR: No, sir, I really cannot, because those are not the state representatives that we got support letters from. I appreciate their position.

MR. OXER: Okay. It's just -- as I recall in some of the documentation on this, this project was known to be -- to have a unit mix that was not in keeping with the guidelines of the QAP, from the start --

MR. JAFAR: That's correct.

MR. OXER: -- that was recognized. And it was said -- and so I recall somewhere that because it was going to be difficult to achieve that it was applying for a forward commitment from the start.

MR. JAFAR: Your Honor

MR. OXER: Okay. In an application process, the forward commitment process is something that we offer. It's not -- that the board offers as an option as opposed to something you appeal for before the application. It's just a point I want to make. In an application you can't say, okay, I'll just put in enough to put in 150 points regardless of whether somebody else, and then ask for a forward commitment after that. It's a point of clarification --

MR. JAFAR: Yes, sir.

MR. OXER: -- on my point. Okay.

All right. Any more comments from the Board?

(No response.)

MR. OXER: Okay. Thank you, Saleem.

MR. JAFAR: Thank you, sir.

MR. OXER: Okay. Mr. Shackelford.

MR. SHACKELFORD: Mr. Chairman --

MR. OXER: Good morning.

MR. SHACKELFORD: -- members of the Board and Mr. Irvine, thank you very much. John Shackelford speaking on behalf of the applicant.

Based upon the motion that's on the floor I guess I got my work cut out for me today speaking in front of you and would like to remind you of the issues before you, which are the two waivers, and that the Board already approved the forward commitment, and we're merely asking that the Board tidy up the waivers, and then, I think, the standard by which we need to sort of support those waivers are that there is good cause by the Board to do that which it is given the authority to do under the QAP 49.16(a).

We're not asking the Board to do anything contrary to what is already given to the Board under the QAP. And, you know, I heard the elected officials mentioning about transparency in the process and I think this applicant has been abundantly transparent in the entire process.

We've got two issues, the unit mix, and we've got the cap issue.

On the unit mix and the cap issue, when this preapplication went in back on January 7th of 2011, and the cover letter that went with the preapp, the applicant made note, "The property's mixed income has a nonconforming income and unit mix." We understand this was noted with the submission of any application in this round. On the cap issue it also said, "This application is submitted for consideration as a forward commitment to ensure we do not violate the \$2 million cap rule for any reason."

So on the preapp, the letter that went in with the preapp, the applicant noted to the Department we've got two issues, unit mix and the cap issue -- made note of it. One of the reasons for that was this Board, if you recall, back in the last part of 2010, knew that there were differences in the unit mix probably if you're bringing a more urban type of development.

And Mr. Conine told the development community, if you have issues with your unit mix, if you're trying to an urban more style development, bring it to us. So on February 26, before even the final app was turned in, the applicant again made a request to the staff, and said -- sent an email saying, "What do we need to do, if anything, at this point to get this approved about the unit mix?" and pointed out to staff, what do we need to do?

So then staff renders a deficiency notice on May 26, pointing out you got too many one-bedrooms in your deal. The response back in June was, we know; we want to get on the Board agenda to address the issue. Nothing gets done. Later on in June -- again there's transmissions going back and forth in emails between my client and the staff over getting on the Board's agenda in June.

Okay. He then asked for being on the agenda for the first meeting in July before the allocations came out. So as far as transparency, we feel like we've been transparent in that we brought this to the attention of the staff as early as the cover letter with the preapplication.

Same on the cap issue. On the cap issue -- let me briefly go into the history of that because some of you were on the Board at that time and some of you may not be -- I know were not. But this all arose back in 2009 when an affiliate of my client had been given an award down in Galveston. And you have to put yourself back at that time. Hurricane Ike had come through, devastated so much of the island; there was very little housing down there and the Governor wanted to bring as much housing as possible back to the Galveston Island.

My client happened to be fortuitous and have another application in for a site in Galveston and the Board decided at that time to use its authority under the 2009 QAP and give a second deal in that particular year because they were both serving to put more housing in Galveston for the need brought about from Hurricane Ike. It came up before the commitment was issued, the forward commitment was issued, and this Board approved doing that and making those additional credits in 2009 go against the 2010 year.

