

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

GOVERNING BOARD MEETING

VIA WEBCONFERENCE

Thursday,
April 23, 2020
9:00 a.m.

MEMBERS:

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

BOBBY WILKINSON, Executive Director

ON THE RECORD REPORTING
(512) 450-0342

I N D E X

<u>AGENDA ITEM</u>	<u>PAGE</u>
CALL TO ORDER	9
ROLL CALL	9
CERTIFICATION OF QUORUM	9
Pledges of Allegiance	9
Resolution recognizing May as Community Action Month	10
Resolution recognizing May as National Mobility Awareness Month	12
CONSENT AGENDA	16
ITEM 1: APPROVAL OF THE FOLLOWING ITEMS PRESENTED IN THE BOARD MATERIALS:	
EXECUTIVE	
a) Presentation, discussion, and possible action on Board meeting minutes summary for January 16, 2020	
ASSET MANAGEMENT	
b) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application 17081 Palladium Denton Denton 19234 The Residences at Alsbury Burlison	
c) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement 96182 Crestview Apartments Longview 00179 Highland Oaks Apartments Floresville	
d) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application and Land Use Restriction Agreement 97167 Columbia Luxar Townhomes Dallas	
e) Presentation, discussion, and possible action regarding an increase to the Housing Tax Credit amount 16409 Sansom Ridge Sansom Park 17410 Lakecrest Village Apartments Houston	

COMMUNITY AFFAIRS

- f) Presentation, discussion, and possible action on the 2020 Department of Energy Weatherization Assistance Program State Plan and Awards
- g) Presentation, discussion, and possible action on release of the draft 2021 Low Income Home Energy Assistance Program State Plan for public comment

RULES

- h) Presentation, discussion, and possible action on an order adopting amendments to 10 TAC §8.7, Tenant Selection and Screening; an order adopting amendments to 10 TAC §23.61, Tenant-Based Rental Assistance (TBRA) General Requirements; and directing their submission to the Texas Register for adoption

MULTIFAMILY FINANCE

- i) Presentation, discussion, and possible action on the Second Amendment to the 2020-1 Multifamily Direct Loan Notice of Funding Availability
- j) Presentation, discussion, and possible action regarding the issuance of Determination Notices for 4% Housing Tax Credit Applications
20420 Pan American San Antonio
20408 Vi Collina Austin
20449 Emli at Pecan Creek Aubrey ETJ

BOND FINANCE

- k) Presentation, discussion, and possible action on Resolution No. 20-013 regarding the annual approval of the Department's 1) Presentation, discussion, and possible action on Resolution No. 20-014 regarding the annual approval of the Department's Interest Rate Swap Policy

CONSENT AGENDA REPORT ITEMS

ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

- a) Outreach and Activities Report (March-April)
- b) Report on the Department's 2nd Quarter Investment Report in accordance with the Public Funds Investment Act
- c) Report on the Department's 2nd Quarter Investment Report relating to funds held under Bond Trust Indentures

ACTION ITEMS

ITEM 3: SINGLE-FAMILY AND HOMELESS PROGRAMS

- a) Presentation, discussion, and possible action 17
on waivers to certain provisions of Texas
Administrative Code to allow for payment of
mortgages as a homelessness prevention
activity under the Homeless Housing and
Services Program

ITEM 4: BOND FINANCE

- a) Report regarding the impact of the coronavirus 21
on the municipal market and on the Department's
mortgage revenue bond programs
- b) Presentation, discussion, and possible action 32
regarding the Issuance of Multifamily Green
Tax-Exempt Bonds (Green M-TEBS - Oaks on
Clark Apartments) Resolution No. 20-015 and
a Determination Notice of Housing Tax Credits
- c) Presentation, discussion, and possible action 36
regarding the Issuance of Governmental Notes
(Granada Terrace Apartments) Resolution No.
20-016 and a Determination Notice of Housing
Tax Credits
- d) Presentation, discussion, and possible action 94
on Resolution No. 20-017 authorizing the
issuance, sale and delivery of Texas Department
of Housing and Community Affairs Single-family
Mortgage Revenue Bonds, 2020 Series A and
Single-family Mortgage Revenue Refunding Bonds,
2020 Series B (Taxable); approving the form
and substance of related documents, authorizing
the execution of documents and instruments
necessary or convenient to carry out the
purposes of this resolution, and containing
other provisions relating to the subject

ITEM 5: MULTIFAMILY FINANCE

- a) Presentation, discussion, and possible action 101
on the draft 2020 Multifamily National Housing
Trust Fund Minimum Rehabilitation Standards
for the 2020-2024 State of Texas Consolidated
Plan and Opportunity for a Public Hearing
- b) Presentation, discussion, and possible action 106
on a Determination Notice for Housing Tax

Credits and an Award of Direct Loan Funds
 (#20401, Palladium Port Aransas, Port Aransas)

- c) Presentation, discussion, and possible action 110
 on the process of staff determinations
 regarding points awarded under 10 TAC
 §11.9(d)(4) related to Quantifiable
 Community Participation
 20004 Bamboo Estates Apartments Progreso
 20012 Merritt Gardens Midland
 20034 Ranch Court Apartments Andrews
 20063 Azalea West Fort Worth
 20066 Vista at Everest San Antonio
 20069 Vista at Interpark San Antonio
 20079 Fairview Terrace Brenham
 20115 Avenue at Sycamore Park Fort Worth
 20116 Dian Street Villas Houston
 20120 Lennox House Grand Prairie
 20123 Meander Park Granbury
 20145 Gala at Ridgmar Fort Worth
 20148 High View Place Killeen
 20149 Provision at Fort Worth Fort Worth
 20153 Provision at Bomber Road White Settlement
 20155 Gala at Premier Plano
 20158 Redwood Apartments Dumas
 20167 Laurel Flats Tyler
 20184 The Heritage at Abilene Abilene
 20186 The Residences at Ridgehill Kerrville
 20187 Cortez Plaza El Paso
 20190 Nuestra Senora El Paso
 20204 Heritage Senior Residences Houston
 20210 Amber Ridge Apartments Angleton
 20211 Ennis Trails Ennis
 20216 Henderson Trails Henderson
 20220 Trinity Estates Trinity
 20222 Brenham Trails Brenham
 20231 Walnut Trails San Angelo
 20233 Quinlan Estates Quinlan
 20267 Valley View Estates Fabens
 20294 Sagebrush Apartments Brady
 20295 Hwy 79 Senior Living Henderson
 20317 Merritt Edge Midland
 20344 Merritt Sunset Midland
- d) Presentation, discussion, and possible action 43
 regarding requests for waiver of the
 Department's Multifamily Program Rules
 20001 Farm Street Village Bastrop
 20128 OST Lofts Houston
 20147 Kestrel on Cooper Arlington

ITEM 6: RULES

- a) Presentation, discussion, and possible action 181
on adoption of amendments to 10 TAC §10.602
Notice to Owners and Corrective Action Periods;
§10.605 Elections under IRC §42(g); §10.607
Reporting Requirements; §10.609 Notices to
the Department; §10.610 Written Policies
and Procedures, §10.611 Determination,
Documentation and Certification of Annual
Income; §10.612 Tenant File Requirements;
§10.613 Lease Requirements; §10.614 Utility
Allowances; §10.615 Elections under IRC
§42(g); Additional Income and Rent
Restrictions for HTC, Exchange, and TCAP
Developments; §10.616 Household Unit Transfer
Requirements for All Programs; §10.617
Affirmative Marketing Requirements, §10.618
Onsite Monitoring; §10.622 Special Rules
Regarding Rents and Rent Limit Violations;
§10.623 Monitoring Procedures for Housing
Tax Credit Properties After the Compliance
Period; §10.624 Compliance Requirements for
Developments with 811 PRA Units; and Figure
§10.625; and directing that they be published
for adoption in the Texas Register
- b) Presentation, discussion, and possible action 201
on an order adopting the repeal of 10 TAC
Chapter 1, Subchapter C, Previous Participation
and Executive Award Review Advisory Committee;
and an order adopting new 10 TAC Chapter 1,
Subchapter C, Previous Participation and
Executive Award Review Advisory Committee
and directing that they be published for
adoption in the Texas Register
- c) Presentation, discussion, and possible action 204
on an order adopting new 10 TAC, Chapter 10,
Subchapter G, Affirmative Marketing
Requirements and Written Policies and
Procedures, and directing its publication
in the Texas Register

ITEM 7: AGENCY RESPONSE TO COVID-19 PANDEMIC AND
ACTIVITY UNDER HR 748, CORONAVIRUS AID, RELIEF, AND
ECONOMIC SECURITY ACT (CARES ACT)

- a) Presentation, discussion and possible action 207
on the Programming of Community Services
Block Grant funds available to Texas through
the Coronavirus Aid, Relief, and Economic

Security Act and Authorization to Award Such Funds

- b) Presentation, discussion and possible action on the Programming of Low Income Home Energy Assistance Program funds available to Texas through the Coronavirus Aid, Relief, and Economic Security Act and Authorization to Award Such Funds and Update on Administrative Flexibilities 210
- c) Presentation, discussion and possible action on the programming of Community Development Block Grant funds available to Texas through the Coronavirus Aid, Relief, and Economic Security Act and authorization to award such funds and opportunity for Public Hearing on a Material Amendment to the 2019 One-Year Action Plan, and 2015-2019 Consolidated Plan 213
- d) Presentation, discussion and possible action on the Programming of Emergency Solutions Grant (ESG) Program funds in the first allocation available to Texas through the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and Authorization to Award Such Funds, and, if needed, an emergency rulemaking to accomplish this action 219
- e) Presentation, discussion, and possible action on waivers to certain provisions of Texas Administrative Code for HOME Tenant-Based Rental Assistance for disaster response for qualified persons and households most impacted by COVID-19 223
- f) Presentation, discussion, and possible action relating to the use of Reserve for Replacement Account funds as provided for in 10 TAC §10.404(a)(7)(C)(i) to address responsiveness for households impacted by the COVID-19 pandemic, and, if needed, an emergency rulemaking to accomplish this action 227
- g) Presentation, discussion and possible action on waivers relating to certain requirements under 10 TAC Chapter 11, the Qualified Allocation Plan (QAP) and 10 TAC Chapter 13, the Multifamily Direct Loan (MFDL) Rule in relation to the Department's response to the COVID-19 pandemic 231
- PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS FOR 235

WHICH THERE WERE POSTED AGENDA ITEMS

EXECUTIVE SESSION

none

OPEN SESSION

--

ADJOURN

244

P R O C E E D I N G S

1
2 MS. BINGHAM: Welcome to the April meeting of
3 the Texas Department of Housing and Community Affairs.
4 We'll start by calling the meeting to order. I have the
5 benefit of seeing all the Board members present, but we'll
6 call names.

7 Sharon Thomason?

8 MS. THOMASON: Here.

9 MS. BINGHAM: Good morning. Paul Braden?

10 MR. BRADEN: Here.

11 MS. BINGHAM: And Leo Vasquez?

12 MR. VASQUEZ: Here.

13 MS. BINGHAM: Very good. We have 100 percent
14 present today. That certifies quorum. Bobby, would you
15 like to lead us in the pledges?

16 MR. WILKINSON: Yes, I shall. Board members,
17 please remain seated.

18 (Pledges were recited.)

19 MS. BINGHAM: Thank you. So we have a couple of
20 resolutions to read this morning, I think. Michael?
21 Resolution recognizing May as Community Action Month.

22 MS. CANTU: Michael, we're working on unmuting
23 you. This is Naomi Cantu, the moderator. Michael Lyttle,
24 hold on one second.

25 MR. LYTTLE: Good.

1 MS. CANTU: All right, Michael. Go ahead.

2 Michael, we cannot hear you.

3 MR. LYTTLE: Can you hear me?

4 MS. CANTU: Yes, we can hear you now.

5 MR. LYTTLE: Hello?

6 MS. CANTU: Go ahead.

7 MR. LYTTLE: Okay. Thank you. The first
8 resolution reads as follows:

9 "Whereas, Community Action Agencies are
10 nonprofit and unit of local government organizations
11 designated under the Economic Opportunity Act of 1964 to
12 serve to ameliorate the effects of poverty and help persons
13 experiencing poverty to transition to self-sufficiency;

14 "Whereas, Community Action builds and promotes
15 economic stability and enhances stronger communities and
16 the opportunity to live in dignity;

17 "Whereas, nationally Community Action has
18 enhanced the lives of millions by providing essential,
19 life-changing services and opportunities;

20 "Whereas, Community Action serves 99% of
21 America's counties in rural, suburban, and urban
22 communities, and works toward the goal of ending poverty in
23 our lifetime;

24 "Whereas, Texas has a strong vibrant network of
25 Community Action Agencies to deliver Community Action to

1 Texans in need;

2 "Whereas, Community Action will continue to
3 implement innovative and cost-effective programs to improve
4 the lives and living conditions of the impoverished,
5 continue to provide support and opportunities for all
6 eligible households in need of assistance, and continue to
7 develop and carry out effective welfare system reforms; and

8 "Whereas, the Texas Department of Housing and
9 Community Affairs and the State of Texas support the
10 Community Action network in Texas in working to improve
11 communities and make Texas a better place to live not only
12 during Community Action Month in May, but throughout the
13 entire year;

14 "Now, therefore, it is hereby resolved, that the
15 Governing Board of the Texas Department of Housing and
16 Community Affairs does hereby celebrate May 2020, as
17 Community Action Month in Texas, and encourages all Texas
18 individuals and organizations, public and private, to join
19 and work together in this observance of the hard work and
20 dedication of Texas Community Action agencies.

21 "Signed this twenty-third day of April 2020."

22 MS. BINGHAM: Is there a motion, just so
23 resolved?

24 MR. BRADEN: So moved.

25 MR. VASQUEZ: Second.

1 MS. BINGHAM: Second. Mr. Braden moved. Mr.
2 Vasquez seconded. All those in favor, aye?

3 (A chorus of ayes.)

4 MS. BINGHAM: Motion carries. Michael?

5 MR. LYTTLE: Okay. Madame Chair, yes. We have
6 one more resolution, and this one reads as follows:

7 "Whereas, May 2020 is National Mobility
8 Awareness Month, which is dedicated to showing the
9 community at large how Persons with Disabilities can live
10 active, mobile lifestyles, and raise awareness of the
11 mobility solutions available in the local community;

12 "Whereas, a goal of the Texas Department of
13 Housing and Community Affairs is to ensure that all Texans
14 have access to safe and decent affordable housing;

15 "Whereas, it is the policy of the Department to
16 support fair housing opportunities in the administration of
17 its Single-family and Multifamily Programs, especially in
18 regards to Persons with Disabilities accessing new home
19 construction, home rehabilitation, housing vouchers, and
20 rental assistance programs and services;

21 "Whereas, this year, the Department is
22 celebrating 10 years of offering the Amy Young Barrier
23 Removal Program, named in honor of the late advocate for
24 Texans with Disabilities who helped shape the state-funded
25 program to improve the quality of life for Persons with

1 Disabilities throughout the State of Texas;

2 "Whereas, the Amy Young Barrier Removal Program
3 provides one-time grants of up to \$22,500 for Persons with
4 Disabilities, both renters and homeowners earning up to
5 80 percent of the Area Median Family Income, who need home
6 modifications to increase accessibility and eliminate
7 hazardous conditions in their homes;

8 "Whereas, since 2010, the Department through the
9 Amy Young Barrier Removal Program has completed
10 approximately \$22.8 million worth of accessibility
11 modifications on approximately 1,167 homes of Texans with
12 Disabilities, such as constructing roll-in showers,
13 installing shower wands and lever faucets, widening
14 doorways, modifying kitchens and laundry rooms with
15 accessible cabinetry and appliances, building ramps, and
16 improving walkways with handrails, paving, and lighting to
17 accommodate program participants' specific needs;

18 "Whereas, the Department applauds the nonprofit
19 organizations and local governments around the state who
20 have become Amy Young Barrier Removal Program
21 Administrators and who advocate for their clients through
22 quality construction, pragmatic solutions, and respectful
23 service; and

24 "Whereas, the Department encourages Texans to
25 explore the numerous TDHCA programs and resources related

1 to increasing and maintaining mobility during National
2 Mobility Awareness Month and throughout the year;

3 "Now, therefore, it is hereby resolved, that in
4 the pursuit of the goal and responsibility of increasing
5 mobility opportunities of Texans with Disabilities, the
6 Governing Board of the Texas Department of Housing and
7 Community Affairs, does hereby celebrate May 2020 as
8 National Mobility Awareness Month and encourages all Texas
9 individuals and organizations, public and private, to join
10 and work together in this observance of National Mobility
11 Awareness Month.

12 "Signed this 23rd Day of April, 2020."

13 MS. BINGHAM: Thanks, Michael. Do I hear a
14 motion to so resolve?

15 MS. THOMASON: So moved.

16 MR. BRADEN: So moved.

17 MS. BINGHAM: I hear a motion from Ms. Thomason,
18 and was that a second from Mr. Braden?

19 MR. BRADEN: Second.

20 MS. BINGHAM: Thank you very much, Mr. Braden.
21 All those in favor, aye?

22 (A chorus of ayes.)

23 MS. BINGHAM: Motion carries.

24 MS. CANTU: I want to --

25 MS. BINGHAM: Thank you, Michael.

1 MS. CANTU: Naomi Cantu. I'm going to go over
2 some housekeeping one more time. We do have a lot of
3 questions in the question box, and I want to address them
4 in a way that -- this is a comment here. So first, be
5 advised that discussion today regarding Item 5(c) is solely
6 about whether staff acted appropriately when awarding
7 specific points for the applications.

8 This is not a public hearing, where the
9 Department will take public comments from persons reporting
10 or approving the construction of a development. Those
11 hearings will be announced soon. You can, if you wish,
12 wait until the very end of -- after Item 7(f), and give
13 your comments of opposition.

14 As a reminder, this is how we are doing public
15 comments today with today's virtual meeting. If you're
16 submitting a comment in the question box, include the
17 agenda item, your name, any organization you are
18 representing, and your position which is either for or
19 against the item.

20 Written statements other than your position of
21 for or against will not be read or considered public
22 comments.

23 MR. GAGNE: And in order to speak, wait until
24 your agenda item is being discussed, and indicate that you
25 would like to speak in the question box, and it goes

1 through our dashboard, as well as indicating you would like
2 to share your comment. And a moderator will call on you
3 and coordinate that, and once speaking, if you will state
4 your name and state your organization, and speaking time is
5 limited to three minutes or per the discretion of the Board
6 Chair.

7 MS. CANTU: And we'll go ahead and go back. So
8 as a reminder, this is not a public hearing regarding Item
9 5(c). This is -- those hearings will be announced at a
10 later date. And with that, we're going to hand it back
11 over to Vice Chairwoman Bingham.

12 Go ahead, please.

13 MS. BINGHAM: Thank you, Naomi. So we'll move
14 on to the consent agenda. As the Board members have had an
15 opportunity to review the consent agenda, would entertain
16 any motion to move any of the items off of the consent
17 agenda from Board members or staff.

18 (No response.)

19 MS. BINGHAM: And hearing none, we'll entertain
20 a motion for approval of the consent agenda.

21 MR. BRADEN: Move to approve consent agenda.

22 MS. BINGHAM: Okay. Motion by Mr. Braden.

23 MS. THOMASON: Second.

24 MR. VASQUEZ: Second.

25 MS. BINGHAM: Second by Ms. Thomason. No

1 further discussion?

2 (No response.)

3 MS. BINGHAM: All those in favor, aye?

4 (A chorus of ayes.)

5 MS. BINGHAM: Opposed?

6 (No response.)

7 MS. BINGHAM: Okay. Motion to approve the
8 consent agenda carries. We'll now move on to the action
9 items. So Item 3(a), this "Presentation, discussion,
10 and" -- I'm sorry. And I misread the -- great, great.
11 Thank you very much.

12 Item 3(a) is "Presentation, discussion, and
13 possible action on waivers to certain provisions of Texas
14 Administrative Code to allow for payment of mortgages as a
15 homelessness prevention activity under the Homeless Housing
16 and Services Program."

17 Abby?

18 MS. VERSYP: Good morning, Board members. I'm
19 Abigail Versyp, director of Single-family and Homeless
20 Program, and I'm presenting the first of many action items
21 today, Item 3(a), requesting a waiver of provisions of the
22 Texas Administrative Code to allow for payment of
23 mortgages -- sorry -- just one moment -- as a homelessness
24 prevention activity under the Homeless Housing and Services
25 Program, which is HHSP in our government acronym-speak.

1 Typically, the payment of mortgages is not
2 eligible as a homeless prevention activity. For HHSP, we
3 usually try, at the greatest extent feasible, to align the
4 program requirements with the federal requirements for
5 homelessness programs to ensure that funds are expended
6 effectively and efficiently.

7 Often, HHSP funds awarded to the largest cities
8 in Texas are utilized to offset their federal match
9 requirement and to sustain existing programs with the work,
10 if they need to. I think that we can all agree that we're
11 in extraordinary times, and that the Department, in
12 conjunction with our federal and local partners, are taking
13 extraordinary measures to provide extraordinary relief to
14 our citizenry that have been greatly impacted by COVID-19.