My client then filed an application for 2010, knowing that they had a problem with 2010, and the Board, in Harlingen in 2010, on a motion by Ms. Bingham, approved the deal, Champion Homes at Canyon Creek and had those particular credits approved by this Board to be applied to the 2011 year.

So now we get to January 2011 and my client is saying to the staff in its preapp and then in the letter that went along with the application itself, saying we've got the 9 percent housing tax credit application for Champion Homes at Copperidge is intended to be considered for a 2012 forward commitment as part of the 2012 credit ceiling.

So along with its application it's notifying the Department of what the issue is. It says we are ineligible for credits this year due to our forward allocation for Champion Homes at Canyon Creek. In the application itself it was specifically noted, "We are not eligible for credits in 2011 round due to our forward commitment on Champion Homes at Canyon Creek." Staff terminates the application -- if I may, Mr. Chair --

MR. OXER: Please.

MR. SHACKELFORD: Staff terminates the application in

2011; we appeal. Mr. Gerber reinstates it knowing that it's ineligible, and says, you know, we're going to go ahead and reinstate it because there is precedent for two years. What you're asking for the board to do has been done but we're going to notify the Board before the commitments of the issue.

That's fine; that's what we want.

Then, later on after that, Mrs. Meyer and my client go back and forth about the issue and she advises that staff's going to make the Board aware prior to the issuance of the forward commitments.

Again, that's fine. So historically, what's happened in the two prior years is before you all have rendered your forward commitments, the issues come up, and typically Mr. Gouris has come up before you and advised you of the issue and it gets addressed right then and there.

So we're before you today on these two issues when -- on the unit mix we sought to get before you early on, as early as February 2026 was the first time we're asking about this. We tried to get before -- and then we assumed we were going to get before you before the Board commitments were issued because I sent a letter, email, to Mr. Irvine, Mr. Gouris, Ms. Meyer and Ms. Morales on August 16 in anticipation of when we thought the awards were going to be done in September, sort of say, here we are again on this thing.

And so we anticipated the issue would come up before October when the Board rendered the decision on the forward commitment. So all we're asking is to be treated in accordance with the 2011 QAP. Don't forget that we're still under the '11 QAP on this half, not in the 2012.

And with respect to -- Mr. Keig, I know your issue over the unit mix not fitting in with the exceptions, that's true for 2011. We don't technically qualify for the exceptions in 2012 but I think what the 2012 QAP shows is if you're in a central business district, this Board and this staff recognizes that those unit mixes that are mandated in the QAP don't fit a more urban style of development and that's what our development is here.

And, again, there's good cause in this opinion -- if I may just take one more minute -- good cause on both these waivers because primarily the ICP versus TDHCA litigation that is before you. I know from looking at the summary judgment opinion rendered by Sidney Fitzwater in federal court in Dallas that there's a finding of discrimination.

This particular site, contrary to what the Talton report shows, that in Dallas 69 percent of the low-income housing tax credit units have been put in minority areas, this site helps you with fair housing because this particular census tract in which this property is located is 67 percent Caucasian and it's got an average median family income of 75,000.

So this particular project, I think, satisfies the good cause requirement that you need to find to exercise your authority under the QAP to grant these waivers and to approve this particular transaction.

Any questions?

MR. KEIG: Yes.

MR. OXER: Mr. Keig?

MR. KEIG: What is the area of Dallas that this is located in?

MR. SHACKELFORD: It's not too far outside the downtown

district. It's in what's call the Medical District. It's pretty close to UT Southwestern Medical Center, Parkland Hospital, and that part of town.

MR. KEIG: How do we define CBD in the 2012 QAP?

MR. SHACKELFORD: You got me on that one. I'd have to have the benefit of that in front of me to be able to tell you specifically.

MR. OXER: Cameron, come up.

MR. KEIG: But as you mentioned, it's outside -- it's over by Parkland.

MR. SHACKELFORD: It is. It's outside the CBD but the type of development, and in that particular area, I think the characteristics are similar is what I'm trying to point out, that it's a more urban-style development, transit-oriented development. It's a both market rate and affordable housing unit project.

MR. KEIG: OXER: You're going to add something?

MR. DORSEY: I mean, I think we would rely on the city to define their own central business district and I think Mr. Shackelford indicated that it wouldn't technically be within their central business district, so it wouldn't technically qualify for the unit-mix requirements for a central business district deal, which this unit mix would comply with if it were in a central business district, under the 2012 QAP.

MR. KEIG: But you're saying it would not be within the central business district.

MR. DORSEY: That's -- yeah, we would rely on the city and I don't have the city's definition in front of me.

MR. KEIG: All right. There's been a lot written and we've heard some testimony here today --

MR. OXER: Sit tight, Cameron.

MR. KEIG: -- about what staff did or did not do in handling these two issues leading up to this point today.

Do you have anything to add from the staff's perspective?

MR. DORSEY: The application was terminated and then ultimately reinstated by our prior executive director on the basis that the applicant could have given back their prior year's credit and then they wouldn't have violated the cap and they could have moved forward with this application, so that's why it was reinstated early in the process; however, the waivers weren't taken up largely because the application wasn't competitive at that time. So --

MR. OXER: Mr. Irvine, you had a comment.

MR. IRVINE: No. I would just expand on that a little bit. I absolutely agree with Mr. Shackelford and Mr. Jafar that the applicant was completely transparent about these issues. There's no question about that. I think that because the application was not view as particularly competitive, it did not get the level of analysis that we would have hoped to have given an application that was awarded.

When staff made its recommendation for the October 4 Board meeting, they actually did recommend that whatever transactions were selected for forwards be referred back to staff for further evaluation and a re-recommendation based on the vetting process. And I would also point out,

historically, that it has been representative of the applicant who has, in public testimony before this Board, raised the cap issues so --

And also just for the record, this is something where we all wish there were a lot more credits to go around and do a lot more affordable housing. I've got to say that this particular deal has a lot of really neat features. It's got some intrinsic merits; so does the proposed Frazier development, the Hatcher --

MR. OXER: Apparently, eligibility was not one of them.

MR. IRVINE: -- but they are not in any way, shape or form linked or related. This is an issue that I think is just Champions being considered on its face.

MR. OXER: Comment, Cameron?

(No audible response.)

MR. OXER: Okay. So the history on this was the application was made; transparency of the two issues, as you suggest, Mr. Shackelford, and Mr. Irvine agreed -- you lifted that up front. So you appealed for a request out of the 2012 allocation. Is that right?

(No audible response.)

MR. OXER: Let's go through the process again. Make the application, recognize it won't be eligible based on the unit mix and the cap. It's terminated; it's reinstated by the prior executive director. It goes through this whole process -- not competitive, and gets to this -- this thing has been sort of dragging its heels the whole way, hasn't it?

MR. SHACKELFORD: It's been tough.

MR. OXER: You think? All right. Let's go back to the cap. You just mentioned where there was a request for a cap; this is like the third one of these that your developer has gone through requesting a forward commitment out of next year and waiving the cap, the developer cap, on each one of them. Is that correct?

MR. SHACKELFORD: That is correct. And it doesn't mean that we're getting a disproportionate share of credits --

MR. OXER: I'm aware of that.

MR. SHACKELFORD: Right.

MR. OXER: I'm just asking if this is a continuation of a process.

MR. SHACKELFORD: It's a continuation which can't occur any longer. This is the last year.

MR. OXER: Yeah.

MR. SHACKELFORD: Both change in the QAP and the fact that my client did not submit a preapp and doesn't intend to file an application for 2012 so the little nuance that we have here will not occur again.

MR. OXER: I have a legal question that, by virtue of the fact that it attends to and addresses an active legal issue, it can't be addressed in this forum. So as a consequence of that, I'm going to ask if there's any more comments and then we're going to go into executive session. I'm going to get an answer from this and then we'll come back.

Is there any question, any more?

All right. We're going into executive session and we'll be out at

one o'clock.

MS. DULA: Mr. Oxer, I have a --

MR. OXER: I'm sorry.

MS. DULA: -- to say.

MR. OXER: I'm very sorry. Tamea Dula.

Tamea, you do have -- hold onto that. I have it right here in front of me, Tamea. I'm sorry for missing. We're going to listen to you and then we'll go.