15 One extraordinary measure that's being proposed
16 today is to allow for the payment of past-due mortgage
17 loans, whether HHSP funds or under the homeless prevention
18 activity. And really, it's excluded as an eligible cost
19 for myriad reasons, but the economic impact of COVID-19 is
20 far-reaching, and staff believes that the requested waiver
21 applies to those mortgages not subject to the relief
22 offered to mortgage holders in the CARES Act for those
23 federally-backed mortgage would provide a concrete benefit
24 to low- and moderate-income Texans to prevent potential
25 loss of their place of residence.

1 The HHSP subrecipients located in the nine most
2 populous cities in Texas could request, if the waivers were
3 granted, to amend their existing HHSP contract to provide
4 this relief under homelessness prevention if the waiver is
5 granted.

6 I'm happy to answer any questions that you might
7 have.

8 MR. VASQUEZ: I have a question. Just to
9 clarify, when we state that they are -- these types of
10 payments are generally excluded, those are our rules, or
11 are those federal rules?

12 MS. VERSYP: Those are our rules. So this is
13 State general revenue.

14 MR. VASQUEZ: Okay. All right. Great. So --

15 MS. VERSYP: So generally, this is a rental
16 assistance program.

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

18 MS. BINGHAM: Any other questions from the Board
19 members?

20 (No response.)

21 MS. BINGHAM: All right. Well, we may have
22 comments. But we'll entertain a motion first on the Item
23 3(a). Is there a motion?

24 MR. VASQUEZ: I move to approve the staff's
25 recommended funds on 3(a).

1 MS. BINGHAM: Mr. Vasquez moves. Is there a
2 second?

3 MS. THOMASON: Second.

4 MS. BINGHAM: Thomason seconds. Are there --
5 Naomi, is there anybody teed up to comment?

6 MS. CANTU: There is no one who has submitted
7 something in the question box regarding this item. We can
8 go ahead and wait just one -- a few seconds, if anyone has
9 any comments. I do remind you, to not raise your hand
10 during this Board meeting.

11 You can only enter information into the question
12 box, and we'll unmute if you would like to comment, or you
13 can state whether you are for or against this item, and we
14 will read that into the record. And does no one --

15 (No response.)

16 MS. CANTU: All right.

17 MS. BINGHAM: All those in favor, aye?

18 (A chorus of ayes.)

19 MS. BINGHAM: Opposed?

20 (No response.)

21 MS. BINGHAM: Motion carries. Item 4(a), bond
22 finance. This is a "report regarding the impacts of the
23 coronavirus on the municipal market and the Department's
24 mortgage revenue bond programs." And Monica, are you
25 available?

1 MS. CANTU: Yeah. Unmuting Monica.

2 MS. GALUSKI: Good morning, Madame Vice Chair,
3 members of the Board, staff. This is Monica Galuski, the
4 director of Bond Finance. On the line with us and prepared
5 to add to specificity and/or color to this discussion are
6 several representatives from Stifel, the Department's
7 municipal adviser.

8 I'll do a quick summary specific to the
9 Department's single-family indenture, after which, I'll
10 hand off to Gary Machak of Stifel. This is an action
11 report item. So at its conclusion, staff recommends
12 acceptance of this report.

13 In your Board items, page 1 of those items
14 contains a snapshot of the assets and liabilities within
15 the Department's two single-family indentures. As you can
16 see, both indentures are financially sound, and both have
17 mortgage-backed securities guaranteed by Ginnie, Fannie,
18 and Freddie as the primary collateral for the Department's
19 debt.

20 Irrespective of forbearance for other payment
21 disruptions, those securities will continue to pass through
22 scheduled principal and interest on the underlying mortgage
23 loan, which means that that service on TDHCA bonds will
24 continue uninterrupted. Please note on that schedule the
25 second-lien mortgages are 30-year, non-amortizing, zero-

1 percent interest loans that are due on sale of the property
2 or refinance of the first mortgage. They're not included
3 in rating agency cash flows.

4 Repayments on the second loans are recognized as
5 revenue when received by the related indenture. With
6 respect to variable rate bonds, which is obviously one of
7 the exposures with respect to the disruption of the
8 municipal markets following the -- I guess, the initiation
9 of the COVID-19 pandemic, the variable rate bonds currently
10 represent only 11 percent of the bonds in the single-family
11 mortgage revenue bonds indenture, and the Comptroller is
12 the liquidity provider for those bonds.

13 Those are re-marketed weekly, and we've had no
14 issue. All of those bonds have been successfully
15 re-marketed since the initial market destruction. The
16 rating agencies' stress tests related to variable rate debt
17 are quite stringent and have recently been updated.

18 In fact, in connection with the planned issuance
19 of single-family mortgage revenue bonds, which is Item 4(d)
20 on today's agenda, both Moody's and Standard & Poor's have,
21 this week, reconfirmed the raising on the single-family
22 mortgage revenue bonds indentures. In summary, the
23 Department's Home Ownership Program has seen no
24 interruption, which is not to say that there won't be some
25 negative impact to the indentures as a result of COVID-19.

1 We do expect a, you know, higher-than-usual
2 foreclosure rate, which will reduce revenues within all the
3 departments on mortgage loans. We expect a higher-than-
4 normal loan cancellation or fall-out rate. But the overall
5 impact is manageable, and staff continues to work close
6 with the Department's municipal advisor, bond counsel,
7 master servicer, underwriters, and other partners to ensure
8 that the indentures remain financially sound and can be
9 leveraged to lower- and moderate-income homebuyers, today,
10 tomorrow and long into the future.

11 I'd be happy to answer any questions that you
12 may have now, or I can go ahead and turn this over to Gary
13 Machak at Stifel, and we could take all questions at the
14 end, whatever the Board prefers. All right. I'm going to
15 go and ahead and hand off to Gary --

16 MS. BINGHAM: Board, do you have any questions?

17 MR. VASQUEZ: Monica --

18 MS. BINGHAM: Thanks, Monica.

19 MS. GALUSKI: Oh, wait. I think Paul might have
20 a question.

21 MR. BRADEN: Leo, you want to --

22 MR. VASQUEZ: I do. Yes. Monica, a quick
23 question. You said, we expect higher-than-normal
24 foreclosure rates. Did you also -- does that also imply we
25 expect higher-than-normal forbearance situations before we

1 ultimately get to a foreclosure situation?

2 MS. GALUSKI: Yes, but as I stated earlier,
3 yeah, we do expect -- we saw back with Hurricane Harvey, we
4 had a fair amount of forbearances in the Houston area. So
5 we are experienced working through that, and there were
6 forbearances.

7 There were loans that obviously came out of
8 forbearance relatively quickly, others that did payment
9 plans. We had some loan modifications. That whole process
10 is managed by our master servicer, Idaho Housing. But we
11 participate, because we need to, you know, support these
12 second loans and coordinate all of the, you know,
13 activities related to the mortgage-backed securities and
14 the second mortgages.

15 So based on what we saw with Hurricane Harvey
16 and given the magnitude of COVID-19 and the employment
17 destruction, yeah, I would say that we will see a higher-
18 than- -- higher forbearances than we've ever seen. And we
19 do expect some of those will become foreclosures.

20 So again, fortunately, we have mortgage-backed
21 securities. So from an economic standpoint and the safety
22 of the indentures, we're good, you know. Unfortunately,
23 there's not much we can do on the other side of this.

24 MR. VASQUEZ: Right.

25 MR. BRADEN: I have one question as well -- a

1 couple questions. First of all, thank you for the back-up
2 material and presentation. I thought it was very helpful
3 and very insightful. In the materials, you indicate that
4 our exposure associated with the mortgage-backed
5 securities, the MBS, is limited to \$750,000 escrow
6 accounts.

7 Is that -- I assume that's an escrow account in
8 the indenture?

9 MS. GALUSKI: No, it's -- that's not a
10 limitation related to mortgage-backed securities
11 specifically. That is a contractual -- so the requirement
12 for us to potentially step in under certain conditions and
13 advance payments with the -- under the forbearance
14 situation is a contractual agreement with our master
15 servicer.

16 So that's part of our contract with Idaho HSA,
17 and it's within that contract that we capture closure at
18 750,000.

19 MR. BRADEN: So that's a contractual limitation,
20 \$750,000. Is that money or do you fund in a separate
21 account, an escrow account?

22 MS. GALUSKI: Yes, it's funded in an escrow
23 account, but it's held outside the indenture.

24 MR. BRADEN: And you indicated that any amounts
25 advanced under that would be refunded to the Department?

1 So that must -- is that also a contractual requirement with
2 the servicer that they'll pay us back if we have to advance
3 that?

4 MS. GALUSKI: Yes, it is.

5 MR. BRADEN: Okay.

6 MS. GALUSKI: It is in our contract with Idaho.

7 MR. BRADEN: Okay. That's all I have.

8 MS. GALUSKI: Okay.

9 MS. BINGHAM: Monica, you said Gary Machak's
10 available too?

11 MS. GALUSKI: Yes, please. Thank you. Naomi,
12 can you pass off to Gary?

13 MS. CANTU: Yes, we can. We're looking for
14 Gary.

15 MS. GALUSKI: Oh, he would be Barton Withrow's
16 line.

17 MS. CANTU: Okay. Let's go ahead and unmute
18 Barton Withrow. All right. You are unmuted.

19 MR. MACHAK: Thank you, Naomi --

20 MS. CANTU: Good morning, Gary.

21 MR. MACHAK: -- this -- good morning, and thank
22 you, Board members, and Executive Director and staff and
23 others listening. Gary Machak with Stifel, financial
24 advisor to the Department. With me on the line are other
25 members, TDHCA's financial advisory team: Liz Barber, who

1 specializes in financial products, and Lisa May, our
2 housing underwriter. And then with me are Barton Withrow
3 and Kathy Lee, who work with me on the day-to-day work for
4 TDHCA.

5 Let me just give you a general -- really, an
6 indication of what we have seen in the market, and the way
7 of illustrating this is with the most liquid piece of paper
8 in the market, and that's Texas -- the Texas Taxing Revenue
9 Anticipation Note.

10 So a one-year instrument will mature in August
11 of this year. Back in March 24, it was yielding at a high
12 and trading at a high of 3.20 percent. Today, that yield
13 is back down to much more normal, in line with that piece
14 of paper, of 0.65 percent.

15 So as you can see, the destruction in the middle
16 of March but the quick recovery to a more normalized
17 market. You can see in the book, on page 3, also what
18 happened to the Texas Department of Housing's variable rate
19 debt.

20 The same phenomenon occurred. Yields went as
21 high as up to 5 percent for that seven-day paper, but now,
22 they're much more to a more normalized yield of
23 0.24 percent. Other items, just to bring your attention --
24 the rating agencies have recently reaffirmed the high
25 ratings on your single-family indenture and they have also

1 reaffirmed the high ratings for other State agencies that
2 are looking to issue debt in the market here soon.

3 So your ratings of triple-A and double-A-plus
4 were reaffirmed. TxDOT's rating of triple-A were just
5 recently reaffirmed, and the Texas Higher Ed Coordinating
6 Board's ratings were just recently reaffirmed. So that
7 concludes my comments.

8 I appreciate the time to speak, and would be
9 happy to take any questions or to hand off a question to
10 one of my team members.

11 MS. BINGHAM: Thank you, Gary. Do the Board
12 members have any questions for Gary or the rest of the
13 team?

14 MR. VASQUEZ: Just sort of a general question,
15 and maybe you can answer this. But -- so how do -- how
16 does -- or do our Texas bonds stand relative to other
17 similar bonds issued from around the country? Are we still
18 head and shoulders above everyone else?

19 MR. MACHAK: We are. The -- as I said, the
20 Texas TRAN is the most liquid paper out there. It still
21 is. It is in high demand. All of our Texas bonds carry
22 high ratings. School districts, for instance, get the PSF
23 guarantee and get a Permanent School Fund guarantee, get a
24 triple-A.

25 So the high end of the yield curve has shown

1 greater demand. So we're -- we are -- our issues are
2 selling well, compared to others that may be at an A rating
3 or lower. There's still a bit of flight quality on the --
4 in the market, and so our -- we are outperforming.

5 MR. VASQUEZ: Okay. And just kind of a follow-
6 up to that. If some of the lower-rated, similar types of
7 bonds from around the country start having problems, do you
8 think there would be a negative contagion effect adversely
9 hitting our bonds, or is it -- you will just -- be applied
10 to quality, like you say?

11 MR. MACHAK: No. We -- a lot depends -- and our
12 market depends on supply and demand. We saw a lot of
13 outflow from the market during that month of March. Since
14 then, it has returned. The -- and so there's -- there have
15 now been inflow of funds back into the market, and those
16 have been at the A-rated or above.

17 So I would say that, you know, just depending on
18 cash flow into the market, out of the market, we're going
19 to be in a great position. Just as an example, as of
20 yesterday, the -- our indicator -- the spread between a
21 long term, triple-A general obligation bond -- that yield
22 was at a 2.03.

23 A B-double-A was at a 3.33. So that's the
24 amount of credit spread between those types of credits.

25 MR. VASQUEZ: Okay. Great. I guess I was just

1 concerned if there was factors out of our hands that -- as
2 well as our reserves, and keeping up with everything, and
3 it's something -- you know, what's the biggest concern we
4 should have, due to external factors outside of Texas?

5 MR. MACHAK: Yeah. I think we're -- again, with
6 our ratings, the strength of the indentures, the strength
7 of the State, the Rainy Day Fund that the State has built
8 up, the management of the State's finances, I think, all
9 lend to -- if disruption, we will be viewed as a -- still
10 be viewed as a worthy credit and very much attractive
11 investment.

12 MR. VASQUEZ: Yeah. Okay. Great. Thank you.

13 MS. BINGHAM: Do any of the other Board members
14 have any questions for Gary or the team?

15 (No response.)

16 MS. BINGHAM: Okay. And Naomi, there's nobody
17 teed up for any other comment on this item?

18 MS. CANTU: I don't see any other comment for
19 this item. We'll give it just one minute in order for
20 people to respond. And again, if you want to comment on an
21 item, please put that in the question box when the agenda
22 item has finished discussion, and include the agenda item,
23 your name, your organization and your position for or
24 against, or if you would like to speak, or use your camera.

25 And I'm not seeing anything for this agenda

1 item, so I will mute it now.

2 MS. BINGHAM: Great. Thank you, Naomi. So
3 we're just accepting the report. We'll entertain a motion
4 to accept the report.

5 MR. BRADEN: Move to accept the report as
6 presented.

7 MS. BINGHAM: Okay. Mr. Braden makes the
8 motion.

9 MR. VASQUEZ: Second.

10 MS. BINGHAM: Is there a second? Mr. Vasquez
11 seconds. No further discussion?

12 (No response.)

13 MS. BINGHAM: All those in favor, aye?

14 (A chorus of ayes.)

15 MS. BINGHAM: Opposed?

16 (No response.)

17 MS. BINGHAM: Motion carries. Thank you.
18 Thanks, Monica, and thank you to Gary and Barton and the
19 rest of the team for being available to report.

20 We'll move on to Item 4(b), "Presentation,
21 discussion, and possible action regarding the Issuance of
22 Multifamily Green Tax-Exempt Bonds for Oaks on Clark
23 Apartments, Resolution No. 20-015 and the Determination
24 Notice.

25 Teresa?

1 MS. CANTU: Okay. I'm working to get her up.

2 And --

3 MR. WILKINSON: Her audio is on.

4 MS. CANTU: Teresa, your audio is on. If you
5 want to go ahead and --

6 MS. MORALES: Okay. Can you guys hear me?

7 MS. CANTU: Thank you.

8 MS. BINGHAM: We can hear you now. Go ahead.

9 MS. MORALES: Teresa Morales, director of
10 Multifamily Bonds. Item 4(b) involves the issuance of
11 multifamily revenue bonds by the Department for the
12 acquisition and rehabilitation of 80 units in San Antonio,
13 serving the general population with all units restricted at
14 60 percent of the area median income.

15 This transaction involves the issuance of tax-
16 exempt bonds in an amount not to exceed \$10 million and
17 utilizes Fannie Mae's MTEB platform, where the bonds will
18 ultimately be secured with an MBS. Until the loan is
19 acquired by Fannie Mae, the bonds will be cash
20 collateralized with proceeds from Wells Fargo, as the
21 Fannie Mae lender.

22 The bonds are expected to have an interest rate
23 of 2.15 percent, and after including servicing and
24 guarantee fees, will have an all-in rate of approximately
25 3.35 percent, with a 16-year term and a 35-year

1 amortization.

2 There is a waiver request associated with this
3 application that affects two provisions in the real estate
4 analysis rule, and are more fully described in the
5 underwriting report included in your materials for this
6 agenda item.

7 Staff believes that the circumstances and set of
8 facts with Oaks on Clark are unique and could not have been
9 contemplated in the rule. This, combined with staff's
10 assessment that the waiver meets the waiver provision under
11 10 TAC 11.207 of the QAP, forms the basis of staff's
12 recommendation that the waivers be granted.

13 There is a modification to the conditions listed
14 in the underwriting report that staff needs to make with
15 this application, involving a rehab, a scope and cost
16 review, or an SCR, report is required to be submitted with
17 the application.

18 This application did include that report.
19 However, it was determined by staff to be insufficient in
20 certain respects and does not fully comply with the rule.
21 Staff recommends that, as part of your motion today, that
22 there be a change to the underwriting conditions to include
23 this submission of a revised SCR report that is compliant
24 with 10 TAC 11.306 of the QAP, including a revised SCR
25 supplement.

1 Staff recommends approval of Bond Resolution
2 No. 20-015 in an amount not to exceed \$10 million and a
3 determination notice of 4 percent housing tax credits in
4 the amount of \$597,284 and a condition to be included in an
5 addendum to the underwriting report that reads as follows:

6 "Revised program cost review that is fully compliant with
7 Section 11.306 of the QAP, including a revised SCR
8 supplement schedule."

9 MS. BINGHAM: Do Board members have any
10 questions of Teresa?

11 (No response.)

12 MS. BINGHAM: We'll entertain a motion for
13 staff's recommendation.

14 MR. BRADEN: Move to approve staff's
15 recommendation.

16 MS. BINGHAM: Mr. Braden makes the motion.

17 MR. VASQUEZ: Second.

18 MS. BINGHAM: Mr. Vasquez seconds. So any
19 questions, Board members?

20 (No response.)

21 MS. BINGHAM: Just wanted to make sure. Okay.
22 And Naomi, any comment teed up?

23 MS. CANTU: I do not have any comment from this
24 agenda item. Again, we are accepting comments in the
25 question box, and we are on Item 4(b). If you have a

1 comment on 4(b), and you have -- would like to speak,
2 please indicate in the question box, and if you have a
3 written comment, and would like to see that in the record
4 for or against, then we can read that as well.

5 But I do not have any comments in the time I was
6 speaking, so I'm going to mute it.

7 MS. BINGHAM: Thank you. So staff's
8 recommendation included those -- the unique circumstances
9 for the two waivers, and also, the provision for requesting
10 that a workout be included in that. There are no further
11 questions?

12 (No response.)

13 MS. BINGHAM: All those in favor, aye?

14 (A chorus of ayes.)

15 MS. BINGHAM: Opposed?

16 (No response.)

17 MS. BINGHAM: Great. Motion carries. Thanks,
18 Teresa.

19 MS. MORALES: Uh-huh.

20 MS. BINGHAM: Do you -- Teresa, do you also have
21 Item 4(c)?

22 MS. MORALES: I do.

23 MS. BINGHAM: Great. We're ready. 4(c).

24 MS. MORALES: All right. Item 4(c) involves the
25 issuance of multifamily notes by the Department for the

1 acquisition and rehabilitation of 156 units in south
2 Houston, serving the general population, with units
3 restricted at 30 percent, 50 percent, and 60 percent of
4 area median income.

5 This transaction involves the issuance of
6 unrated, tax-exempt multifamily notes in the amount of
7 \$16 million that will be initially purchased by the
8 Citibank Community Capital, who will be serving as
9 construction and permanent lender.

10 The tax-exempt note will have two tranches.
11 Tranche A, which will be used for construction and
12 permanent financing, will be in the amount of 12.1 million,
13 and Tranche B, used only for construction financing, in the
14 amount of 3.9 million.

15 This transaction also includes 7.2 million in
16 CDBGDR funds through Harris County. We've reflected the
17 formula with this being a private placement for how the
18 interest rate will be derived for both tranches, and the
19 bond documents that are being approved today.

20 For purposes of our underwriting, we've used
21 3.67 percent. The bonds will have a 30-year term and a 35-
22 year amortization. Staff recommends approval of Bond
23 Resolution No. 20-016, in the amount of \$16 million and a
24 determination notice of 4 percent housing tax credits in
25 the amount of \$882,061.

1 MS. BINGHAM: Okay. Thank you, Teresa. Board
2 members don't have any questions of Teresa. We'll
3 entertain a recommendation to approve staff's
4 recommendation.

5 MR. BRADEN: Move to approve.

6 MS. BINGHAM: Mr. Braden makes the motion.

7 MR. VASQUEZ: And I'll second that, and I have
8 one question.

9 MS. BINGHAM: Excellent. Mr. Vasquez seconds.
10 And discussion, questions? Mr. Vasquez?

11 MR. VASQUEZ: Okay. Just -- you mentioned the
12 funding. Is that -- to release funds from Harris County,
13 is that already committed, I mean, locked in? Or were they
14 applying for it? Or how is that working?