MS. DULA: Not a problem. Good morning.

Tamea Dula, with Coats, Rose law firm. Today I am appearing on behalf of Matthews Affordable Income Development which is another competitor developer that is active in Region 3. They also had an application that outscored this one.

We oppose granting these waivers for the forward commitment in order to enable the forward commitment. First of all, you have an ineligible project due to its non-complying unit mix. It could have gone to the Board. They could have made sure it got on the agenda to be addressed. They didn't. You're addressing it now. It could be waived; that's true but others designed to the rules and we suggest that there's been a lot of discussion about urban living and how the unit mix needs to be revised and it hasn't shown up really yet in the QAP. So the effort to make the change ought to be in the QAP process. This has been a very competitive year. There are a number of equally eligible projects that didn't get met. The cap is a statutory issue. If you waive the cap, that's really violating the spirit of the statute.

Now we know that there is a precedent for doing this, two precedents, 2009 and 2010, and both with the same developer. Now, in 2009, we had Hurricane Ike to deal with and that probably provided a compelling reason, but I don't know about 2010 and in 2011 I'm not aware of any compelling reason in Region 3.

The program needs an even playing field for all of the developers who are participating in it. What you do here affects 2012. For 2012 there is currently \$5.6 million available for Region 3 Urban. There were 63 preapplications in Region 3 Urban, totaling \$102 million.

MR. OXER: We going to be a little short, it looks like.

MS. DULA: It's 20 times the amount of money you've got there. So you should think about that when you make your decision with regard for this request for a waiver. And we oppose granting the waiver. Thank you.

MR. OXER: Sure. Are there any other questions?

DR. MUÑOZ: Mr. Chair?

MR. OXER: Dr. Muñoz.

DR. MUÑOZ: We re-adjourn at 1:00?

MR. OXER: Oh, no, no. We'll reconvene at 1:00 is what -- hold on just a second, just make sure we've got this. Okay.

DR. MUÑOZ: 12:30?

MR. OXER: All right. Are there any other questions?

MR. IRVINE: No, sir.

MR. OXER: All right. We have a legal question we're going

to attend to.

Welcome aboard, Barbara.

Okay. We'll reconvene -- let's give it exactly an hour. We'll convene at 12:45.

MR. IRVINE: At 11:42, the Board of the Texas Department of Housing and Community Affairs went into executive session under Texas Government Code Section 551.071 to discuss pending and threatened litigation and 551.071 Subsection 2 to confer with counsel, under 551.074 to confer on personnel matters, and under 2306.039 to discuss matters of fraud, waste or abuse.

(Whereupon, at 11:40 a.m., the meeting adjourned to go into executive session.)

MR. IRVINE: The Board concluded its executive session at 12:32 p.m., no action was taken, and is reconvening in public session at 12:47 p.m.

MR. OXER: Okay. We have an active motion with a second on the floor. Are there any more questions from the Board?

(No response.)

MR. OXER: Any other comments? Mr. Executive Director? Cameron, anything else?

Okay. All in favor -- now just restate the motion, if we could.

MR. GANN: Basically we deny both waivers.

MR. OXER: Okay. The motion's on the floor and motion has been made by Mr. Keig and seconded by Mr. Gant to deny --

VOICES: Other way around, opposite.

MR. OXER: Okay. Made by Mr. Gann, seconded by Mr. Keig to deny the waivers on the project, Champions at Copperidge. All in favor?

(A chorus of ayes.)

MR. OXER: Opposed?

(No response.)

MR. OXER: Motion passes.

Do we have report items?

MR. IRVINE: Yes, Mr. Chairman. I believe Brooke Boston would like to report on the American Recovery and Reinvestment Act now, and as Brooke is coming to the lectern, I'm just really happy to say that we are on the final stretch under ARRA and it's been a very successful run.

MR. OXER: We're going to get this pig finally digested through this pipeline is what you're saying. Right?

MR. IRVINE: Right. We're going back to regular pigs.

MR. OXER: Hi, Brooke.

MS. BOSTON: Hi.

MR. OXER: Happy New Year.

MS. BOSTON: Brooke Boston. Thank you very much. It's great to be back full time.