15 MS. MORALES: They have already applied for
16 those funds and we do have a commitment from Harris County
17 reflecting that. They are still in the process of drafting
18 all of those loan documents, and then they'll ultimately go
19 back to Harris County for final approval of those loan
20 documents.

21 But those funds have been committed to this
22 transaction.

23 MR. VASQUEZ: Okay. So all of ours -- what
24 we're voting on now is still contingent upon finalizing,
25 locking up the Harris County funds. Correct?

1 MS. MORALES: That -- correct. At the time that
2 we close on the bond issuance, we will have approval -- or
3 we'll be closing simultaneously with the CDBG funds. So
4 all funding sources will close simultaneously.

5 MR. VASQUEZ: Okay. Great. Thanks.

6 MS. BINGHAM: And no other questions? Naomi,
7 nobody's in line for comment on Item 5(c) -- I mean, 4(c)?

8 MS. CANTU: Yeah. I do have some comments from
9 this, and we are working to identify the people who would
10 like to comment. So we have a list of people. I'm going
11 to read their names now, and hopefully, they can hear their
12 names, and then let me know when they are ready in the
13 question box.

14 So we have Vicky Wright, Victoria Collier, Anita
15 Branch, Deborah Hunt, and Jesse Grimmer, and Linda Allen,
16 and Derek Carter. No. Derek Carter is on 4(d), sorry. So
17 again, Vicky Wright, Victoria Collier, Anita Branch,
18 Deborah Hunt, Jesse Grimmer, and Linda Allen.

19 They all signed up to say that they wished to
20 speak on this agenda item. We are looking. I do see Derek
21 Carter. Again, we're not taking written public comments
22 other than for or against. Derek, if you would like to
23 speak?

24 Victoria Collier is also on line. First, we're
25 going to go to Derek. Derek, let us know if you would like

1 to speak?

2 (No response.)

3 MS. CANTU: It looks he might be commenting on a
4 different item. Victoria Collier is next. Victoria, just
5 let us know -- it's on, if you would like to speak. We're
6 going to go ahead and unmute her. You are unmuted.

7 MS. COLLIER: Yeah. I would like to --

8 MS. CANTU: Unmuted.

9 MS. COLLIER: Yes. I would like to speak.

10 Thank you so much. I simply want to note that I am against
11 the proposed project, 20123, for Meander Park project.
12 Board Chair, may I mention our petition at this point, or
13 is that only at the end?

14 MS. CANTU: Victoria Collier, this is not the
15 item under discussion right now.

16 MS. COLLIER: Okay.

17 MS. CANTU: You're speaking on a different item.
18 Yeah.

19 MS. COLLIER: All right. I'll wait till the
20 end. Thank you.

21 MS. CANTU: Thank you. Okay. I do have Sarah
22 Andre, who said she is with Structure Development. She is
23 the consultant for the development, and she's in favor of
24 Item 4(c). So again, Sarah Andre. She's with Structure
25 Development. She is the consultant for the development,

1 and she's in favor of Item 4(c).

2 So we still have Vicky Wright, Victoria Collier,
3 who would like to speak on a different item, it looks like,
4 Anita Branch, Deborah Hunt, Jesse Grimmer, and Lisa
5 Allen -- all signed for 4(c). I don't see any of them
6 saying that they want to speak on this item.

7 So we're going to go ahead and move on in the
8 Board meeting. Oh, and Vice Chairwoman Bingham, we do have
9 Representative Tinderholt on the other line, so after this
10 agenda item, we can pass it on to him.

11 MS. BINGHAM: Awesome. Fantastic. Let's just
12 then -- so we have a motion and a second on Item 4(c).
13 We'll take a vote now. All those in favor, aye?

14 (A chorus of ayes.)

15 MS. BINGHAM: Opposed?

16 (No response.)

17 MS. BINGHAM: Motion carries. Thank you very
18 much, Teresa.

19 MS. MORALES: Thank you.

20 MS. BINGHAM: Bobby, will you remind which
21 agenda item the state representative would like to speak
22 on?

23 MR. WILKINSON: Yes. It's 5(c). And then
24 Application 20147, Kestrel on Cooper Arlington.

25 MS. BINGHAM: Great, great. Awesome. So we're

1 going to move to Item 5(c)?

2 MR. WILKINSON: Yes.

3 MS. BINGHAM: Presentation, discussion and
4 possible action regarding request for a waiver of the
5 Department's Multifamily Program rules. And we're going to
6 hear comments on Application 20147, Kestrel on Cooper.
7 Naomi, you said the Representative is available?

8 MS. CANTU: Yes.

9 REP. TINDERHOLT: I am here. Can you hear me
10 okay?

11 MS. BINGHAM: We can hear you.

12 REP. TINDERHOLT: Okay. Good.

13 MS. BINGHAM: Good morning. Yes.

14 REP. TINDERHOLT: Good morning. And we're sorry
15 about the problem getting online. I know you're busy, and
16 we appreciate you taking the time to listen to us. So
17 Kestrel on Cooper, total error on my behalf. I didn't
18 communicate properly with my staff, and would like you to
19 seriously reconsider their application.

20 The mayor, the city council, really want that
21 project. I communicated to my staff that I wasn't
22 supporting these, but Kestrel on Cooper is the only group
23 out of all of them that called and met with me. They came
24 to my office.

25 We went through their entire project. The city

1 and that community wants that project there, and so that
2 was an error on our part, and I would really seriously like
3 you to please reconsider the waiver that we sent in,
4 because our staff had written all of the letters as no, and
5 that was my miscommunication.

6 So please take that into consideration. I
7 wanted you to see my face, hear from me, that indeed I
8 would like you to consider that one, please.

9 MS. BINGHAM: All right. Thank you very much,
10 Representative Tinderholt. It's good to see you this
11 morning, and thank you for taking the time to visit with
12 us. Do any of the Board members have any questions for the
13 Representative?

14 (No response.)

15 MS. BINGHAM: Great. Thank you very much,
16 Representative. Hey, Bobby -- so would you like for us to
17 return to the agenda in order, and then just take the
18 Representative's comments in, because the duration -- when
19 the agenda item comes up, or would you like us to take care
20 of this item now?

21 MR. WILKINSON: I think we could go ahead and
22 move on this item, if you wanted to lay it out, and then we
23 could --

24 MS. BINGHAM: All right. Naomi, can you find
25 Marni for us?

1 MS. CANTU: We -- yes. She is on. Marni?

2 MS. BINGHAM: Good morning, Marni.

3 MS. HOLLOWAY: Good morning. This is Marni
4 Holloway. I'm the director of the Multifamily Finance
5 Division. Under Item 5(d), for Application 20147, Kestrel
6 on Cooper, the item -- it's requesting a waiver of 10 TAC
7 11.9(b)(5), which is related to scoring under community
8 support from State Representative.

9 So the QAP related to scoring under community
10 support identifies the requirement for scoring and states,
11 "Once a letter is submitted to the Department, it may not
12 be changed or withdrawn." We received a letter from
13 Representative Tinderholt regarding this application on
14 February 27 which opposed the development, and then we
15 received a revised letter stating that no written statement
16 of support, neutrality or opposition prior -- for the
17 development from Representative Tinderholt on February 28.

18 So that was prior to the end of the -- from
19 elected officials' delivery date, so it was before the
20 application deadline. The applicant has submitted the
21 request that the Board waive the prohibition of changing or
22 withdrawing the letter and allow us to consider the letter
23 received on February 28 for scoring purposes.

24 So the waiver rule identifies requirements,
25 and -- for the waiver, and then staff presents to the Board

1 for its determination, whether under these particular
2 circumstances presented by the applicant the non-statutory
3 prohibition of changing or withdrawing of the letter of
4 support should be waived under 10 TAC 11.9(d)(5) related to
5 community support from the State Representative.

6 I'd be happy to answer any questions.

7 MR. VASQUEZ: Again, Marni, so just
8 clarifying -- the revised letter from Representative
9 Tinderholt came before the deadline for submitting the
10 applicant's applications?

11 MS. HOLLOWAY: Correct. Yes. The letter was
12 timely received. On -- where we get -- except in this
13 provision in our rule that once a letter is received, it
14 can't be withdrawn or changed, which going to the later
15 letter would effectively withdraw the February 27 letter
16 that was received earlier.

17 MR. VASQUEZ: Right. Okay.

18 MS. BINGHAM: And Marni, that's not statutory.
19 Correct?

20 MS. HOLLOWAY: Correct. This is not a statutory
21 requirement.

22 MR. BRADEN: And this is Paul. Marni, has this
23 occurred in the past?

24 MS. HOLLOWAY: Not to my recollection.

25 MR. BRADEN: Okay.

1 MR. WILKINSON: I'd like to add that -- I mean,
2 the rule is somewhat to process and protect representatives
3 from -- maybe being outed for reverse letters multiple
4 times during a cycle. What we had here was -- I mean, two
5 letters within 24 hours of each other.

6 It was a mistake. The office immediately
7 reached out to us, got us on the phone. We told them we'd
8 get the agenda item on here. I think that Representative
9 Tinderholt's position is pretty reasonable, and that's my
10 opinion.

11 So I would think the second letter -- honoring
12 the second letter makes sense in this instance.

13 MR. BRADEN: I'll make a motion.

14 MS. BINGHAM: Mr. Braden?

15 MR. BRADEN: I'll make a motion to waive the
16 rule and accept the second letter from Representative
17 Tinderholt.

18 MS. BINGHAM: Okay. We have a motion from Mr.
19 Braden. Is there a second?

20 MS. THOMASON: Second.

21 MS. BINGHAM: Thank you. Ms. Thomason seconds.

22 Let me just check really quickly to see, Naomi, if there's
23 anybody else teed up for comment on this item?

24 MS. CANTU: Yes. Thank you. We do have quite a
25 few comments from this item. I'm going to read the list,

1 and please bear with me, if -- and I want to make sure I
2 get everyone. So we have people who have signed up
3 preregistration on the Board -- during the registration
4 process of the Board meeting.

5 We have Jason Haskins, Sallie Burchett, Jose
6 Gonzales II, Isabel Atkinson -- sorry -- Atkinson, Kim
7 Trimmer, Debbie Bresette, Brian Grace, Sandy Watson, and
8 Alicia Gray. We also have quite a few people on the chat
9 box who would like to comment on this item, and we're going
10 to go down the list.

11 Hold on one second, so I get through the first
12 one. All right. We have Linda Brown. We're going to go
13 ahead and unmute Ms. Brown so that she can comment. And
14 again, three minutes, and we do have a timer for this.

15 MS. BROWN: Can everybody hear me? Okay.

16 MR. VASQUEZ: Yes.

17 MS. CANTU: We can hear you.

18 MS. BROWN: Thank you. Honorable Vice Chair
19 Bingham and members of the TDHCA Board, I am Linda Brown,
20 president of Casa Linda Development Corporation. I'm
21 speaking to you today as the consultant to Application
22 No. 20024, Dallas Stemmons, which will no longer be in a
23 competitive position if the Board votes in favor of this
24 waiver.

25 We are requesting the Board deny the Kestrel on

1 Cooper waiver request. First, the State Representative
2 knew in early January Kestrel on Cooper intended to submit
3 a 9 percent housing tax credit application, because he was
4 notified as required in the pre-application process.

5 Secondly, 10 TAC 11.9(d)(5) states that once a
6 state representative letter is submitted to the Department,
7 either directly or as part of the application submission,
8 it may not be changed or withdrawn. The rule is very
9 clear.

10 Once received, it may not be changed or
11 withdrawn. In the 86th Legislative Session, House Bill
12 1973 was passed so that state representatives did not have
13 to submit a letter at all, and the eight points would be
14 awarded under the local government support.

15 This State Representative: one, wrote a letter;
16 two, wrote a letter in opposition; and three, knew the
17 rules well enough to instruct staff to deduct eight points
18 from their submission. Whatever happened between the first
19 letter and his second letter is irrelevant.

20 Changing the position is not the same thing as
21 clarifying a position. Kestrel on Cooper says they
22 qualified to request a waiver because the first letter
23 submitted to TDHCA was out of their control. This rule
24 applies to building codes or other such limitations, not a
25 state representative letter that, by rule, can be sent

1 directly to the Department.

2 Secondly, a waiver request must establish how,
3 by granting the waiver, it better serves the policies and
4 purposes articulated in the Texas Government Code in not
5 granting the waiver. Kestrel on Cooper does not meet this
6 criteria either.

7 Kestrel on Cooper is located in the census tract
8 with more than 20 percent housing tax credit units per
9 household, and would have been considered ineligible unless
10 the applicant received a resolution from the city council
11 confirming no objection to the development.

12 Kestrel is also located within one mile of the
13 2019 HTC award and would have also been considered
14 ineligible unless the applicant received a resolution from
15 the city council specifically allowing the development.
16 Not only did Kestrel on Cooper need one resolution, they
17 needed two city resolutions related to concentration of tax
18 credit units to even be considered eligible to file an
19 application.

20 As noted in their waiver request, Kestrel is
21 within the boundaries of the Heart of Arlington
22 Neighborhood Action Plan. This neighborhood is adequately
23 served by affordable housing options with 506 existing
24 housing tax credit units within the neighborhood boundary.

25 Dallas Stemmons did receive a letter of support

1 from our state representative, and we will be harmed if the
2 Board does not deny the Kestrel waiver request. We
3 respectfully request you deny this waiver. Thank you for
4 your kind consideration.

5 MS. BINGHAM: Thank you, Ms. Brown. Are there
6 any questions for Ms. Brown from the Board?

7 (No response.)

8 MS. BINGHAM: Thank you.

9 MS. CANTU: All right. Vice Chairwoman Bingham,
10 we have Megan Lasch who would like to speak as well.

11 Megan, we're looking for you to unmute you. And after
12 Megan, we have Anita Branch. Meagan --

13 MS. LASCH: Yes.

14 MS. CANTU: Yes, you can. You've got three
15 minutes.

16 MS. LASCH: Good morning, Board. My name is
17 Megan Lasch with O-SDA Industries. I'm an applicant for
18 Kestrel on Cooper. To follow on what the Representative
19 said, we did actually meet with him in February, and there
20 was no indication of any issues pending city support and
21 the neighborhood actually had already indicated support.

22 I believe there are a couple of individuals from
23 the neighborhood group on support today that have been
24 incredibly supportive throughout the entire process. As
25 many of you know, the history of this rule was created to

1 prevent reps changing their minds as a result of NIMBYism.

2 This, in fact, is not the case. After realizing
3 what happened the very next morning, the Representative's
4 staff was on the phone with TDHCA indicating the letter was
5 not intended to be sent for our development.

6 There is no lengthy time for him to change his
7 mind. This all happened within a matter of hours and was
8 addressed the very next day. The waiver request was
9 submitted before the application deadline in very short
10 order after the whole ordeal began.

11 I'd also like to point out that back in 2013
12 this similar situation did occur. It was back when Cameron
13 and June were at the Department many years ago, and this
14 rule was in place, but an application in Pampa, Texas,
15 received a letter of support from Representative Ken King.

16 The Representative later rescinded because he
17 stated that the letter was sent without his approval. The
18 Department allowed this letter to be rescinded, much like
19 the Representative asking in this case, because it was sent
20 in error.

21 I'd like to thank you for your consideration and
22 your current mission on the floor and hope that you'll
23 allow this good project to move forward.

24 MS. BINGHAM: Okay. Do any of the Board members
25 have any questions?

1 (No response.)

2 MS. BINGHAM: Thank you. Naomi?

3 MS. CANTU: Yes. That was Megan Lasch. We do
4 have Anita Branch. Anita, we believe that you're going to
5 want to talk on 5(c), and we are on 5(d). But the item
6 that you're trying to attest is 20123 Meander Park is on
7 Item 5(c).

8 So please let us know if this is incorrect in
9 the question box, but otherwise, we're going to move on to
10 Ryan Combs, who would like to speak as opposed. Ryan
11 Combs, we're looking for you. And you are unmuted. You
12 have three minutes.

13 Mr. Combs? Mr. Combs, you are unmuted. We're
14 going to give you just a few more seconds to respond.

15 (No response.)

16 MS. CANTU: If not, you can go back in queue,
17 and we can move on to Sandy Watson. Sandy Watkins --
18 Watson -- sorry -- we see that you are looking at 20001
19 Farm Street Village Bastrop. That is not the item under
20 discussion right now.

21 That is Item 5(b). This is still 5(d). Okay,
22 we're talking about Kestrel on Cooper. I'm sorry, Sandy.
23 We're trying to get everyone in the right queue. So anyone
24 else on Kestrel on Cooper?

25 I'm looking through the comments. I see Alicia

1 Gray. Alicia Gray? And we can go ahead and unmute you.
2 There you go.

3 MS. GRAY: Great. Thank you so much. My name
4 is Alicia Gray. I'm the president of the Heart of
5 Arlington Neighborhood Association. The Kestrel on Cooper
6 would be located within the boundaries of our neighborhood
7 association.

8 As Linda Brown noted, there are other low income
9 housing tax credit properties that are within our
10 neighborhood boundaries. One was done within the last
11 year. But there is a significant need for low income
12 housing within our neighborhood because of our proximity to
13 the University of Texas at Arlington for people that work
14 there, as well as the downtown Arlington -- as well as in
15 downtown Arlington, which has been undergoing a lot of
16 revitalization over the last few years.

17 What the project brings to our neighborhood is
18 revitalization of an old 1960s commercial development that
19 has long been neglected and has basically outlived most of
20 its usefulness. You know, it would be a strong benefit to
21 our community, as well as this space is a crucial
22 transportation corridor in Arlington, which is Cooper
23 Street, also known as State Highway 157.

24 And so we look forward to having this waiver
25 approved and this project proceeding, so that -- in the

1 hopes that it will spur additional revitalization in this
2 area, which is long needed. Thank you for the opportunity
3 to speak.

4 MS. BINGHAM: Thank you. Any questions from the
5 Board members?

6 (No response.)

7 MS. BINGHAM: Naomi?

8 MS. CANTU: We do have one more, and that is --
9 Mr. Cooper is back online. We're going to go to Mr.
10 Cooper. All right. Sorry. Mr. Combs. I do apologize.
11 Ryan Combs. And we're going to go ahead and unmute you
12 now, and you have three minutes. We hear some static. We
13 do not hear you speaking, Mr. Combs.

14 (No response.)

15 MS. CANTU: I do apologize. We are not able to
16 hear you. You might want to try to call in. I'm going to
17 go ahead and mute you now. Anyone else on this -- on
18 Kestrel? And let me check. Hold on. Is Kim Schwimmer on?
19 She -- when she registered -- yes. Okay. Great.

20 Kim Schwimmer? We're going to go ahead and move
21 on to Kim Schwimmer, and we will try Ryan Combs in one
22 minute. Kim, go ahead. It looks like Ms. Schwimmer --
23 okay. Yeah. Try it again.

24 MS. SCHWIMMER: Good morning.

25 MS. CANTU: We can hear you.

1 MS. SCHWIMMER: Can you hear me?

2 MS. CANTU: Yes. Good morning.

3 MS. SCHWIMMER: Am I on now?

4 MS. CANTU: Yes, you're on. You're on.

5 MS. SCHWIMMER: Good morning. This is Kim
6 Schwimmer. I'm representing the Land Experts, which is a
7 Texas third-class housing consultant. I'm speaking against
8 the waiver for Application No. 20147, which is Kestrel on
9 Cooper.

10 First of all, the applicant claims that this
11 matter was out of their control. However, seeing as they
12 were notified by the TDHCA that this letter came in, letter
13 of opposition, on the 27th, they reached out to the Heart
14 of Arlington Neighborhood Association, or HANA.

15 The next day, on Friday the 28th, there's an
16 email from a representative from HANA at 1:24, reaching out
17 directly to the State Rep's office asking him to reconsider
18 his opposition. At 3:09 the same day, the State Rep
19 responded that the letter of opposition had been withdrawn.

20 Then Derek Carter from HANA forwarded the email
21 to the applicant with the note, "see below." So the chain
22 of emails clearly shows that the applicant did control the
23 outcome. So for them to say that it was out of their
24 control is not entirely true.

25 Yes. Don't lose sight of the big picture here,

1 Board members. This sets a terrible precedent for
2 applicants. This tells me as an applicant that no doesn't
3 mean no, and yes doesn't mean yes. I can still apply
4 whatever pressure I can up until the application date to
5 change the direction of things.

6 How many times can a state rep or a city
7 council, for that matter, change their position. As
8 developers, we're watching our competitors at council
9 meetings very closely to see how things are shaking out
10 throughout the process.

11 We're doing that because we're spending money at
12 every turn. Please don't make this process more
13 competitive and unfair by granting this waiver. One last
14 point I want to make is that there were four applications
15 in this State Representative's district.

16 The State Representative had ample time to
17 review the development and visit with constituents. On
18 February 27, one day before the applications were due,
19 TDHCA received four letters of opposition that were written
20 in the exact same language for four different applications:
21 20017 Blue Danube Apartments, 20021 Westhaven Senior
22 Living; 20165 Sphinx at Gray Park Villas; and then 20147
23 Kestrel on Cooper.

24 While it's unfortunate this situation happened,
25 it's the playbook that we all operate under. And so I'm

1 against the waiver. Thank you.

2 MS. BINGHAM: Thank you, Ms. Schwimmer. Do any
3 of the Board members have any questions for Ms. Schwimmer?

4 (No response.)