So we have a few changes. When I came back we were laughing about how some of the content of this report hasn't changed much in two years, not so much the numbers, of course, but just a little bit in terms of the status updates and that type of information.

CSBG, of course, continues to be complete. We have noticed that some of those subrecipients are starting to have their annual audits and so as those programs are being audited at the subrecipient level, we may here things here or there about small amounts of disallowed costs that would have been disallowed by us but may have audit problems. That would be the case with any of the programs the year following when the programs close out.

The weatherization assistance program is doing great. We are at now 90.71 percent expended. That's as of this morning. And then we received an extension for three months to finish the program in June and then we'll also have some time to close out. At this point we have not given extensions to any of the subrecipients out that long, but it's nice because if we need to by a month we could. We're planning on using that time just to make sure out close-out is very neat and tidy, but let the subs still work at least through March.

The Homelessness Prevention and Rapid Rehousing Program is at 97.49 percent as of today and so we are just finishing up with our last few subrecipients on that program. That program administratively is wrapping up.

Two of the staff who had been temporarily associated with HPPR have moved in to working on some other things which, I think, you guys knew from the very beginning that we had concerns about how some of the Recovery Act employees might kind of settle out at the end of this, and it's working out very nicely.

People seem to be finding positions, either in the private sector, or in permanent jobs internally. So that's been a nice thing that we had been

worried about that seems like we don't need to be too worried about.

And then, of course, TCAP, we are at 94.34 percent, as of today. We have eleven subrecipients who still have any funds outstanding and those are all associated with their final draws.

And then Tax Credit Exchange program is complete as of December 31 and it's complete at 99.77 percent, but that's totally done so --

Any questions?

MR. OXER: Looks like you were pretty busy; your group was pretty busy.

MS. BOSTON: Yeah, I haven't been that busy.

MR. OXER: Well, you've been busy with other things. We understand that.

MS. BOSTON: But, yes, the agency has done an amazing job getting through all this, staying on top of everything.

MR. OXER: Right. Well, my compliments to you for biting this -- I'm sure there were some big bites you had to bite off to chew on this to get all that through because \$600 million is not small.

MS. BOSTON: No.

MR. OXER: So, any questions from the Board?

VOICE: Good job.

MR. OXER: Right. Thanks very much. You have our compliments and our gratitude for doing that, Brooke.

MS. BOSTON: Thank you.

MR. OXER: Okay. Let me see.

MR. IRVINE: Other report items?

MR. OXER: Other report items, yeah. The next one --

MR. IRVINE: Mr. Chairman, I only have two other report items and I will make them really quick because I know we're about to lose our quorum as people hopefully can make some earlier flights.

First of all, with regard to fair housing, we are moving forward with our consultant. They are really focused on a good, robust public outreach process that I hope will get the word out and encourage every single Texan to either have a voice directly or through representation. We really want this to be an open and balanced and truly transformative process.

And I think that a lot of the real value comes out of the outreach and just the awareness that it engenders, so that's very, very exciting. We had a couple of extended meetings with HUD a week or so ago and HUD also very, very excited about what's going on in Texas and hopefully they're going to be issuing some formal guidance very soon on the whole issue of affirmatively furthering fair housing. It'd be nice to know what the rules are.

MR. OXER: Isn't that what we've been working with here?

MR. IRVINE: Yes, absolutely. We take it very seriously but it has been a very confusing area and I think that HUD has focused on getting out some guidance that really will help subrecipients to have more clarity and really understand exactly what they do and don't have to do.

The other thing I wanted to mention is our bond counsel has moved from Vinson & Elkins to Bracewell & Giuliani. Elizabeth Bowes is here, and I believe if you would stand and be recognized, today is your first

day with Bracewell. So we are very excited about this change.

MS. BOWES: Yes, and thank you very much. We're excited about the move as well. Just for the Board's information there are about --

MR. OXER: Elizabeth, you know you're going to have to say who you are.

MS. BOWES: Oh. Elizabeth Rippey Bowes with Bracewell & Giuliani.

MR. OXER: Okay.

MS. BOWES: And there are about 14 partners that are moving from Vinson & Elkins to Bracewell & Giuliani and a total of about 30 lawyers and maybe 40 people. So the team that's done your bond counsel work for many years will be moving intact to the new firm and I just appreciate the opportunity to continue to serve the Board and look forward to many years of continuing to do so.