5 MS. BINGHAM: Naomi?

6 MS. CANTU: Yes. We still have Ryan Combs.

7 We're going to try again. And I do see Derek Carter on
8 deck next. So Ryan Combs, we're going to try you again.
9 We're looking for you now.

10 MR. GAGNE: We're going to move to the next --

11 MS. CANTU: Okay. It says -- no. Let's try him
12 again. Mr. Combs? No?

13 MR. GAGNE: -- is not in there.

14 MS. CANTU: Okay. Mr. Combs, you'll need to
15 enter your pin, or re-call in. And we're going to move on
16 to Derek Carter. Mr. Carter? Okay.

17 MR. CARTER: Good morning.

18 MS. CANTU: Yes.

19 MR. CARTER: Good morning.

20 MS. CANTU: You have three minutes.

21 MR. CARTER: Okay. Good morning. I'm Derek
22 Carter. I am in favor of Application 20147. I am the
23 Heart of Arlington Neighborhood Association vice-president.

24 I live and work in my district, and I fully support the
25 Kestrel on Cooper development because we feel this will

1 enhance our neighborhood.

2 It will have a positive effect on residential
3 and commercial business in the area. What sets us apart
4 from the other parts of Arlington is our aging housing
5 structures in the district, and we truly, truly feel new
6 construction will help the area.

7 Thank you.

8 MS. BINGHAM: Thank you, Mr. Carter. Any
9 questions for Mr. Carter?

10 (No response.)

11 MS. BINGHAM: So Naomi, let's see if we can get
12 Ryan, and then if not, I think, unless anybody has any
13 public comments that's different than prior public
14 comments, it's probably time to move on. Do you have Ryan
15 or --

16 MS. CANTU: We're going to try.

17 MR. COMBS: I --

18 MS. CANTU: Yes. Sorry.

19 MR. COMBS: -- I am here. Can you hear me at
20 all?

21 MS. CANTU: We can hear you. Go ahead.

22 MR. COMBS: I am so sorry. My computer audio
23 seems to be working, but for some reason, I can't get
24 through, and it was not taking my audio pin on the phone,
25 and so I sincerely apologize, but these are the challenges

1 I think we have in this season that we're in.

2 So thank you for being patient with me. Ryan
3 Combs, and I represent another application that would be
4 harmed if this waiver is approved. And really, what I want
5 to talk about is that 10 TAC 11.9 is clear. I mean, it
6 doesn't provide for another alternate reading.

7 It says, once the letter is submitted to the
8 Department, it may not be changed or withdrawn. And
9 precedent matters. I realize this happened a couple of
10 years ago. When we talk about deadlines and letters and
11 submittals, we all want our deals to get done.

12 And I'm sure that this application has some
13 great attributes and would provide needed affordable
14 housing in an area of Arlington that probably could use it.

15 And every other application in our region is doing the
16 same.

17 My application is a revitalization area in
18 another city, and it will provide needed housing in an area
19 and a city that has -- that got unanimous support and needs
20 it as well. All of our applications do that. The waiver
21 does not -- the waiver request doesn't necessarily change
22 that for anybody.

23 That's everybody. But what I want to ask is,
24 you know -- that the rule is clear, and our deadlines and
25 our letters and our submittals are unchangeable for a

1 reason. You know, what if an application included a PDF in
2 its application submittal, but forgot to include the Excel,
3 and then tried to include it?

4 Would that be accepted? You know, it was just a
5 simple mistake. You know, what if an application misses a
6 commitment notice deadline by a day? And this happened.
7 And then tried to use the same waiver request, saying that,
8 you know, their application is in a revitalization area and
9 not granting the waiver would put housing in this
10 revitalization area to a disadvantage?

11 Well, my application is in a revitalization
12 area. There's other applications that are all very
13 deserving and providing needed affordable housing. And
14 then, you know, the reason that this rule was written
15 was -- well, what if it was the other way around?

16 What if a representative did write a letter of
17 support and then changed their mind, and tried to write a
18 letter of opposition? You know, this letter that came in
19 from the State Representative -- I heard the applicant say
20 they met with the Representative early on in the process.

21 But the letter of opposition came in the day
22 before the deadline. That was not a slip. That was not an
23 accident. That came in at the last moment, and then they
24 tried to submit a new letter right after that. But the
25 reason this rule exists is for this thing, to keep

1 inconsistencies from happening.

2 We all need consistency. And the QAP outline
3 deadline -- when it uses language that says, once a letter
4 is submitted, it may not be changed or withdrawn, that's
5 there on purpose for a reason, so that we can count on it.

6 And so I ask that you deny this waiver, so -- to be
7 consistent with the rules and consistent with the QAP and
8 where we've been so far.

9 Thank you for your consideration.

10 MS. BINGHAM: Thank you, Ryan. Any questions
11 for Ryan?

12 (No response.)

13 MS. BINGHAM: Any additional public comments on
14 positions not already stated?

15 MS. CANTU: So I don't see anyone queued up on
16 this. I do have two positions that we were going to state.
17 Let me go ahead and find them. That is Sandy Watson with
18 Zimmerman Development. She is against. I believe that is
19 for the item, since it was sent during the item's
20 discussion.

21 And Avis Chaisson, director of real estate
22 development with Palladium USA International. She's
23 against the waiver. She does not need to speak. I don't
24 see anyone else signed up for this particular item on 5(d).

25

1 Yes. 5(d), Kestrel.

2 MS. BINGHAM: Very good. Thank you, Naomi. So
3 we have right now a motion and a second to approve the
4 request for waiver of the Department's Multifamily Program
5 rules. Are there any other questions from the Board
6 members for Marni?

7 MR. BRADEN: Not a question. This is Paul. And
8 just to make a comment. My thought process with respect to
9 this waiver question -- when I made the motion -- was --
10 clearly, it was a mistake of fact. I mean, the
11 Representative came online and told us that they had just
12 made a mistake, and almost immediately, you know, they went
13 back to correct the mistake, and then that correction was
14 made prior to the deadline.

15 So I think under those circumstances it's sort
16 of good policy to -- I mean, if somebody just makes a
17 mistake, we ought to allow the correction, as sort of a
18 third-party type of submission, as long as those things
19 come in before the deadline.

20 So that was why I made the motion for the waiver
21 and why I still support it.

22 MS. CANTU: Vice Chairwoman Bingham, just for
23 clarification, Sandy Watson says she's against the waiver
24 for 20001 Farm Street, which we have -- are not discussing
25 now. She is not --

1 MS. BINGHAM: Okay, okay.

2 MS. CANTU: And it is your -- it is also your
3 discretion -- Ms. Brown, Ms. Linda Brown is asking if she
4 could make a final comment? She has already talked about
5 this. Would you like to let her --

6 MS. BINGHAM: No. That's fine. Yes.

7 MS. CANTU: Yes? Okay. We will go ahead and go
8 to that.

9 MS. BROWN: Linda Brown, with Casa Linda
10 Development. I just wanted to make one final comment
11 related to what Ryan had said. Dallas Stemmons, our
12 application that will be harmed if you vote in favor of
13 this waiver, also happens to be located in an area of
14 revitalization that's greatly needed in Dallas because of
15 the tornado that went through and tore a whole corridor of
16 the city up.

17 And so our neighborhood association and the
18 business association of the northwest quadrant of the city
19 is very much in favor of our development and what it can do
20 to change things in a very destructive area of the city at
21 this time.

22 And so I just wanted to also make the comment
23 that two of the applications in Arlington that Kim
24 Schwimmer discussed earlier were also in State
25 Representative Tinderholt's district, and we tried -- and I

1 can tell you personally, since November, October, November,
2 to reach out to the State Representative and try to meet
3 with him, and were not able to get a meeting with him.

4 He just wouldn't meet with us. So what the
5 State Representative said in that the applicants on Kestrel
6 was the only applicant that reached out to his office was
7 incorrect. Thank you very much for this opportunity to add
8 some comments.

9 MS. BINGHAM: Thank you, Ms. Brown. So we have
10 a motion and a second. We'll take a vote now. All those
11 in favor --

12 MR. VASQUEZ: So listen, listen --

13 MS. BINGHAM: Yes?

14 MR. VASQUEZ: One more question of staff. One
15 of these speakers mentioned a similar waiver in the past.
16 I think they said, 2013. Can staff confirm that this has
17 been done before?

18 MS. HOLLOWAY: I cannot at this point. I --
19 that far back, we would have to go back to Board records to
20 see if we could find the item.

21 MR. VASQUEZ: Okay. I was just curious whether
22 this is precedent-setting or not.

23 MS. HOLLOWAY: Yeah. No. That was before my
24 tenure, so I don't remember it off the top of my head, and
25 we would have to go back through and find that particular

1 item in our Board records.

2 MS. BINGHAM: Take a vote on the item. Item
3 5(d), Kestrel on Cooper Arlington. We have a motion and a
4 second to approve a waiver of the Department's Multifamily
5 Program rule. All those in favor, aye?

6 (A chorus of ayes.)

7 MS. BINGHAM: Opposed?

8 (No response.)

9 MS. BINGHAM: Motion carries. Thank you very
10 much. Marni, do you want to go ahead and do the other two
11 while we're here, or would you prefer we go back to the
12 original order?

13 MS. HOLLOWAY: That is entirely up to you. I
14 can keep talking, if you like.

15 MR. WILKINSON: Vice Chair, since we already
16 have her on camera, maybe if we could continue with 5(d)?
17 And as a reminder, 20128 OST Lofts Houston has asked for
18 that to be moved to the May agenda, at your discretion.

19 MS. BINGHAM: Great. Very good. So then we
20 have -- in Item 5(d), we have one other, Farm Street
21 Village -- 20001 -- Bastrop. Correct?

22 MS. HOLLOWAY: Bastrop. Correct.

23 MS. BINGHAM: Great. Okay, Marni. Let's do
24 that.

25 MS. HOLLOWAY: This is a request for waiver of

1 10 TAC 11.101(b)(1) regarding ineligible development. So
2 the QAP includes development requirements and restrictions,
3 one of which is that elderly developments with two stories
4 must have -- two stories or more must have an elevator.

5 Failure to provide an elevator makes the
6 proposed development ineligible by function of the rule.
7 This applicant for 20001 Farm Street Village has submitted
8 a request that the Board waive this requirement and allow
9 the applicant to move forward --

10 (Pause for technical difficulty.)

11 MS. HOLLOWAY: Okay. Can we continue now?

12 MS. CANTU: Yes. You can continue. We hear
13 you.

14 MS. HOLLOWAY: Okay. Let me catch my thoughts
15 here. Okay. So the applicant has requested a waiver of
16 this requirement that would allow them to move forward with
17 an elderly development with two stories that does not
18 include elevator service.

19 They are proposing new construction of 72 units
20 for an elderly population in Bastrop. The development is
21 designed -- is composed of nine residential buildings with
22 eight units per building. The proposal is in an historic
23 district and adjacent to a creek. Per their request, the
24 city, which would be Bastrop, expressed a preference for
25 the current site due to its proximity to downtown and the

1 ability for residents to engage in a pedestrian-oriented
2 lifestyle.

3 They further state that local code constrained
4 the development design due to the site's location,
5 specifically requiring adherence to Bastrop's existing
6 street grid and pedestrian shed or walkable area and
7 avoidance of the creek, which limits the developable area
8 of the site.

9 In order to meet local code requirements, the
10 buildings are designed to look like four distinct houses
11 connected to each other to preserve the neighborhood
12 character. Our rules allow waivers in cases of limitations
13 of local government zoning codes that are not within the
14 control of the applicant, but that is only for adaptive
15 reuse or rehabilitation development.

16 Our rule does not allow that waiver specifically
17 for new construction. We don't believe that the request
18 meets the requirements of the rule, because the issues
19 described appear to be entirely related to the applicant's
20 selection of a development site that is within this zoned
21 area.

22 Although the city of Bastrop might prefer this
23 site, it is completely within the control of the applicant
24 to move forward with this application. The site measures
25 five acres, and per the applicant, the city's requirements

1 regarding development near the creek led to the substantial
2 on-site detention, which limits the site's developable
3 land.

4 The feasibility report states that the proposed
5 site will have -- feature several community parks and open
6 spaces. The design of the development is within control of
7 the applicant. The applicant states that the buildings
8 were designed to look like four distinct houses connected
9 to each other to preserve the neighborhood character, yet
10 hey were not designed to meet QAP eligibility requirements.

11
12 In the end, the applicant states that it was
13 determined that adding elevators in each of the
14 development's nine buildings would be financially
15 infeasible. In their request, the applicant offers a
16 mitigation that all of the ground floor units will have
17 been designed with principles of universal design and will
18 be fully visitable by a person who uses a wheelchair, as
19 well as any adaptable, but no -- but visitability is
20 actually a requirement under the TDHCA rules.

21 The request goes on to state that to further
22 help mitigate for the lack of the elevator, the applicant
23 is willing to commit to an on-demand concierge service
24 which would assist residents in getting groceries to and
25 from a unit or taking garbage to the dumpster, regardless

1 of whether they live on the ground or second floor.

2 Staff does not believe that the request meets
3 the requirements of the rule because the request does not
4 establish how, by granting a waiver, it serves the policies
5 and purposes articulated in statute. The request simply
6 states that by allowing a development in Bastrop, the TDHCA
7 Board of Directors would assist the local government in
8 overcoming financial, social and environment problems, as
9 well as to contribute to the preservation, development and
10 redevelopment of neighborhoods and communities.

11 Our rule regarding waivers identifies the
12 requirements that a request must meet. The staff does not
13 believe that the waiver meets those requirements. Because
14 the development, as designed, would not equally serve all
15 residents by limiting certain residents to the first floor,
16 and because the lack of an elevator would be a hardship for
17 elderly residents living on the second floor without an
18 elevator, staff is recommending that the Board deny the
19 waiver.

20 I'd be happy to answer any questions.

21 MS. BINGHAM: Thanks, Marni. Does the Board
22 have any questions for Marni?

23 (No response.)

24 MS. BINGHAM: Great. If not, I'll entertain a
25 motion.

1 MS. THOMASON: I'll move to approve staff's
2 recommendation of denying the waiver.

3 MS. BINGHAM: Okay.

4 MR. BRADEN: Second.

5 MS. BINGHAM: Ms. Thomason makes a motion. Mr.
6 Braden seconds. Naomi, are there any comments?

7 MS. CANTU: Yes, we have quite a few comments on
8 this item, but we also have been informed that Michael
9 Lyttle has some letters to read into the record, so we're
10 going to go to Michael Lyttle.

11 MS. BINGHAM: Okay. Thank you.

12 MR. LYTTLE: Madame Chair and Board members,
13 Michael Lyttle, TDHCA staff. I have two letters on this
14 issue. One is from State Rep. John Cyrier, and the second
15 is from the mayor of Bastrop. The first letter from Rep.
16 Cyrier reads:

17 "Please accept this letter reiterating my
18 support for Farm Street Village, the proposed low income
19 housing application in my district. I understand that the
20 developer is applying for a waiver relating to their
21 application.

22 "Farm Street Village will be a much-needed
23 infusion of senior housing in Bastrop and would be very
24 good for the economic well-being of my district. Bastrop
25 is still recovering from the most destructive wildfire in

1 Texas history that destroyed 1,660 homes.

2 "It is also a community that is being hit hard
3 with the economic losses associated with the current
4 shelter-in-place requirements. As we continue our efforts
5 to overcome these obstacles in my district, high-quality,
6 affordable homes like Farm Street Village are a critical
7 piece of the puzzle.

8 "I expect that you will find the request
9 reasonable and that its merit enable you to give it
10 their -- give it your approval. Sincerely, John P. Cyrier,
11 State Representative, House District 17."

12 The second letter is from Mayor Connie
13 Schroeder, and it reads as follows: "I regret that I can't
14 offer this testimony directly to you during the Board
15 meeting. As emergency management director, my mornings are
16 consumed with daily meetings respective to minimizing the
17 effects of COVID-19 in my community.

18 "The economic consequences of the virus are
19 having serious and dire impacts on the city of Bastrop.
20 One casualty of this situation is that our vulnerable, low
21 income residents are at highest risk of economic
22 consequences.

23 "I want to stress how much we need more
24 affordable housing and that we need it as soon as possible.
25 My staff and I have personally met with Farm Street

1 Village developers on multiple occasions to delve into the
2 intricacies of what our seniors need and what Bastrop needs
3 as a community.

4 "The proposed two-story, farmhouse-style
5 development is a perfect fit for our downtown, historic
6 district. It is an ideal location for our seniors with
7 great walkability to all the cultural resources that
8 downtown Bastrop has to offer.

9 "The development has enthusiastic support of the
10 entire city council. The city of Bastrop is still
11 recovering from the 2011 fires when 1,660 homes were
12 destroyed. As stated above, the current effects of
13 COVID-19 are further hindering our community's well-being.

14 "I want you to know, the proposed two-story
15 development meets all of our local requirements as
16 designed. I also understand that it meets all applicable
17 federal and state requirements. I respectfully ask the
18 TDHCA Board to find the development's many positive
19 attributes nullify the Housing Tax Credit Program's
20 elevator requirement and permit Farm Street Village, as
21 designed, to move forward so that it can be a great place
22 for seniors to call home.

23 "We are in urgent need of more affordable
24 housing. Farm Street Village is a vital step on our
25 journey to economic recovery. Sincerely, Mayor Connie

1 Schroeder."

2 MS. BINGHAM: Thank you, Michael. Naomi?

3 MS. CANTU: Yes. We do have several people
4 registered to -- or have indicated that they want to speak
5 on this. Sandy Watson, this is what she has said she is
6 against, and that's Zimmerman Development. We also have
7 Sarah Andre here, and they are for Farm Street Village.

8 Sarah, let us know if you would like to speak.
9 Sallie Burchett would like to speak on this. Sallie? And
10 you should be unmuted.

11 MS. BURCHETT: Thank you. This is Sallie.
12 Sarah should go before me, please.

13 MS. CANTU: Sarah Andre? Okay. We're going to
14 go ahead to go to Sarah. And she is unmuted. Sarah, go
15 ahead.

16 MS. ANDRE: Hi. Good morning. Sarah Andre.
17 I'm the applicant for Farm Street Village. The train of
18 thought presented by staff is that site selection is under
19 the control of the developer. Therefore, we should have
20 just chosen a different site.

21 For me, this begs the question, why do we have a
22 waiver process? Every single site feature an applicant
23 seeks a waiver for, whether its railroads or poorly-
24 performing schools, is theoretically within the developers'
25 control.

1 They don't have to choose that site and they
2 don't have to submit an application. We have a waiver
3 process so that the Board can make a determination about a
4 site that may have other merits that go beyond compliance
5 with baseline rules.

6 Farm Street Village has those merits. The
7 development is simply in an amazing location. It's in the
8 heart of historic, downtown Bastrop, right next to a creek.
9 It's within easy walking distance, and I am talking one to
10 three blocks to a movie theatre, restaurants, shops and a
11 farmers market.

12 It's simply a better place to live than a
13 parking lot next to a hotel or big box store, which is what
14 the other sites in Bastrop offer. Who would not rather
15 live in a neighborhood than a parking lot? Because of the
16 location, however, the land does come with a number of
17 restrictions related to runoff and neighborhood
18 compatibility that constrains development.

19 Those are the unique local features that we are
20 responding to with our request. In lieu of elevators, we
21 have provided an abundance of mitigating features. The
22 site is 100 percent accessible. There's not a single path
23 or walkway that's not accessible.

24 Most developments have one designated route.
25 The parking is right next to each building. There are no

1 long stretches from a car to a unit. Fifty percent of the
2 units and all unit types are on the ground floor. All of
3 these units are fully adaptable.

4 This means there can be 36 acceptable units
5 instead of four, which is the requirement. One hundred
6 percent of the units contain universal design features, and
7 we've agreed to provide concierge services and added the
8 cost of a stairlift to our reserves in the event that's
9 needed.

10 Finally, to address security, there are no
11 additional amenities or unit features on the upper floor
12 that anyone would be missing out on if they lived on the
13 ground floor. Our design meets HUD requirements. HUD does
14 not require an elevator for residential units in two-story
15 buildings for seniors.

16 By the time this is placed in service, I will
17 qualify to live there. Like HUD, I simply don't believe
18 that everyone who is 55 and up needs or wants an elevator.

19 Our goal is to provide as many units as possible in the
20 best location possible at a reasonable price.

21 We feel that the merits of the site and the
22 extent of mitigation outweigh any perceived hardships.
23 Thank you.

24 MS. BINGHAM: Thank you, Sarah. Naomi, did they
25 say, Sallie next?

1 MS. CANTU: We actually have Jason Haskins next,
2 and then Debbie Bresette, in that order.

3 MS. BINGHAM: Okay.

4 MS. CANTU: So Jason Haskins, we're going to go
5 ahead.

6 MR. HASKINS: Hello. Thank you for the
7 opportunity to speak on this project. My name is Jason
8 Haskins, AIA. I am the architect for this project with
9 Hatch and Ulland Owen Architects. Our firm has extensive
10 experience in a wide range of variety of affordable housing
11 solutions and building types as well as historic
12 preservation.

13 Norwich [phonetic] provides senior housing that
14 is part of the vibrant downtown community in Bastrop and
15 that maximizes accessibility options for the residents. We
16 have designed a project that consciously limits the
17 building to two stories and to the smaller separate eight-
18 unit homes that fit into the existing fabric of the Iredell
19 historic district.

20 So from our perspective, this is not a case of
21 taking a standard elevator-based apartment building and
22 removing the elevators or building a typical walk-up,
23 garden-style apartment. We instead started with the
24 premise that all ground-floor units would be designed to
25 the clearances and configurations of fully accessible units

1 so that many of those units or any of those units could be
2 converted to fully accessible with minimal costs and
3 inconvenience.

4 Adaptation and accommodation can be made without
5 removing dry wall or modifying electrical, plumbing or
6 framing, and even without modifications, the additional
7 maneuvering space in the retrained provisions provide
8 benefits to all residents.

9 All units, whether upstairs or down, incorporate
10 universal design practices and features that go beyond
11 TDHCA's accessibility requirements to provide safer, easier
12 and healthier home environment, and we sought to address
13 not only the mobility changes -- challenges that require
14 the fully accessible ground-floor units, but also other
15 forms of limited ability that come with aging in place
16 gracefully.

17 Within the units, we are not using the absence
18 of an elevator to avoid requirements, and our aesthetics
19 seating will be normally required within FHA-covered units,
20 and also exceeding the visibility requirements, which are
21 of course standard with TDHCA units, but we're exceeding
22 the -- far exceeding the clearances and maneuvering spaces,
23 even within the visitable units.

24 I'm happy to answer any questions you might have
25 about the technical aspects of this. Thank you.

1 MS. BINGHAM: Thank you, Jason. Does anybody
2 have any questions for Jason?

3 (No response.)

4 MS. BINGHAM: Naomi?

5 MS. CANTU: We do have Debbie Bresette. She
6 would like to use her webcam. So we're going to go ahead
7 and taking Marni down. Marni, we'll put you back up after,
8 and then we're going to put Debbie up. While we're getting
9 that ready, I do want to read a statement for -- yes -- for
10 the approval of Farm Street Village from Isabel Atkinson.

11 So that's for the approval of Farm Street
12 Village's waiver by Isabel Atkinson, and we have read that
13 into the record. Debbie, you're ready?

14 MS. BRESSETTE: Good morning, everybody. My
15 name is Debbie Bresette. I'm from Bastrop County. I run a
16 nonprofit that provides community members the ability to
17 collaborate together around large issues that not one
18 single organization can solve in itself.

19 One of them is for us an affordable housing.
20 And the other -- another collaborative we run is for what
21 we call our OWLs, our older, wise leaders, and they are
22 people who come from all across the community to really
23 look at services for seniors and how to improve people
24 living in -- living.

25 We are people all over this county. Our county

1 is almost 1,000 square miles long. We've got older adults,
2 or OWLs, in places you could not imagine around this
3 county. Having 72 units that is respectful and beautiful
4 and affordable is such a boon to our community, and it
5 would be a guiding light for years to come.

6 I came before you all in the '90s, and you all
7 voted to invest in transitional housing for a family
8 violence shelter, and I was the director at the time, and I
9 can tell you, that shelter doesn't have elevator, and it's
10 just -- and it's two stories, and it's handicapped
11 accessible, and it has been just a golden light for our
12 community, well-respected and well-loved and cherished.

13 We have the ability now to let 17 units -- to
14 bring in people that are living in sheds, to help bring
15 them into our community where they can get food and they
16 can get health care and they can have access to services
17 that, right now, we can't even find many of our seniors.

18 We have at least 10,000 seniors in our
19 community, and they are scattered everywhere. It's
20 difficult for them to get Meals on Wheels. It's difficult
21 for them to access health care. We don't have broadband in
22 our community very good, so telehealth is even a challenge.

23 And for the 72 seniors and OWLs that you could
24 bring into the city of Bastrop, where they can use their
25 talents again. They could mentor at the elementary school,

1 which is right down the street. They could work with the
2 high school students.

3 We could do intergenerational things there, you
4 know, and help the high school students. Teach them to use
5 their computers to be able to communicate with their
6 family. I don't know if you would all realize how
7 important this is.

8 We don't have CARTS transportation going out to
9 the rural community at all. There is nothing for folks.
10 They can't drive in. If we had some place where people
11 could walk and handicapped people, disabled, that live on
12 bottom, and we have people who can walk up those stairs --
13 I could walk up those stairs.

14 It would be wonderful, and we really, really
15 need it. Thank you.

16 MS. BINGHAM: Thank you, Ms. Bresette. Any
17 questions for this speaker?

18 (No response.)

19 MS. BINGHAM: Thank you. Naomi?

20 MS. CANTU: Sure. We have Rebecca Broadman.
21 She wants to state that she is for Farm Street Village
22 waiver request. Rebecca Broadman for the request. She
23 does not say who she is with. So if you could type that
24 in, we could read that for the record as well.

25 Sandy Watson. Sandy Watson would like to speak

1 on the current item. Sandy, we'll go ahead and find you.

2 MS. WATSON: Can you hear me?

3 MS. CANTU: Sandy, it sounds like you have your
4 computer on inner audio. It sounds like that might have
5 been resolved. Sandy, we can hear you. Go ahead. You
6 have three minutes.

7 MS. WATSON: Did you say, you can hear me?

8 MS. CANTU: Yes, we can. Go ahead.

9 MS. WATSON: Okay. Thank you. My name is Sandy
10 Watson. Thank you, Madame Chair and council members. Just
11 to mention that, you know, this developer -- we all have
12 many choices when we're selecting properties, and we
13 unfortunately have to bypass beautiful properties in
14 communities and all of the elements that were just
15 mentioned, it sounds great for Bastrop, and I want that for
16 them as well.

17 The developer should have designed her
18 properties differently or been aware of that at the onset,
19 but she needed to follow the QAP and follow the rules and
20 requirements, and it's unfortunate that, you know, she
21 decided to just go with it, and then face a waiver wager.

22 I'm asking and we're asking that you uphold the
23 rules of the QAP and that you uphold the staff's
24 recommendation on this. Again, not against the city of
25 Bastrop at all. Sounds like an amazing place, but if she

1 could redesign it and submit it for next year.

2 But we're asking that you uphold staff's
3 recommendation. Thank you very much.

4 MS. BINGHAM: Thank you, Sandy.

5 MS. CANTU: Thank you.

6 MS. BINGHAM: Anybody else?

7 MS. CANTU: Yes. Sallie Burchett, did you want
8 to speak? She indicated that she will speak if there's any
9 unanswered questions. So I wanted to follow up with her.
10 And I do also have, when he registered, Brian Grace said he
11 would like to speak on this item as well.

12 And Sallie Burchett asked to speak, and she
13 would like to use the webcam. And Cynthia Bast would also
14 like to speak. So we'll go for Sallie, and then Cynthia,
15 and if Brian Grace is out there, you can be on queue. Just
16 let us know that you're there in the question box.

17 Thanks. So Sallie Burchett, you are -- we can
18 see you.

19 MS. BURCHETT: Hi. Good morning. My name is
20 Sallie Burchett. I'm with Structure Development. And
21 Sarah and I worked on this project together during site
22 selection. And yes, there are and were other options. My
23 background is in planning, as y'all know, and particularly,
24 I like downtown and all of what they do for the city and
25 what -- how they benefit the people that live there.

1 And this site is such a great one. Sarah and I
2 are both -- it would be a place we'd want to live, and the
3 design that fits squarely into the -- the peg that fits
4 into the hole. It's right for downtown Bastrop. And so it
5 was a conscious decision that -- to ask for the waiver.

6 This is the best design for this site. And we
7 looked at other standards, and HUD doesn't require an
8 elevator for the second floor. And we have all these other
9 modifications to make it a great place for those 55 and up,
10 and where you can age in place gracefully.

11 The fact that HUD doesn't require it -- it's a
12 modest one-story. Not everyone over 55 is in a wheelchair.

13 We'll make accommodations if someone needs -- has limited
14 mobility, limited -- to move him to the bottom floor.

15 I think it's a reasonable request within your
16 purview, should you agree with us and the mayor and the
17 State Rep. Thank you very much for your time.

18 MS. BINGHAM: Thanks, Sallie.

19 MS. CANTU: Okay. We'll go ahead and lower the
20 Board members.

21 (No response.)

22 MS. BINGHAM: Thank you. Yes. Naomi?

23 MS. CANTU: Yes. We'll go ahead and lower
24 Sallie's webcam, and put Marni's back up, and we will find
25 Cynthia Bast. Cynthia Bast? And she would like to speak.

1 And we're looking for you. Hold on one second. All
2 right.

3 You are unmuted.

4 MS. BAST: Good morning. Thank you. First,
5 thank you to the Board and the staff for all the
6 extraordinary measures that you all are taking in the last
7 several months. By just being able to see you all on the
8 screen is actually comforting because it sort of feels like
9 things are normal.

10 We are -- I'm Cynthia Bast, Locke Lord. We are
11 counsel noted in this application. And I just wanted to
12 add one thing to the -- something that I was reminded of
13 when I started looking at this.

14 With regard to the waiver and the question of
15 site selection being beyond the control of the applicant,
16 I'm reminded of the El Paso property called Blue Flame of
17 three years ago, where, like in this situation, there was
18 tremendous community support for the Housing Authority to
19 relocate units into a historical building downtown, and the
20 Housing Authority could have chosen another.

21 But everyone agreed that this really was the
22 best spot for this particular development, and so in
23 thinking about that, I just wanted to add that I know some
24 of you were on the Board in 2017 when that was considered,
25 and make that part of your thought process, and that's all

1 from me.

2 Thank you very much.

3 MS. BINGHAM: Thank you, Cynthia. Any questions
4 from the Board members for Cynthia?

5 (No response.)

6 MS. BINGHAM: Naomi, if there's anybody left, we
7 would have to say, respectfully, if anybody has anything
8 new to add, otherwise we probably are ready to wrap this
9 up.

10 MS. CANTU: Okay. I don't see anyone who
11 registered in favor or against that is new, and I don't see
12 anyone new queued up again. If you have something new to
13 say, please enter your wish to speak in the question box,
14 and we can unmute you, and you can use your webcam, if you
15 have one available.

16 So again, please enter that in the question box.

17 MS. BINGHAM: While you are waiting, let me just
18 ask really quickly. So we have a motion and a second on
19 the floor to approve staff's recommendation to deny the
20 request for waiver. Does anybody have any questions for
21 Marni after comment? Are we --

22 MR. VASQUEZ: I have two questions. One, Marni,
23 are we [inaudible] should require installation of a stair
24 chair lift on demand? I mean, is that a -- if a
25 resident -- second-floor resident needs stair chair lifts,

1 is that a requirement?

2 MS. HOLLOWAY: Potentially, and I believe that
3 they are mentioned, the inclusion of a chair lift, but I
4 don't know if that's for every building or one building.
5 You know, there's a big difference between a chair lift and
6 an elevator, but I think that it's within the Board's
7 ability to -- it can make a decision that, should this
8 application be -- receive an award in July, that that
9 requirement be added as a condition of the award.

10 MR. VASQUEZ: Okay. All right. And then a
11 second question. Now, this is a senior -- dedicated senior
12 facility, so --

13 MS. HOLLOWAY: Yes.

14 MR. VASQUEZ: -- that falls in a different
15 bucket for us. Correct?

16 MS. HOLLOWAY: Correct.

17 MR. VASQUEZ: Okay. If this waiver was
18 approved --

19 MS. HOLLOWAY: Uh-huh?

20 MR. VASQUEZ: -- would that bounce another
21 application for senior -- could it potentially put them at
22 points ahead and thus not allow a separate application that
23 met criteria without waivers -- would it bounce somebody
24 else?

25 MS. HOLLOWAY: Hold on just a moment, and we'll

1 find out.

2 MR. VASQUEZ: And what I'm getting at is, if
3 approving the waiver doesn't adversely impact anyone else,
4 that could influence my decision.

5 MS. HOLLOWAY: At this very moment, it does not
6 appear that it would. The next application in line is a
7 general application, keeping in mind that the collapse
8 later on -- do you know what -- it could potentially be
9 impacted.

10 And so as we, you know, get through the region,
11 it may or may not have an impact later on, but I can't --

12 MR. VASQUEZ: Sure.

13 MS. HOLLOWAY: -- at this point, I -- but yes,
14 there is another application in line after this one in that
15 subregion.

16 MR. VASQUEZ: But not necessarily a senior
17 facility?

18 MS. HOLLOWAY: Correct.

19 MS. BINGHAM: Naomi, was there anybody else that
20 had something to add?

21 MS. CANTU: No one else has put a question in
22 the question box. We did call Brian Grace, but have not
23 seen him or heard from him. So we believe we do not have
24 any --

25 MS. BINGHAM: Great.

1 MS. CANTU: -- more public comments at this
2 time.

3 MR. BRADEN: I have a question for Marni.

4 MS. BINGHAM: Yes.

5 MR. BRADEN: So have we always done it -- if
6 it's two-story, we require an elevator for senior or --

7 MS. HOLLOWAY: Yes, yes. That is a threshold
8 requirement within our rules that all elderly developments
9 that are more than one story must have an elevator.

10 MR. BRADEN: And do we often get a request for a
11 waiver of the elevator requirement?

12 MS. HOLLOWAY: This is the first time I've seen
13 one.

14 MR. BRADEN: So everybody else is building --
15 every development just realizes they need to put an
16 elevator in it, and they plan accordingly?

17 MS. HOLLOWAY: Correct. They design
18 accordingly. Uh-huh.

19 MR. BRADEN: And I acknowledge and I
20 appreciate -- this sounds like a great site, and it sounds
21 like the city is behind it, and you know, I'd love to
22 support it. I just don't understand why they didn't build
23 it with -- or design it with an elevator in it.

24 It seems like they could have done that, and so
25 that's what I'm really struggling with.

1 MS. HOLLOWAY: Uh-huh.

2 MS. BINGHAM: Any other questions?

3 MS. CANTU: Madame Vice Chair, I do have --
4 Sarah Andre says she would like to speak again, if that's
5 your expression.

6 MS. BINGHAM: Okay.

7 MS. CANTU: All right. We're going to go ahead
8 and go to Sarah. And you are unmuted.

9 MS. ANDRE: Thank you. Board member Braden and
10 others, I just wanted to address that issue. The site is
11 not conducive to taller buildings than two stories. It's
12 not conducive to a large facility-type building, even if it
13 were just two-story, like a big wrap product might be, or
14 just a larger building.

15 It's right next to single-family housing, and
16 those types of buildings -- it's much more efficient to put
17 in one or two elevators than it is to put in nine. So we
18 did talk about elevators many, many times. The other issue
19 with this site is that it cannot drain -- after
20 development, it has to drain at a rate of 25 percent of
21 what it currently drains to undeveloped.

22 It is right next to a creek. The city is
23 incredibly concerned about flooding downstream. So you
24 need to do a very low-density development. We could have
25 done, you know, one-story buildings, but we would have only

1 been able to get 36 on the site.

2 So all of these constraints just created a
3 perfect storm. I did talk about putting an elevator in one
4 or two buildings, and I just didn't feel like there was a
5 mechanism for asking for sort of a partial waiver. I guess
6 I could have done that, in retrospect.

7 And the cost of putting in an elevator in every
8 single building was going to amount to 15 percent of the
9 total -- our costs, just for elevator access. We thought
10 that providing more units on the ground was just a better
11 solution and a better use of taxpayer dollars.

12 MS. BINGHAM: I think you're on mute, Mr.
13 Braden.

14 MR. BRADEN: I understand what you're saying
15 about being cost-prohibitive, and I'm not second-guessing
16 your business decisions. It's your industry.

17 I personally -- if you had put one or two
18 elevators into the project, at least I would have thought
19 that would be some further mitigation of the issue, and
20 that would have been a little more persuasive to me, in
21 terms of the waiver, because then the argument would be for
22 those seniors who need -- you know, need elevator access
23 and you could try to -- you could target them to move into
24 those buildings.

25 But I understand that it's hurting the designs.

1 MS. CANTU: Madame Vice Chair, we've viewed
2 the --

3 MS. BINGHAM: Yes, Naomi?

4 MS. CANTU: -- we do see James McDonald and was
5 Sarah Andre muted when members were speaking? Because a
6 comment. Yes. This is going to be a -- it looks like
7 there's some back-and-forth going on online.

8 MS. BINGHAM: No. This will be the last one.

9 MS. CANTU: Right. Let's go to James McDonald.
10 I'm looking for him. Okay. And go ahead.

11 MR. MCDONALD: Thank you, Madame Vice Chair and
12 Board members and Executive Director Wilkinson. James
13 McDonald with Zimmerman Properties. You know, we are a
14 multi-state developer. We develop all different styles of
15 communities.

16 We developed 37 within the state of Texas in the
17 last 20 years, and part of the reason that we look at
18 Texas, is because you put your rules out there for us to
19 abide by, for us to develop by, and that is what we do.
20 That -- we do that to the best of our abilities.

21 I completely understand the need. I completely
22 understand the location of the site. But when you're
23 developing for seniors, yes, they are active, but no one's
24 mentioned the -- if there's an emergency situation, no
25 one's mentioned anything like that.

1 And granted, elevators shut down in an emergency
2 situation, but you know, that needs to be taken into
3 consideration also. You know, we do and have developed, I
4 believe, out of our 37, 10 developments that are senior
5 developments, and those that are two stories and above all
6 have an elevator, one.

7 Those that we have done as a single-story or
8 four-plex design or six-plex design is how you handle those
9 situations. So again, I humbly respect that -- and ask
10 that you adhere by the rules of the QAP and thank you for
11 your time.

12 MS. CANTU: Thank you. And --

13 MS. BINGHAM: Thank you, James.

14 MS. CANTU: -- we do have Sarah Andre -- is
15 typing in. It is up to your discretion whether we let her
16 speak again.

17 MS. BINGHAM: Yes. Just real quick.

18 MS. CANTU: All right. We're looking for her to
19 unmute her, and she is unmuted.

20 MS. ANDRE: Hi. I was just saying that we would
21 gladly add elevators in some buildings as a condition, if
22 the Board so moves.

23 MS. BINGHAM: Okay. Thank you, Sarah.

24 MS. CANTU: All right. I do not have any --

25 MS. BINGHAM: Beg your pardon, Naomi?

1 MS. CANTU: I apologize. I don't see any other
2 public comments on this in the question box.

3 MS. BINGHAM: Great. Thank you. No problem.
4 All right. So we have a motion on the floor and a second.
5 Motion by Ms. Thomason, second by Ms. Braden, to support
6 staff's recommendation to deny the waiver for 20001 Farm
7 Street Village Bastrop.

8 I'll call for a vote. All those in favor of
9 staff's recommendation do deny the waiver, aye?

10 (A chorus of ayes.)

11 MS. BINGHAM: Any opposed?

12 (No response.)

13 MS. BINGHAM: Great. Motion carries then to
14 approve staff's recommendation to deny the waiver for Farm
15 Street Village Bastrop.

16 MS. HOLLOWAY: Thank you.

17 MS. BINGHAM: All right. Marni, does that take
18 care of 5(d)?

19 MS. HOLLOWAY: Yes, it does.

20 MS. BINGHAM: Thank you very much. We will see
21 you again in a minute. Mr. Executive Director, are we okay
22 going back to Item 4(d)?

23 MR. WILKINSON: Yes, ma'am. Bond finance.

24 MS. BINGHAM: Great. Thank you very much.

25 MS. CANTU: Item 4(d), "Presentation,

1 discussion, and possible action on Resolution No. 20-017."
2 Monica?

3 MS. GALUSKI: Can you hear me?

4 MS. CANTU: Yes.

5 MS. GALUSKI: Okay. This is Monica Galuski,
6 director of Bond Finance. This item relates to Resolution
7 20-017, authorizing the issuance, sale and delivery of
8 Texas Department of Housing and Community Affairs Single-
9 family Mortgage Revenue Bonds, 2020 Series A and 2020
10 Series B, which are taxable.

11 Approving the form and substance of related
12 documents, authorizing the execution of documents and
13 instruments necessary or convenient to carry out the
14 purposes of this resolution. Before I begin, I need to
15 make a correction. In your packet there's a resolution,
16 Resolution 20-017 for this item.

17 On page 4 of that resolution, under Article 1,
18 Section 1.2(c), which is located right about in the middle
19 of the page, that states that the maximum principal amount
20 of Series 2020 B bonds, which are the taxable refunding
21 bonds, that they would not exceed 13,300,000.

22 That number should have been 13,330,000. If the
23 Board approves this resolution, I request that it be as
24 amended with this correction. So having made that
25 correction, I will proceed.

1 Since the disruption of the markets due to the
2 COVID-19 pandemic, staff and the financing team have
3 continued to monitor the feasibility of single-family
4 mortgage revenue bonds. The municipal bond market
5 continues to stabilize and improve, at least for now. Last
6 week, state FHAs priced approximately 300 million in
7 single-family loans. Several issues have priced this week,
8 and many are preparing to enter over the next couple of
9 weeks.

10 In fact, this morning, Georgia HSA put out a
11 preliminary official statement for \$140 million upcoming
12 single-family issuance. With this item, staff is
13 requesting final Board approval to issue the 2020 A bonds
14 in a prior amount not to exceed 175 million for new single-
15 family loan origination.

16 Bonds will be tax exempt and fixed rate, and the
17 structure is expected to be substantially similar to the
18 Department's most recent issue, 2019 A, and issued in
19 August 2019. Staff also requests any approval to issue the
20 2020 B bonds in the prior amount not to exceed 13,330,000
21 of taxable fixed-rate bonds to refund the Department's
22 outstanding 2013 A bonds.