MR. OXER: Well, for the record, my approach to this is we hire the lawyer, not the firm, so --

MS. BOWES: Thank you.

MR. OXER: -- wherever you're going just we'll be trailing off behind you. Okay? So --

MR. KEIG: And as part of that, I have a question, Mr. Chairman.

MR. OXER: Mr. Keig.

MR. KEIG: As part of the process, this does not kick in any procurement process that we have to go back through?

MR. OXER: Good point.

MR. IRVINE: It's my understanding that we've worked this through with the general counsel's office of the Attorney General and because it will be the same lawyers, there will not be a need for reprourement, so we will be able to continue to use the wonderful team that's served us so well in the past.

I don't want it to go unsaid. I'm very appreciative of everything Vinson & Elkins did, and don't forget that they supported this team and built this team and it's been a wonderful team, but we're very, very excited about the energy and everything that this energy with the other lawyers at Bracewell will bring to this activity.

MR. OXER: Good. You've got a couple of minutes yet, don't you?

(No audible response.)

MR. OXER: Okay. Just wanted to make sure before we get clinched up here.

All right. We have -- those of you who've read the Board book -- okay.

Come on, Jeff.

MR. PENDER: Jeff Pender, Deputy General Counsel. I just wanted to get some clarification, make sure that the vote on Copperidge was effective.

Dr. Muñoz, did you not vote, or did you vote against the motion?

DR. MUÑOZ: To not grant the waiver?

MR. PENDER: Correct.

DR. MUÑOZ: I thought I voted with the other Board members.

MR. PENDER: Oh, okay. That's it. Thanks.

MR. OXER: It's unanimous, for the record.

MR. IRVINE: Okay. I'm sorry. I just didn't hear you.

MR. OXER: Glad to make the clarification on something that has generated as much interest as this one had, so --

Okay. With respect to our outreach activities, the Board book has -- and as all of you will be able to see online, has a list of activities that staff and Board members have been involved in in the last month. For the next meeting, we're planning a few things that are coming up. We're trying to get those organized, but because of the struggle sometimes to get a date locked down on some of these things, it's hard to say exactly when we're planning some, but one of the things we're planning to do and --

Michael, if you would toss in a comment or two, we're making a -- I'll be visiting the city of Houston with staff regarding those. You want to add some more to that, you and Tim?

MR. IRVINE: Well we are planning on going down to the city to visit not only with the city officials and with large weatherization providers and other folks and also to look at some of the more exciting and interesting tax credit developments, I believe, including one of Joy Horak-Brown's developments.

MR. OXER: Joy was here a bit ago.

MR. IRVINE: Joy was here, yeah. And we are planning other similar outreach visits to other major cities but, you know, Texas is both a very urban state and a very rural state so I hope we'll also plan some outreach to some of the more rural areas as well.

MR. OXER: More importantly, it's a very large state so some of these are --

MR. IRVINE: It'll take a while.

MR. OXER: -- more than day trips here so --

Okay. That's it for the public outreach.

The last item, in keeping with our process here, do we have any other open requests for public comment? Is there anybody else that'd like to speak or say anything?

Nidia or Michele, we have anything?

(No response.)

MR. OXER: Okay. I want the record to reflect that there was no request for that. So this is the time for anybody that has a public comment for an issue to be added to the agenda for next time -- this is when you make that request.

(No response.)

MR. OXER: Barring none, we've completed the agenda. I'll entertain a motion to adjourn.

DR. MUÑOZ: So move.

MR. OXER: Okay. Second?

MR. GANN: Second.

MR. OXER: Okay. Motion by Dr. Muñoz, second by Vice-chairman Gann to adjourn. All in favor?

(A chorus of ayes.)

MR. OXER: Motion carries. We stand adjourned.

(Whereupon, at 1:00 p.m., the meeting was concluded.)

CERTIFICATE

MEETING OF: TDHCA Board
LOCATION: Austin, Texas
DATE: January 17, 2012

I do hereby certify that the foregoing pages, numbers 1 through 80, 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 & Community Affairs.

1/20/2012
(Transcriber) (Date)

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