23 The savings threshold for issuing the 2020 B
24 bonds is an NMB savings of at least 2 percent of the prior
25 amount of bonds being refunded. The bonds are scheduled to

1 price mid-May but may be delayed if, as we approach the
2 scheduled pricing, the anticipated results are not
3 compelling.

4 It's possible that the amount of bonds may be
5 reduced again, depending on market conditions and the
6 overall economics of the transaction. The goal is to be
7 ready to price when market conditions are conducive to
8 successful results.

9 The overriding consideration is an economically-
10 sound transaction, and we won't price until they can
11 achieve that. Approval is requested for up to 12 million
12 issuer contribution. As with previous transactions, we
13 expect to receive significant premiums on the 2020 A bonds.

14 So we anticipate that the issuer contribution
15 will be significantly lower, more in the range of 4 to
16 4-1/2 million. Approval is also requested for the use of
17 up to 4 million in indenture bonds for capitalized interest
18 to be drawn down as needed.

19 Again, the actual amount is expected to be
20 significantly lower. Staff recommends approval of
21 Resolution 20-017 as amended. And I would be happy to
22 answer any questions at this time.

23 MS. BINGHAM: Board members, do you have
24 questions for Monica?

25 (No response.)

1 MS. BINGHAM: Okay. Monica, the only correction
2 was just that one, that 13,330,000?

3 MS. GALUSKI: Correct.

4 MS. BINGHAM: Okay. I'll entertain a motion.

5 MR. BRADEN: Move to approve, with the
6 correction.

7 MS. BINGHAM: All right. Mr. Braden moves.

8 MR. VASQUEZ: Second.

9 MS. BINGHAM: Mr. Vasquez seconds. Any other
10 questions or discussion?

11 MS. CANTU: Did you not see any --

12 MS. BINGHAM: All those in favor -- sorry about
13 that. Yes. Comments?

14 MS. CANTU: We don't see any questions in the
15 question box. This is Naomi Cantu, moderator. We don't
16 see any questions in the question box.

17 MS. BINGHAM: Okay. Sorry about that.

18 MS. CANTU: Yeah. No problem.

19 MS. BINGHAM: Very good. Thank you very much.
20 So I have a motion from Mr. Braden, second, Mr. Vasquez.
21 All those in favor, aye?

22 (A chorus of ayes.)

23 MS. BINGHAM: Opposed?

24 (No response.)

25 MS. BINGHAM: Okay. Motion on 4(d) carries. I

1 have a note that we may not -- I may have missed calling
2 the vote on 4(c). If you guys wouldn't mind just looking
3 back up? This was on the issuance of the government notes
4 for Grenada Terrace Apartments. And we had a motion from
5 Mr. Braden and a second from Mr. Vasquez.

6 Does that look familiar? Are you guys
7 comfortable with this? It looks like it was approval of
8 staff's recommendation. Okay. So on Item 4(c), we have a
9 motion from Mr. Braden, a second from Mr. Vasquez. If
10 there's no further discussion, all those in favor, aye.

11 (A chorus of ayes.)

12 MS. BINGHAM: Opposed?

13 (No response.)

14 MS. BINGHAM: Okay. Motion carries for staff's
15 recommendation on 4(c). Sorry about that. All right. Do
16 you guys want to take a break before we move on? Maybe 15-
17 minute break? Is that okay? Okay. All right. Naomi, do
18 we need to have anything read into the record, or Bobby or
19 Beau, to take a quick, 15-minute break?

20 MS. CANTU: We definitely have a slide for that
21 available, so we can take a 15-minute break. But I don't
22 know. Beau, do we need to read something into the record
23 for that?

24 MR. ECCLES: No. Just that we're adjourned for
25 a quick break. Since we're not going into executive

1 session, there's no like special preamble.

2 MS. CANTU: Okay. So we'll return at 11 --

3 MS. BINGHAM: Great. Thanks, guys. Great.

4 Yes. Let's take a quick, 15-minute break, and we'll return
5 at 11:30.

6 MS. CANTU: Thank you. We'll put it up.

7 (Whereupon, a brief recess was taken.)

8 MS. CANTU: Hello. This is Naomi Cantu,
9 moderator before this Board meeting. We are going to go
10 ahead and work on getting back started. We have with us
11 three Board members. We're waiting on one more, and we're
12 going to go through -- hello, Mr. Vasquez.

13 We see you. And we're going to go ahead and go
14 through housekeeping first. I also have with me here Jason
15 Gagne, who is working the controls, and also will be
16 chiming in occasionally. There's some housekeeping for
17 written comments.

18 Jason, if you could start?

19 MR. GAGNE: Sure. So if you're going to submit
20 a comment in the question box, please have -- and this is
21 for written comments -- that you include the agenda item,
22 your name, any organization you are representing and your
23 position for or against the item.

24 Written statements other than a position of for
25 or against will not be read or considered public comment

1 when it comes to creating comments.

2 MS. CANTU: All right. And the next one. For
3 spoken comments, please wait until your agenda item is
4 being discussed. We have a long list of questions in the
5 question box, and we want to make sure we get everyone when
6 your question is being discussed -- or when your item is
7 being discussed.

8 Please indicate that you would like to speak in
9 the question box in the GoToWebinar dashboard. Indicate if
10 you would like to share your camera. We do have that
11 capability. A moderator -- I will call on you.

12 And when speaking, state your name and state
13 your organization. We do have a timer that shows. You get
14 a limit of three minutes per the discretion of the Board.
15 And we do also have a backup plan that we're going to go
16 over.

17 MR. GAGNE: Sure. So if the webinar ends for a
18 technical reason before the meeting is complete, TDHCA will
19 communicate whether and when the meeting will be restarted.
20 We have a few different ways we'll communicate, just
21 depending on the nature of the interruption.

22 So please either check your email for a link to
23 your webinar or check the TDHCA website or one of our
24 social media platforms, such as Facebook and Twitter. So
25 it really just depends, again, on the nature of the

1 interruption that we hope does not happen.

2 MS. CANTU: Great. And with that, we will turn
3 this over to Madame Chairwoman Bingham.

4 MS. BINGHAM: Thank you, Naomi. On our agenda,
5 I think we're ready to do two items under Item 5. 5(a) is
6 Andrew Sinnott.

7 MS. CANTU: And we're bringing him up.

8 MS. BINGHAM: Great. Thank you.

9 MS. CANTU: We're looking for him. You got him?
10 All right. And Andrew, you should be able to speak.

11 MR. SINNOTT: Can everybody hear me?

12 MS. CANTU: Yes.

13 MR. SINNOTT: All right. Thank you. Good
14 morning. My name's Andrew Sinnott, Multifamily Loan
15 Program administration. So I've got Item 5(a). This item
16 concerns draft rehabilitation standards for rehabilitation
17 projects utilizing National Housing Trust Fund, which was
18 referenced in the Board item from last month's Board
19 meeting regarding the 2020 to 2024 Consolidated Plan.

20 So I want to start with a little context and
21 history, because it's taken us a while to get to this
22 point. So the State began receiving their first NHTF
23 allocations in 2016. Because this was a new federal block
24 grant and because there are rehab standards required by the
25 NHTF allocation plan that are not required for other

1 federal sources used for development activities, HUD
2 reviewed the State's allocation plans with a very high
3 level of attention to detail.

4 TDHCA submitted its first NHTF allocation plan
5 to HUD in September 2016, indicating that we plan to use
6 NHTF for rehab and new construction activities and attached
7 our rehab standard, which were limited to what was already
8 required for rehabs in the uniform multifamily rules at
9 that time.

10 After several attempts at getting our rehab
11 standards approved, we decided not to use NHTF for rehab,
12 since we did not have the time or the staff to dedicate to
13 draft such a thorough, detailed rehab standard. So this
14 has resulted in our 2016, 2017, 2018 and 2019 NHTF
15 allocations being limited to financing developments
16 proposing new construction.

17 Last year, however, in anticipation of our 2020
18 allocation, and with our recently hired direct loan policy
19 research specialist Alena Morgan, we decided to begin
20 drafting a rehab standard. So it was Alena who led this
21 effort, spending many hours researching other states'
22 approved rehab standards and synthesizing those documents
23 with our existing rules, while also getting feedback from
24 our inspection staff who are the real subject matter
25 experts on this -- these rehab standards.

1 And it was Alena who ultimately distilled all
2 this information into the proposed rehab standards before
3 you today. I also need to acknowledge the significant
4 contributions of Michael Podoloff and recently retired Skip
5 Beaird in Compliance, as well as Marni Holloway and Megan
6 Sylvester, federal compliance counsel, in drafting these
7 rehab standards.

8 So these are proposed rehab standards for NHTF-
9 funded projects that address health and safety, major
10 systems, lead-based paint, accessibility, disaster
11 mitigation, state and local code requirements, uniform
12 physical condition standards, capital needs assessments,
13 and broadband infrastructure in accordance with the federal
14 rehab standards requirement.

15 It's also worth noting that potentially having
16 these rehab standards approved has come at an opportune
17 time, as Texas is set to receive about \$16 million, our
18 largest ever NHTF allocation in the 2020 allocation.

19 So if approved, we will accept public comment
20 through May 26 and ultimately include the NHTF rehab
21 standards in the final version of the 2020 to 2025
22 consolidated plan that is scheduled to be considered at the
23 June 26 Board meeting.

24 And that concludes my remarks. If y'all have
25 any questions?

1 MS. BINGHAM: Thank you, Andrew. Any questions
2 from the Board?

3 (No response.)

4 MS. BINGHAM: Well, great job, Alena and all of
5 the rest of the staff that have worked on it. It sounds
6 like it was a long time coming. It took a lot of work to
7 get here, and it does sound timely, and especially if the
8 allocation from the government is going to be that large in
9 2020.

10 Let's see. So Naomi, anybody for comment on
11 this item?

12 MS. CANTU: I don't have anybody signed up to
13 comment on this item who registered through the
14 registration, and I don't think anybody in the question
15 box -- as a reminder, if you want to comment, please put
16 that comment -- put your request to comment in the question
17 box and we will unmute you for your comments.

18 MS. BINGHAM: We'll entertain a motion for
19 action on these standards for the State Consolidated
20 Plan -- entertain a motion.

21 MR. VASQUEZ: Move to --

22 MR. BRADEN: Move to --

23 MR. VASQUEZ: Second.

24 MS. BINGHAM: I have a motion from Mr. Braden
25 and a second from Mr. Vasquez. Any other questions about

1 the action item? Oh, sorry. Sharon, did you --

2 MS. THOMASON: No, no.

3 MS. BINGHAM: Sometimes the guys make a motion.

4 MS. THOMASON: I did make the motion.

5 MS. BINGHAM: Got it. Okay. And Mr. Vasquez
6 seconded?

7 MR. VASQUEZ: Yes, I did.

8 MS. BINGHAM: Excellent. Very good. So I have
9 a motion for approval from Ms. Thomason. A second from Mr.
10 Vasquez. All those in favor, aye?

11 (A chorus of ayes.)

12 MS. BINGHAM: Opposed?

13 (No response.)

14 MS. BINGHAM: Great. Motion carries. Thank
15 you, Andrew.

16 MR. SINNOTT: Thank you.

17 MS. BINGHAM: Let's do Item 5(b). Marni?

18 MS. HOLLOWAY: Good morning. Hello again. Item
19 5(b) is "Presentation, discussion, and possible action on
20 the Determination Notice for Housing Tax Credits and an
21 Award of Direct Loan Funds for Application 20401." This is
22 Palladium Port Aransas, in Port Aransas, of course.

23 The application requests 4 percent credits,
24 \$4 million of TCAP repayment funds from the 2020-3 special
25 purpose NOFA and \$4 million appropriated by the 86th

1 Legislature. They have a bond reservation that will expire
2 on June 30.

3 This is a new construction development that will
4 have 183 units serving general population. The development
5 will include 18 units that will be leased at market rate,
6 with the remaining 165 rent and income restricted to 60
7 percent of AMI. Twenty-six TCAP units will be layered
8 among the tax credit units, restricted at 50 percent, and
9 they are subject to a 40-year affordability period.

10 The loan will be structured as a construction
11 permit loan at [inaudible] percent interest, amortized over
12 40 years. Payments will start after the deferred developer
13 fee is paid.

14 Also included as the financing source is \$4
15 million from the State of Texas general revenue that was
16 appropriated during the 86th Legislative Session for the
17 Department to award to developments most impacted by a
18 natural disaster. Hurricane Harvey, which directly hit the
19 Coastal Bend portions of the state, had a direct impact on
20 the city of Port Aransas.

21 These State funds are structured as a grant with
22 no repayment expectation. In construction -- in
23 conjunction with this grant, our board will require 26
24 floating low-income units restricted to 80 percent of AMI
25 in addition to the TCAP units, but also for the 40-year

1 affordability period.

2 The applicant has requested waivers of
3 provisions of the underwriting rules due to the unique
4 circumstances associated with the proposed development,
5 specifically the impact that Hurricane Harvey had on Port
6 Aransas.

7 They have requested waivers related to market
8 rent, gross capture rate, and unit capture rate. The
9 waiver of these provisions is necessary in order to achieve
10 financial feasibility. The real estate analysis report
11 which describes these waivers is in your Board Book.

12 It goes into more detail and it includes the
13 core economic impact on feasibility. Staff believes that
14 preempting the waivers better serves the purposes
15 articulated in statute by contributing to the City of Port
16 Aransas through development efforts after Hurricane Harvey.

17 As I said, the hurricane hit Port Aransas
18 directly and many of the units that are currently being
19 rebuilt on the island will be short-term rentals, not the
20 workforce housing they were before. The proposed
21 development will provide for the housing needs of low-
22 income families affected by the lack of affordable housing
23 options on the island, particularly for those who work on
24 the island but live on the mainland due to lack of housing.

25 The applicant's compliance history is designated

1 a category two and was deemed acceptable by EARAC. Staff
2 recommends that the issuance of a determination notice in
3 the amount of \$1,155,074 in 4 percent tax credits, 4
4 million from the State of Texas general revenue fund, and 4
5 million in TCAP repayment funds to Palladium Port Aransas
6 be approved.

7 I'd be happy to take any questions.

8 MS. BINGHAM: Thank you, Marni. Any questions
9 for Marni?

10 (No response.)

11 MS. BINGHAM: Entertain a motion.

12 MR. VASQUEZ: Move to approve.

13 MR. BRADEN: Second.

14 MS. BINGHAM: Motion from Mr. Vasquez. Second
15 from Mr. Braden. Okay. Naomi, any comments teed up for
16 this one?

17 MS. CANTU: We do have comments. When people
18 signed up to register for the Board meeting, we have Avis
19 Chaisson, Thomas Cook and Sara Reddy. Thomas Cook said
20 he's available if you have any questions. Sara Reddy also
21 says she's available if you have any questions.

22 And Avis Chaisson is here to speak only if
23 there's opposition. So with that, I believe that covers
24 everyone. If I did not cover you with what I just said,
25 Avis Chaisson, Thomas Cook or Sara Reddy -- Reddy -- go

1 ahead and type in the question box, and I can either unmute
2 you, or for or against.

3 So with that, that's all the public comment I
4 see.

5 MS. BINGHAM: Awesome. So we have a motion to
6 approve staff's recommendation on Item 5(b). Motion was
7 from Mr. Vasquez with a second from Mr. Braden. We'll call
8 for a vote. All those in favor, aye?

9 (A chorus of ayes.)

10 MS. BINGHAM: Opposed?

11 (No response.)

12 MS. BINGHAM: Motion carries. Thank you. We're
13 moving to Item 5(c).

14 MS. HOLLOWAY: I believe -- yeah -- I believe
15 that Mr. Eccles was going to speak to the -- speak to some
16 of the folks that are signed up to comment.

17 MR. ECCLES: Good morning, ladies and gentlemen
18 of the Board. Beau Eccles, general counsel. As part of
19 our attempts to adapt to the new normal here, and having a
20 virtual Board meeting, we encountered this month's issue,
21 and that is, when you have over 50 people sign up to do a
22 comment on an item.

23 Here, we have -- well, in normal times, you
24 would have folks who would congregate inside the meeting
25 room, and then they would shuffle up to the front two rows,

1 and they would come to a decision as to who would present,
2 how that would work out.

3 The audience can't really participate. What I
4 did is, I picked two individuals on either side of this
5 issue who had submitted written comments and who have
6 presented their response for the Board, to make them
7 essentially issue leaders, to lead off the comments and to
8 allow the Board to dive into the issue, and then of course,
9 everybody else who has signed up and wants to add a
10 comment, if it's not covered by what these folks go through
11 as the people who they want to present, you can still can
12 of course ask to address the Board.

13 This is just to kind of get the Board started.
14 So the way that I expect this will work is, the Item 5(c)
15 will be laid out by staff. When it comes time for public
16 comment, the side of Item 5(c) that is supporting how staff
17 created these QCP points will be done by Cynthia Bast, and
18 the side that is opposed to how staff treated these QCP
19 points will be represented by Janine Sisak.

20 They also have people they would like to
21 present. Cynthia Bast, I believe, has identified three
22 people other than herself who would like to add comment.
23 Ms. Sisak has identified between eight and 11 people
24 besides herself who would like to present.

25 Some of those would like to donate their time to

1 other speakers. I would remind folks that our public
2 presentation and public comment rules, 10 TAC 1.10, does
3 not have the ability to donate time to another speaker, but
4 it is in the Board Chair's discretion to say, you can have
5 a little bit longer since -- for the efficiency and
6 effectiveness of the presentation.

7 That will be in Ms. Bingham's discretion to say
8 if somebody can go on longer than the standard three
9 minutes. For those who are maybe waiting to add comment
10 regarding a particular application and who may never have
11 attended a Board meeting before, I'd like to remind
12 everybody that Item 5(c) is not for the Board to determine
13 whether to grant an award to any of the listed
14 applications. It's only to determine whether the technical
15 process used by staff to award four QCP points was
16 appropriate.

17 So listen to the comments coming beforehand and
18 see if you have anything to add to that, and act
19 accordingly. Does that kind of make sense, on how this
20 will go?

21 MS. BINGHAM: Yes, yes. That makes sense to me.

22 Any other comments from the Board members?

23 (No response.)

24 MS. BINGHAM: So you're -- so what I hear you
25 saying is staff will present the items, and then when it

1 comes to public comment, probably after the Board makes an
2 initial motion, that we'll have some comments relative to
3 support, and then some comments relative to opposition, and
4 then that you're -- you're just reminding folks that, just
5 in case somebody may never have comment -- that the
6 comments won't be on the merits or the pros and cons of the
7 individual application.

8 MR. ECCLES: That's exactly correct. And it's,
9 of course, also at your discretion whether, you know, who
10 starts, whether is supporting staff's action or is opposed
11 to staff's action, whether you'd like to go back and forth
12 between support and opposition.

13 That is firmly within your discretion. Really,
14 the issue leader way of doing this was just so that we
15 would have a place to start, rather than just randomly
16 picking people and taking it in order. It probably would
17 make far more sense if there's an organized presentation
18 before the Board.

19 MS. BINGHAM: Sure. So I think -- I mean, we've
20 been comfortable in the past with kind of alternating, a
21 support and an opposition, and a support and an opposition.

22 So -- and then -- so Ms. Sisak may want to be thinking
23 through -- I agree, where it makes sense.

24 We might let a speaker go on a little bit
25 longer. I don't really see the feasibility of having

1 11 people with -- for the opposition and then donating a
2 bunch of time. But we'll -- you know, what I would just
3 ask, respectfully, as Chair, is that each speaker really
4 try to hold to the three minutes, and if there is a need to
5 go slightly over, then we will try to allow that for --
6 whenever we can.

7 Okey-doke. Marni, do you want to give us the
8 overview?

9 MS. HOLLOWAY: Okay. So Item 5(c) is
10 "Presentation, discussion, and possible action on the
11 process of staff determinations regarding points awarded
12 under 10 TAC '11.9(d)(4) related to Quantifiable Community
13 Participation."

14 And as Beau mentioned, we are not taking action
15 on any particular item today. We are just discussing
16 staff's process regarding these points. It could be in the
17 future, based on this decision, there will be further
18 appeals of scoring for individual applications, but those
19 will be taken up as an appeal item, rather than something
20 that is discussed today.

21 So 2020 QAP identified the requirements for
22 scoring under the Quantifiable Community Participation
23 item, or QCP. This is support from neighborhood
24 organizations whose boundaries include the proposed
25 development site.

1 According to the rule, an application qualifies
2 for four points if the neighborhood association submits a
3 statement of neutrality or provides no statement at all, or
4 if there is no neighborhood organization. QCP is a maximum
5 eight-point item.

6 These four points are just -- are provided,
7 basically, at the point when there isn't participation from
8 the neighborhood organization, and then applicants are able
9 to gain the other four points through support by a
10 nonprofit organization.

11 This year, in a change from prior years, our
12 application form included a self-score box for these items,
13 despite the fact that the QCP is not a self-scoring item.
14 We made this change to facilitate data gathering so that we
15 can just pull data out of the applications, rather than
16 having to go through by hand to determine these items.

17 Because this part of the application was new, it
18 apparently created some uncertainty among applicants on
19 whether or not the box had to be completed. To be clear,
20 there was no change to the QAP, only to the application
21 form.

22 So consistent with how these points have
23 historically determined -- have historically been
24 determined, staff evaluated this scoring item in the same
25 manner as we have for at least the preceding four years.

1 We have historically held these four points to
2 be granted by right rather than proven, as most other
3 scoring items are. On March 10, an application log was
4 posted that showed the QCP scores based on the data pulled
5 from the application.

6 For applicants that had identified a score in
7 the self-score box for this item, their point election was
8 reflected in this log that was just a data dump. On that
9 log, staff had not yet taken the step of indicating all
10 applicant scores for QCP, including those that had not
11 chosen to identify points in the self-score box, but were
12 eligible for these items.

13 A revised log was tested on March 13 indicating
14 scoring for all applicants' QCP, regardless of whether the
15 self-score box was used. So what happened on the 13th is,
16 a number of applications have four more points than they
17 had on the 10th, and it mixed up the order in some
18 subregions.

19 The applications listed on the agenda did not
20 select the self-score box claiming four points, although I
21 do need make a correction there. Application 20079,
22 Fairview Terrace, and 20120 did in fact select those four
23 points, and they're included in the list -- in the agenda
24 in error.

25 All of these applicants that are listed did

1 provide certification notifications stating that either a
2 neighborhood organization was identified, but did not
3 provide a statement, or that no neighborhood organization
4 was identified.

5 So they have provided us that information, that
6 certification. Per the rule, the applications were
7 eligible for and therefore assigned the four points by
8 staff using this methodology. Soon after posting, staff
9 received appeals from nine applicants questioning staff's
10 action and we are requesting that the QCP pull list be
11 removed from the effective application scores.

12 Those folks who sent us those appeals on forms
13 that determinations by the Department are addressed in
14 statute, and which makes clear that an applicant may not
15 appeal a decision made under 2306.6710 regarding an
16 application filed by another applicant.

17 We also received letters from affected
18 applicants expressing their opinions on the process. All
19 of these letters are included in your book. Recognizing
20 that several parties have questioned the process utilized
21 by staff in their review of the applications and the novel
22 presence of a self-score box on the application form, we're
23 bringing this item to the Board to determine if staff has
24 handled the issue appropriately by treating these points in
25 the same manner that it has historically, in spite of this

1 check box.

2 So basically, the question is, does the change
3 to the application form impact the scoring when the rule
4 behind it hasn't changed? So staff is requesting that the
5 Board make a determination regarding these applications,
6 whether the process utilized by staff of awarding the QCP
7 points under the rule was appropriate even if an applicant
8 did not enter a value in the self-score box on the
9 application form, or alternatively, whether staff should be
10 directed to reconsider its process of scoring these QCP
11 points.

12 I'd be happy to take any questions.

13 MS. BINGHAM: Okay. Thanks, Marni. Any
14 questions from the Board regarding the item for action, or
15 any questions in general for Marni?

16 (No response.)

17 MS. BINGHAM: Okay. So then what -- so Marni,
18 there is no -- right now, there -- we're not hearing
19 appeals? This is -- we're not hearing appeals. You
20 brought some appeal letters, but really, the only thing the
21 Board can do today is hear comments and make a decision on
22 whether or not staff acted appropriately, awarding those
23 points.

24 And I'm sure that folks are getting ready to
25 introduce to us several factors that should, you know,

1 drive the decision that we make. But right now --

2 MS. HOLLOWAY: Correct.

3 MS. BINGHAM: -- all we'll do today is just
4 decide whether the staff acted appropriately in awarding
5 those four points?

6 MS. HOLLOWAY: That is correct.

7 MS. BINGHAM: Okay. All right. I think then --
8 let's -- would you -- does someone want to make a motion,
9 or would you prefer to table the motion until after comment
10 about --

11 MR. BRADEN: I'll make a motion to hear
12 comments.

13 MR. VASQUEZ: Second.

14 MS. BINGHAM: Great. All right. Perfect. All
15 right. All right. So we have a motion from Mr. Braden,
16 second from Mr. Vasquez, to hear comments at this time.

17 MS. CANTU: This is Naomi Cantu, moderator, and
18 we're going to start with Cynthia Bast. Cynthia, we're
19 going to unmute you.

20 MS. BAST: Thank you. Thank you, Ms. Cantu.
21 Cynthia Bast of Locke Lord, here representing six
22 applications impacted by this agenda item. We support the
23 procedure used by staff to address the QCP points. Their
24 action was consistent with the historical procedure, along
25 with the statute and rules.

1 The Texas Government Code charges TDHCA to
2 create a form of application log. The statute requires
3 that the log contain the score of the application in each
4 scoring category adopted by the Department. TDHCA has
5 chosen to establish eight categories of scoring on its log.

6 Self-scores, one category. QCP is a separate
7 category. Different scoring categories have different
8 characteristics. For instance, the readiness to proceed
9 category only applies in certain jurisdictions. The QCP
10 and state representative letter categories rely upon items
11 being delivered outside the application which are not
12 within the applicant's control.

13 So each category of scoring must be handled in
14 accordance with its particular circumstances and the rules.

15 The QAP says the Department will, from time to time during
16 the review process, publish an application log which shall
17 include the self-score and any scoring adjustments made by
18 staff.

19 When staff determined that the March 10 log did
20 not yet identify the QCP points earned by 36 applications,
21 it adjusted the score, as the rule directs it to do. It is
22 important to note, and I believe Ms. Holloway already did,
23 that all these applicants identified in their pre-
24 application that they did not believe there was a qualified
25 neighborhood organization to issue a letter.

1 So they expected to earn four points. This
2 information carried over to the application, where the
3 applicants again stated their understanding regarding the
4 neighborhood organization. By rule, the pre-application
5 becomes part of the application.

6 So all of the information is in there in the
7 application, showing that these applicants are entitled to
8 four points. And that is why an administrative deficiency
9 is not necessary for this circumstance.

10 The QAP says the staff will issue an
11 administrative deficiency when an application does not
12 include [inaudible] support. In this case, staff used all
13 the same information it has traditionally relied upon to
14 determine that these 36 applications earned four points
15 under the rule.

16 The appeal letters talk quite a bit about
17 administrative deficiencies, and how you cannot increase
18 points by an administrative deficiency, but that is not
19 applicable here. To conclude, the statute and rules
20 require staff to review and verify or assign points in each
21 scoring category.

22 The applications in question contain the
23 information necessary for staff to establish the score in
24 the QCP category. To remove these points based upon a box
25 that was intended to serve an administrative function would

1 be a true departure from the agency's historical procedure
2 and policy.

3 I'm happy to answer any questions you may have.

4 MS. BINGHAM: Thank you, Cynthia. Any questions
5 from the Board members?

6 (No response.)

7 MS. BINGHAM: Hearing none. Thank you.

8 MS. CANTU: Okay. Ms. -- let me see. Excuse
9 me. Vice Chairwoman Bingham, would you like -- Cynthia
10 Bast was for. Would you like an against now, or should we
11 hear some more for?

12 MS. BINGHAM: Let's go with an opposition, an
13 against.

14 MS. CANTU: All right. That would be Janine
15 Sisak. We're looking for Janine.

16 MS. BINGHAM: Great.

17 MS. CANTU: And you are unmuted.

18 MS. SISAK: Can everybody hear me okay?

19 MS. CANTU: We can hear you.

20 MS. SISAK: This is Janine Sisak. Good morning,
21 Madame -- okay. Great. Good morning, Madame Vice Chair
22 and Board members. I want to thank the Board and staff for
23 hearing us out today. This seems a big to-do about
24 nothing, but it's really important.

25 It's important to get this right for the

1 integrity of the process and to avoid setting a really bad
2 precedent. So we want to talk today about process, about
3 TDHCA's choice to shortcut its own process, as established
4 by rule.

5 We need to think about the big picture, not
6 about this particular point item, but about how TDHCA has
7 always counted application scores for determining
8 application logs and priority review. The issue is not how
9 this particular point item was handled in the past, or that
10 the form for this scoring item was different this year than
11 last year.

12 The issue is that TDHCA decided to add four
13 points that were not requested by the applicants on 30 or
14 so applications. Staff should have honored the March 10
15 log because that log accurately reflected the points
16 requested by the applicants, and staff should have
17 proceeded to review applications in that order.

18 But not following their typical process, staff
19 violated QAP, Section 11.201(a), limited review, which
20 states, and I quote: "If, after the submission of an
21 Application, an Applicant identifies an error in the
22 Application that could likely be the subject of a
23 Deficiency, the Applicant may request a limited review of
24 specific and limited issues. The issue may not relate to
25 the score of an Application."

1 Note that this provision states, "score" and not
2 self-score. The affected applicants argue that this item
3 should be treated differently. This is outside the self-
4 score and based on items outside of the applicant's
5 control.

6 This argument is without merit. First, the
7 plain language of the rule is clear that limited review
8 cannot relate to score, period. There's no carve-out for
9 items outside of the self-score or items outside of the
10 applicant's control.

11 Second, while this item is indeed outside the
12 self-score, these points needed to be selected this year.
13 Because of this purposeful change from prior years, this
14 point item must be treated like other elective scoring
15 items also outside of the self-score.

16 Consider readiness or CRP points. Surely, if
17 someone accidentally didn't select CRP points or readiness
18 points, staff wouldn't have added those missing points from
19 the application log upon applicant's request. Staff
20 deducts points all the time, but adds them when they
21 weren't additionally requested?

22 Never. It's simply not allowed by rule. Here,
23 what happened was very simple. On 30 or so applications,
24 approximately half of which were prepared by the same
25 consulting shop, only a handful of people made a scoring

1 mistake.

2 More than 100 people did it correctly. The form
3 was not unclear. It had a drop-down box for picking
4 points. Yes, it was different than last year, but it
5 doesn't matter. The golden rule of the 9 percent program
6 is, if you don't elect the points, you don't get them.

7 It's a harsh rule. I know. I was on the other
8 side of the same situation in 2015 when my application was
9 never reviewed because I failed to elect points on my March
10 1 application. Staff referred me to 11.201(a), which is on
11 point then, and it's on point now.

12 Still, when questioned about this situation
13 after March 13, staff responded with a very carefully
14 drafted response. The points were added not by request,
15 but by rule. This response sidesteps the issue of whether
16 the points were requested by an applicant or an applicant's
17 consultant, attorney or lobbyist.

18 I do not agree that staff had the ability to
19 split hairs like this. Upon the posting of the March 10
20 log, my open records request revealed that several people
21 immediately contacted staff about correcting the log to
22 reflect the unselected points.

23 The staff decision at issue today occurred
24 during a very stressful time we all vividly remember. When
25 the COVID-19 crisis was quickly becoming a reality here, I

1 remember staring down lockdown orders coming the following
2 week.

3 And it's my opinion that staff made the wrong
4 call when [indiscernible] post a new log before the end of
5 that hectic week, and in doing so, it violated its own
6 rules. Staff does not have the authority to correct an
7 application mistake regarding score, and reflect it as
8 corrected on the log.

9 Staff can correct a mistake on a log, but not a
10 mistake on an application. This is a critical distinction.

11 We respectfully ask that TDHCA reverse its position and
12 reflects on a new scoring log only the points requested by
13 these 30 or so applicants.

14 I thank you for your time and consideration.
15 I'm sorry for going over.

16 MS. BINGHAM: Thanks so much, Janine. So any
17 questions from the Board members for Ms. Sisak at this
18 time? Any questions for Marni right now? Okay. Paul, did
19 you have something?

20 MR. BRADEN: Yes. So either for Marni or the
21 speaker, what other elective points are outside of the
22 self-score? I mean, the big distinction seems to be --
23 when I read through the material, this seems to be that if
24 it's self-score, you're supposed to be electing points, but
25 if it's not self-score, the TDHCA staff always provided

1 those points, but the speaker indicated that there are
2 certain, you know, other points out of the -- outside the
3 self-score, that you have to elect to get access to.

4 MS. HOLLOWAY: Right. Well, and Janine's
5 correct. CRP is another one that's outside of self-score.

6 I believe state representative is outside of self-score.
7 QCP is outside of self-score. And as Janine mentioned,
8 these are things that require either information to come
9 from outside of the applications, but for QCPs, we have to
10 receive the correspondence from the neighborhood
11 organization directly, or in the instance of state rep
12 letters, frequently we get them directly from the state
13 rep, just rather --

14 (Pause for technical difficulties.)

15 MS. HOLLOWAY: Okay. So that's basically the
16 difference. And in the past, we would have looked at the
17 certification of notifications regarding neighborhood
18 organizations and seen that there wasn't a neighborhood
19 organization, and just automatically granted that four
20 points, before the box was put into the application.

21 MR. BRADEN: And on state reps, we obviously
22 wait for the letter to come in from state senators --

23 MS. HOLLOWAY: Yes.

24 MR. BRADEN: -- and then we award points on the
25 basis of that. And what about CRP?

1 MS. HOLLOWAY: CRP, because - it's one -- is a
2 package of documents that is much larger and requires quite
3 a bit of evaluation on our part. It's not like -- you
4 know, CRP and opportunity index are sort of coequal. The
5 opportunity index is actually really pretty simple to
6 evaluate.

7 You look at a map and if that thing within that
8 radius -- and then you get that menu item, whereas CRP
9 requires that we read through the plans and we read through
10 the financing, and evaluate whether or not that CRP meets
11 requirements in the rule.

12 MR. BRADEN: But do we award those points, or do
13 they choose those points, and we verify it?

14 MS. HOLLOWAY: We award those points.

15 MR. BRADEN: Okay.

16 MS. HOLLOWAY: So for instance, on the
17 application log, there's a column for opportunity index
18 points, and, you know, that's automatically populated. The
19 CRPs are not.

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

21 MS. HOLLOWAY: Uh-huh?

22 MS. THOMASON: So how common is it that staff
23 prints a log and then realizes that there are some non-
24 self-scoring items that need to be updated, and update a
25 log?

1 MS. HOLLOWAY: It happens on a regular basis, as
2 we're moving through cycles. For instance, one of the
3 things that changes as we're working through logs is
4 tiebreakers. So -- or the two-mile rule, or for this year,
5 the same census tract rule.

6 Those are things that will change as we're
7 working through applications and publishing new logs.

8 MS. THOMASON: Thank you.

9 MS. BINGHAM: Hey, Marni, I got a message that
10 maybe Michael has some letters to read into the record. I
11 just wanted to check with him first, but I was wondering --

12 MS. HOLLOWAY: I believe so, yes.

13 MS. BINGHAM: -- if so -- hey, Beau, did you see
14 that? Is it -- is now okay for Michael to read those into
15 the record, or do you need to take a look at them?

16 MR. ECCLES: I believe these are state rep
17 letters. This is Beau Eccles. And those can be read into
18 the record in the midst of your public comment.

19 MS. BINGHAM: Thanks. Then, let's -- if you
20 guys are okay, Michael, if you can read those letters into
21 the record. And then, Naomi, we would go back now, when we
22 continue public comment, to have -- if there's a comment or
23 the ones to speak in support, from what -- to see if that
24 was organizing.

25 MS. CANTU: Yes. Next on deck would be Ryan

1 Combs after the letters.

2 MS. BINGHAM: Okay. Let's hold just for a
3 minute, and see if Michael can jump on and read the
4 letters.

5 MR. LYTTLE: Okay. Hi. Michael Lyttle, TDHCA
6 staff. The first letter is from State Senator Carol
7 Alvarado. To the Board, she says: "I am writing to
8 provide comments on an action item being presented to the
9 TDHCA Governing Board on 4/23/20, relating to the process
10 taken by TDHCA staff in determining points awarded under
11 Section 11.9(d)(4) relating to quantifiable [audio
12 interference] --

13 MS. BINGHAM: Okay. Michael?

14 MR. LYTTLE: -- as the state rep -- yes?

15 MALE VOICE: It was --

16 MS. BINGHAM: We were having some interference.
17 Maybe we could see that everybody else's lines are muted,
18 and then you may need to back up, like, a paragraph.

19 MR. LYTTLE: Okay. Is this somewhat better?

20 MS. BINGHAM: Yes.

21 MR. LYTTLE: Okay. Well, I was in the second
22 paragraph, so I should probably start over again. "I am
23 writing to provide comments on an action item being
24 presented to the TDHCA Governing Board on 4/23/20 relating
25 to the process taken by TDHCA staff in determining points

1 awarded under Section 11.9(d)(4) relating to quantifiable
2 community participation.

3 "TDHCA staff's" -- I am hearing some very
4 strange noises. Sorry. It's distracting.

5 MS. CANTU: I think it's -- Monica just
6 accidentally got unmuted, but it looks like she's off now.

7 MR. LYTTLE: Okay.

8 MS. CANTU: Sorry.

9 MR. LYTTLE: "TDHCA staff's actions have harmed
10 the potential of OST Lofts, a proposed affordable housing
11 development that will be located in my district at 5520 Old
12 Spanish Trail in Houston. In my former capacity as chair
13 of the House Urban Affairs Committee, as the State
14 Representative from District 145, and in my current
15 capacity as a member of the Senate Governmental Relations
16 Committee, I fully understand the competitive nature of the
17 9 percent point-based housing tax credit program
18 administered by TDHCA.

19 "The program is governed by state statute and
20 rules outlined in the Qualified Allocation Plan, but must
21 be strictly enforced by TDHCA staff and applied equitably
22 to all applicants for the limited HTC resources available
23 for the state of Texas.

24 "Based on my understanding of the QAP, the
25 applicant must request points for which they believe their

1 application is eligible in each of the various scoring
2 categories of the uniform application. These scoring
3 categories are established by statute and rules, as
4 outlined in the QAP.

5 "The applicant is not allowed to make any
6 adjustments to the scoring of their application once
7 submitted to TDHCA. It was brought to my attention that
8 TDHCA staff granted QCP points to certain applicants that
9 did not request these points in their application and
10 before conducting any formal review of the applications
11 through the administrative deficiency process, as outlined
12 in the QAP.

13 "Granting the QCP points by TDHCA staff to those
14 applicants that did not claim these points in their
15 applications placed the OST Lofts application in a non-
16 priority position in Region 6, putting at risk the possible
17 award of HTCs to this project.

18 "I do not believe that the TDHCA staff is
19 allowed by the QAP to grant points if such points were not
20 requested by the applicant in their original application.
21 I hope that the Governing Board will look very closely at
22 this issue to ensure that state statute and rules, as they
23 currently exist in the 2020 QAP, are followed diligently
24 and applied objectively across all applications.

25 "We very much appreciate all the hard work that

1 TDHCA staff and the Governing Board do to ensure that high
2 quality affordable housing is made available to our most
3 vulnerable population. Please do not hesitate to contact
4 my office if we can be of service to you in this matter.

5 "Sincerely, Carol Alvarado, State Senator,
6 District 6." The second letter is from State
7 Representative Christina Morales, and it reads: "My office
8 was provided a letter of support for the planned community
9 being proposed in my district at 5520 Old Spanish Trail,
10 Houston, Texas 77023.

11 "The proposal is to combine OST Lofts in an
12 affordable housing community and a quality pre-kindergarten
13 program that will be available to the residents of OST
14 Lofts and to those living in the neighborhood.

15 "I am writing concerning a matter that was
16 brought to my attention regarding adherence to QAP rules
17 and the 2020 9 percent competitive housing tax credit
18 cycle. Specifically, TDHCA staff's election to grant
19 Quantifiable Community Participation points to applicants
20 that did not claim these points in their application.

21 "TDHCA staff's actions and the resulting
22 re-scoring of the application has placed the OST
23 application and others in a non-priority position in Region
24 6, and therefore possibly out of a funding position.

25 "I hope that you will give this matter your

1 utmost consideration. Our state and federal governments
2 are served well by boards and commissions like TDHCA that
3 carry out the statutory intent and specific provisions of
4 the enacted laws and rules, including the QAP rules that
5 govern the HTC Program.

6 "As stewards of our HTC Program, you have the
7 necessary discretion to ensure compliance with the intent
8 and goals of governing statutes. I thank you in advance
9 for working to ensure that the QAP rules are followed with
10 precision and fairness in the awarding of 2020 housing tax
11 credits.

12 "Sincerely, Representative Christina Morales,
13 Texas State House District 145." And that is it.

14 MS. BINGHAM: Thank you. Thanks, Michael.
15 Naomi, are you ready with the next speaker?

16 MS. CANTU: Yes. That would be Ryan Combs. And
17 we're looking for him, and he's unmuted. Ryan?

18 MR. COMBS: Yes. Thank you so much. I'm Ryan
19 Combs. And I also want to express my support for the
20 process that staff has used to score QC points this year,
21 consistent with how they've scored it in years past, as
22 Marni has already stated.

23 Our competitors cannot claim that our
24 applications are not eligible for these four points,
25 because they are. All they can claim is that we did not

1 check a box that Marni has already said that they're just
2 for data, that read the same as last year, that the item on
3 the application read the same as last year without any
4 change or instructions to tell anyone differently.

5 As developers, we make our decisions to move
6 forward with final applications based upon our
7 pre-applications. Everybody does. Our pre-application
8 called out that we expected to receive these four points
9 for QCP, so our competitors were not disadvantaged in their
10 decision-making.

11 They all knew that we were all eligible for
12 these points. In 2019, the scoring item was largely the
13 same as this year, and appeared similarly on the
14 application with the addition of a points box this year.
15 Both years, we did not check the box on this item, as it
16 seems to indicate that it requires a QCP packet to be
17 submitted, and our applications are eligible for four
18 points without submitting a QCP packet.

19 We were automatically awarded those points in
20 2019 without checking the box. We filled out the
21 application exactly the same this year as we did last year
22 when we received the points last year, the same.
23 Therefore, we filled out this item in -- consistently with
24 the reading of it last year, and staff had scored it
25 consistently.

1 Because staff has stated on record that this
2 drop-down point menu is simply to facilitate staff data
3 gathering, changing the meaning of that menu now, after the
4 application submission, would be a significant change to
5 the process, and a limited review, as Janine mentioned,
6 does not even apply, because the error was in the log, not
7 the application, as Marni mentioned.

8 There is no benefit to punishing 35 applications
9 that followed the rules and filled out applications
10 consistent with the rules and how they filled them out in
11 years past, and when we've earned these QCP points. But
12 the cost is the loss of considering -- consideration of
13 deserving and higher-scoring applications.

14 I support the process the staff has used this
15 year, and I ask you to do the same. Thank you.

16 MS. BINGHAM: Thank you, Ryan. Any questions
17 from the Board members?

18 (No response.)

19 MS. BINGHAM: Naomi, is there somebody from
20 Janine's group that would like to speak in opposition?

21 MS. CANTU: There is. Deanna or Diana McIver.
22 She did state that she might be donating time, so we're
23 going to check with her, if she wants to speak. Diana, do
24 you want to go ahead and let us know if you want to speak?

25 MS. MCIVER: No, I do not.

1 MS. CANTU: Okay. And then Joe Broki. He is up
2 next, and I'm looking for him. And go ahead.

3 MR. BROKI: Joe Broki is prepared to speak at
4 the Board's leisure. What's that?

5 MS. CANTU: We can hear you.

6 MR. BROKI: Okay. I'm sorry. I thought Ms.
7 McGyver was speaking first. First of all, thank you for
8 your time today. Thank you for your consideration. I
9 don't know many of you, but I have met Mr. Wilkinson
10 through Mr. McCall and Mr. Carter before, and it's good to
11 see you again, Mr. Wilkinson.

12 And Mr. Braden, I met you through your partner,
13 Mr. Incerto, and it's good to see you and Mr. Watson. I
14 represent the Housing Trust Group, and I would say, amen,
15 amen, hallelujah to Mr. Combs' comments earlier today, and
16 which when he spoke to another provision, he spoke in
17 support of the need for consistency and the need to follow
18 all the rules, which apparently he's abandoned when it's
19 come to this application.

20 The fact is the application's far different.
21 There is a change, and my client has been materially
22 disadvantaged, materially harmed by what the staff has
23 done. In terms of whether you want to look at it in terms
24 of standing or otherwise, we have sustained a direct injury
25 because we fall within that two-mile, same-year rule as

1 Azalea West.

2 And let's try to keep this within the three
3 minutes. Azalea West did not claim the four points for
4 quantifiable community participation, nor did they check
5 the box to indicate that they expected to seek the points.

6 The -- if we had more time, I would show you the
7 page. My fifth-grader could get this right. It's not like
8 we're asking you -- you don't need a J.D. You don't need
9 an undergraduate degree to fill out this application.

10 This just didn't do it. They made -- let's give
11 them the benefit of the doubt. They made a mistake. But
12 you're not here -- the Department's not here to correct
13 mistakes. They didn't claim their four points. They
14 didn't check the box indicating they expected the four
15 points.

16 As a result, they received an improper award of
17 four points. And we know that the lower-scoring
18 application will not be reviewed, and that is Azalea West's
19 application. So what they're asking you to do is set a
20 precedent that an applicant may expect the Department to
21 fix their mistake.

22 If that is in fact the case, why do you even
23 have the box? A box doesn't matter. Going back to
24 contracts 101, due process 101, constitutional law 101,
25 it's fundamental that language matters, and if that box was

1 on the app, and it was intended to be given effect, it's
2 not something that can be arbitrarily dismissed or changed,
3 which is what the proponents of this staff change are
4 assign you to do.

5 The point here is, we have rules, and if they're
6 not going to be followed, then the result is anarchy or
7 chaos. That contravenes the small-D democratic and small-R
8 republican principles upon which this state and country
9 were established, and they're asking you to open up a
10 Pandora's Box, and I would suggest to you that we need to
11 keep Pandora's Box shut and follow the rules.

12 Park Tower followed the rules and should be
13 considered for the 2020 9 percent tax credits. Azalea West
14 did not and therefore should not be considered. The rules
15 are clear. Applicants are required to certify, among other
16 things, that they have familiarized themselves with the
17 rules that govern the program.

18 In terms of documentation to substantiate items
19 and representations in the application, any application
20 that the staff identified as having insufficient
21 information will be directed to cure the matter via a
22 deficiency process.

23 So what happens in the deficiency process? The
24 applicants can't use it to increase their score, and they
25 are reminded that this process may not be used to increase

1 their score, and also significantly they are reminded that
2 it may not be used to change any aspect of their
3 application, including their failure to check the process.

4 While this is technical and stringent, that is
5 the very nature of the program that we all find ourselves
6 in. This is a technical and stringent process. Applying
7 for competitive housing tax credits is a technical process
8 by rule that must be followed completely and correctly.

9 Applicants must fully understand --

10 MS. CANTU: Mr. Broki?

11 MR. BROKI: Yes, ma'am?

12 MS. CANTU: All right. Mr. Broki, can you start
13 wrapping it up?

14 MR. BROKI: Yes. I have -- Justin Tommel and
15 Haley Devane have afforded me their time, if I could take
16 advantage of their time. I won't need all of it. That's
17 another six minutes.

18 MS. BINGHAM: Great. Let's do another two.

19 MR. BROKI: Yes, ma'am.

20 MS. CANTU: And this is Naomi Cantu, the
21 moderator. We are not allowing donated time during this
22 Board meeting. We did discuss that. Beau Eccles did
23 discuss that. No donated time but --

24 MS. BINGHAM: Yeah, yeah. Thank you very much.
25 Mr. Broki, let's wrap it up in two minutes.

1 MR. BROKI: I'll use our management and I will
2 wrap it up. According to the rules, it's the applicant's
3 sole responsibility to perform independently the necessary
4 due diligence to research, confirm and verify any data,
5 opinions, interpretations or other information upon which
6 the applicant bases an application or includes any
7 submittal in connection with the application.

8 It is not the responsibility, the duty or the
9 job of the Department or its staff to do so. The staff
10 does not have the authority to adjust upward. And I would
11 say, in this situation, it's significant that we had a
12 neighborhood organization here within the boundaries of
13 Azalea West that did not submit a QCP packet because it
14 didn't qualify as a neighborhood organization, but that
15 neighborhood organization -- and I believe Ms. Ava Bonilla
16 is ready to speak today -- has made it very clear that they
17 opposed Azalea West.

18 So whether you want to look at this from a legal
19 standpoint in a strict construction of rules and law, which
20 I'm happy to argue all day, my client wins, if you want to
21 look at it from an equitable standpoint and you want to
22 listen to the neighborhood organization -- my client wins,
23 because they oppose the Azalea West.

24 Thank you very much for your time and
25 consideration.

1 MS. BINGHAM: Thank you, Mr. Broki. Before you
2 leave, any questions from any of the Board members for Mr.
3 Broki?

4 (No response.)

5 MS. BINGHAM: Hearing none. Okay. Naomi, let's
6 see if there's --

7 MS. CANTU: So Alyssa Carpenter is next. She is
8 on the other side. And at this time, we're going to go
9 ahead and unmute you, and --

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

11 MS. CANTU: Yes. After Alyssa, we have Clem
12 Gormley. Go ahead, Alyssa.

13 MS. CARPENTER: Oops. Okay. Thanks. Good
14 afternoon, everyone. My name is Alyssa Carpenter, and I am
15 the consultant who worked on several of the applications
16 impacted by this issue. I would like to state that I am in
17 support of staff's handling of the application score logs
18 and the assignment of four points for these applications.

19 I've been working as a consultant and preparing
20 tax credit applications since 2007 and I work with several
21 different developers. When preparing applications, I
22 consider what I did on the prior year's applications, in
23 factoring any changes made for the current year based on
24 the QAP, training materials and guidance from staff.

25 I also regularly ask staff for clarifications of

1 any items that are unclear. Last year for 2019, the QCP
2 section in the application had a check box that stated, and
3 I quote, "application expects to receive QCP points," and
4 then it also noted in bold, "the QCP packets may not be
5 submitted by the applicant and must be received by a
6 neighborhood group."

7 In 2019, I did not check that box if I did not
8 expect QCP points from a QCP packet submitted by a
9 neighborhood group. We did not receive any deficiencies
10 for that item, and all applications that did not receive a
11 QCP packet were assigned those four points by staff for the
12 QAP, including those applications of people in opposition
13 today who also did not check that box in 2019.

14 Now, for 2020, the QCP check box language is
15 exactly the same, but a drop-down point menu was added that
16 corresponds to the check box. The points in the menu all
17 correspond to values for QCP packets, so there was still no
18 reason to believe that this was for anything other than a
19 QCP packet.

20 I filled out this box on points when I expected
21 to receive a QCP neighborhood packet and did not check the
22 box if I did not, just I did in 2019, since there was
23 nothing in the 2020 materials to indicate that this was to
24 be filled out any differently from 2019.

25 I filled it out the same way to be consistent. I

1 would like to point out that of the approximately 35
2 applications that have this issue, they were submitted by
3 16 different developers or 11 different application filers,
4 if you group them by use of the consultant.

5 This is not where one or two people interpreted
6 this differently or "made a mistake." We filled out the
7 form appropriately. Staff has historically added these
8 points to the application log based on their review of the
9 pre-application, application and QCP packet.

10 For the past several years, an initial score log
11 has been posted by staff that did not include QCP points
12 and the log was subsequently updated by staff with the
13 points added. Again, this shows that the actions by staff
14 were consistent with previous years and not in any way
15 unusual.

16 If four points are not applied to applications
17 that did not receive a QCP packet, this would be a
18 significant change from 2019, and inconsistent with how
19 this scoring item has been handled for many years. The
20 applicant does not do anything for these points [audio cuts
21 out].

22 MS. CANTU: You're unmuted.

23 MR. GORMLEY: Good afternoon, Vice Chair
24 Bingham, members of the Board. Can you guys hear me?

25 MS. CANTU: Yes, we can now.

1 MR. GORMLEY: Can you guys hear me? Okay.
2 Sorry about that. Good afternoon, Vice Chair Bingham,
3 members of the Board, Executive Director Wilkinson, TDHCA
4 staff. First, let me just say, thank you for what you guys
5 do and your dedication, especially in these trying times.

6 It's very challenging days. What my previous
7 speaker just said, and I wanted to really kind of emphasize
8 it, a drop-down box corresponding to the election of claim
9 of points now exists in the 2020 uniform application.

10 As a former administrator directly responsible
11 for several annual rulemaking for LIPAC and administrating
12 the annual application processes, I could testify that the
13 rules create consistency -- that's been repeated here
14 several times -- and maintain fairness in this application
15 process.

16 It's a very competitive process. I intimately
17 understand the nuances staff faces in reviewing
18 applications and the importance of adhering to rules and
19 the processes established for the annual application round.

20 It's a very technical round. Right? A very
21 technical process. This includes how the QAP incorporates
22 the uniform application into its process, because a lot of
23 times, there's a technical aspect that cannot be clarified
24 in the QAP, but must be maintained with the application
25 itself.

1 That's why they're incorporated together. In
2 addition to having consulted for other agencies in the past
3 along with their policies and deal analyses, I have never
4 witnessed an instance where previous years' rules and
5 processes overrule current rules and processes purposefully
6 changed and reflected in the 2020 uniform application.

7 I've heard here a few times -- it was talked a
8 little bit about -- you know, historically, we've done
9 this. Historically, we've done that. And that it was
10 decided that that box was added for the point claiming, to
11 collect data.

12 That is not proposed or was not ever clarified
13 by the agency in its process. Don't make casual mistakes.

14 Don't assume anything. Ask. Don't expect TDHCA to do
15 your homework. These are not my words. These are TDHCA's
16 words, shared and posted back in November when these
17 changes were made and shown in their TDHCA application
18 webinar.

19 So this was clearly out there for a period of
20 time for people to understand. We, like 100 or more other
21 applicants, acquainted ourselves with these annually-
22 changing rules. We didn't casually treat any point
23 claiming right, and we expected to claim these and didn't
24 expect TDHCA to just grant us these points, as shown in the
25 form.

1 The fundamentals of real estate at Park Tower
2 are sound. We were harmed by the two-mile rule when the
3 log changed. It's definitive. I have been in front of
4 this Board several times, and it's interesting that we have
5 a neighborhood organization that adjoins us that supports
6 our project but does not support Azalea West.

7 We have an additional neighborhood that adjoins
8 us that supports our project as well and also has
9 opposition to the Azalea West project. With that, I
10 respectfully request that TDHCA reverse the four-point
11 granting, and reestablish Park Tower's position on the
12 application log.

13 Thank you very much.

14 MS. BINGHAM: Thank you, Mr. Gormley. Any
15 questions from the Board?

16 (No response.)

17 MS. BINGHAM: Would like to -- I think the
18 concerns are very well stated and passionate. We are
19 starting to hear kind of the same concerns from the
20 speakers. So let's try to have one more speaker from each,
21 of support and opposition, and try to limit to three
22 minutes, and then we'll -- I'll follow up with the Board on
23 any further questions that the Board members have.

24 MS. CANTU: This is Naomi Cantu, moderator.
25 We're looking for Matt Higgins, who is next up. His audio

1 control is not on. Matt, if you are listening, please go
2 ahead and try and call back in. We will go on to Russ
3 Michaels.

4 Russ Michaels? We're looking for him.

5 MR. MICHAELS: Yeah, I'm here. Can you guys
6 hear me okay?

7 MS. CANTU: We can hear you, and after you
8 speak, we have Eva Bonilla. Yes.

9 MR. MICHAELS: Okay. Perfect.

10 MS. CANTU: You're on.

11 MR. MICHAELS: All right. Yeah. Thanks. I've
12 got this right around three minutes or three and a half
13 minutes. I promise not to take too long. My name is Russ
14 Michaels. I'm an attorney and the executive director of
15 Texas Interfaith Housing in Houston, and we're one of the
16 largest local nonprofit developers in Texas.

17 You know, and I've been with many of you for
18 well over a decade now, and I just absolutely love, really,
19 what we all do. We better people's lives. We improve
20 their living, and it's just an absolute blessing to kind of
21 be part of this industry right now, especially when
22 everybody can really have each other's back during this
23 pandemic.

24 Now, I'm on this 5(c) action item. I support
25 the development team for Dian Street Village in Houston,

1 and like over 35 other applicants, we didn't check that
2 box, but I'm 1,000 percent, 1,000 percent unequivocally
3 behind Bobby, Marni, Sharon and staff on this.

4 I'm in staff's corner. They have been doing an
5 impeccable job of handling this action item, and actually,
6 the entire 9 percent cycle. You know, let's be honest.
7 Like, right now, what we really need are leadership and
8 consistency, and quite frankly, they're showing up in a big
9 way.

10 And I'm here primarily, really, for this side,
11 to echo what Cynthia Bast said and everybody else has said,
12 that the QCP is really a separate category. It just is.
13 It's not self-score. And staff has the ability to adjust
14 those non-self-score items.

15 And here's the thing that I think a lot of
16 people are missing right now. 10 TAC 11.884 -- the
17 pre-application becomes part of the application anyways.
18 And so we all selected the points. Everybody did. And we
19 all put in the evidence the full app to actually get the
20 points that we requested, those that we could actually put
21 evidence in.

22 The evidence we couldn't put in is actually
23 coming from the letters from the neighborhood organizations
24 we don't have any control over. So staff is just flat out
25 getting this right, you know. They've always determined

1 the scoring item, not by checking a box or not checking a
2 box, but by subjective and consistent review of the
3 evidence in the application.

4 You know, at Dian Street Village, we were
5 consistent and we accurately should receive the points
6 because we submitted our evidence, and that's what we've
7 been doing for years now. So I just have, like, one or two
8 more points here, and then I'll complete this.

9 A consistent QAP has been the trademark of TDHCA
10 and the Board for years. Really, we value that. We all
11 have been. You know, and like I said, that's something
12 that we should all be very clear about on this, is that
13 it's been consistent, and we're doing everything that we
14 can.

15 And lastly, this is worth mentioning. It's
16 probably my own thing, but I'm going to mention it anyways,
17 because the opposition was kind of mentioning stuff too.
18 The handful of developers arguing against staff and us
19 today are almost unanimously outside the winners' circle,
20 and they're just wanting to knock people out so they can
21 win their allocation on their own deal, that scored lower
22 than everybody else.

23 So the momentum of this agenda item -- it has
24 more to do with a small handful of developers who are not
25 winning their deal right now. That's it. So you know,

1 imagine if we took that approach all the time during this
2 pandemic, choosing just a handful of people, people who are
3 only thinking about themselves over the consistent and
4 prudent leadership of the collective whole, which is what
5 Bobby, Marni, Sharon and staff is doing.

6 I mean, we're all just following the rules to
7 the best of our ability, and that's why it's prudent to
8 follow staff right now. Staff's being fair and consistent
9 for everyone in this tax credit cycle, and we should value
10 that right now.

11 And again, I think it's fair to state that
12 Pandora's Box is already open. We're in a pandemic.
13 Right? And you know, the beauty of that story is that once
14 everything's out of the box, all that's left is hope.
15 Hope.

16 And so I really hope that we follow leadership
17 and consistency and staff today, not the whims of a few
18 developers that just want to win. So thank you for your
19 brilliant Board leadership all morning and all afternoon.
20 I really appreciate it, and you also look super terrific on
21 that screen, by the way.

22 So I'll assume there aren't any questions for
23 me. Thank you so much.

24 MS. BINGHAM: Thank you very much, Mr. Michaels.
25 And I think, Naomi, you mentioned the next speaker, and it

1 is the speaker that was for the opposition -- correctly.
2 Is that correct?

3 MS. CANTU: That's correct. Uh-huh. And I was
4 just wondering --

5 MS. BINGHAM: What is the speaker's name again?

6 MS. CANTU: It is Eva or Eva Bonilla.

7 MS. BINGHAM: Okay. Great. Because -- I may
8 have misunderstood, but a little while earlier, one of the
9 previous speakers had mentioned what Eva was going to speak
10 on, and it sounded a little like, to me, it was more about
11 the merits of the actual application or the lack of merit
12 of another one.

13 So I just wanted to make sure that we stay --
14 that we're clear about what we're here to talk about in
15 this action item.

16 MS. CANTU: Yes. I do hear you.

17 MS. BINGHAM: Great.

18 MS. CANTU: I did want to read into the record,
19 Ryan Wilson with Franklin Development wants to express
20 support for staff's recommendation. He does not want to
21 speak. And so with that, we're going to go ahead and go to
22 Eva Bonilla.

23 And she is unmuted.

24 MS. BONILLA: Thank you. Hi. My name is Eva
25 Bonilla, and I'm president of the Linwood Neighborhood

1 Association, and we are a very active organization on
2 record with the city of Ft. Worth, but not Tarrant County,
3 since they don't maintain a database of neighborhood
4 organizations or with the city or the Secretary of State.

5 And the Linwood Neighborhood Association sent
6 formal opposition to TDHCA on February 3, and we were told
7 that our letter would be registered as public comment. The
8 developer that presented to us originally was Sagebrook
9 Developer, not the developer who appears to be FTI
10 Development.

11 And they were aware of our organization prior to
12 December 4, and could have disclosed that if we wanted to
13 participate in the process, we would need to register with
14 the Secretary of State. We believe they purposefully
15 withheld that information from us to prevent us from
16 objecting to their development.

17 So we believe that inappropriate -- it is
18 inappropriate for this developer to be allowed to move
19 forward with or -- with our support -- with or without
20 support, because even -- most inappropriate that the
21 developer has been awarded points for QCP that they did not
22 request.

23 While the Linwood Neighborhood Association may
24 not meet the TDHCA definition on neighborhood organization,
25 we are very active in the city of Ft. Worth and the Azalea

1 West development is within our boundaries, and all our
2 members live within our boundaries.

3 We would like to affirm that this is not an
4 issue with affordable housing, but with smart planning and
5 development. I understand the need for affordable housing,
6 but you can't force a need into the wrong site. We have
7 fully supported the Park Tower, which is less than a mile
8 from our neighborhood boundaries.

9 We would welcome residents of Park Tower into
10 our community, and we hope that becomes a reality. We have
11 over 50 neighbors probably waiting online that are willing
12 to voice their concerns with the process, but with respect
13 to this Board's time, they will only speak if necessary.

14 Many have sent in their comments, and I thank
15 you.

16 MS. BINGHAM: Thank you very much, Ms. Bonilla.
17 Are there any questions of Ms. Bonilla from the Board?

18 (No response.)

19 MS. BINGHAM: Then, Naomi, how about -- do you
20 have anybody else teed up for support or opposition?

21 MS. CANTU: I do have opposition, at least. I
22 don't believe we have anyone else queued up for support.
23 If you are queued up for support, please enter that into
24 the question box. And I do actually have -- Linda Brown
25 has said that she would like Laura Merrick to go next.

1 That was the order that it was in, Linda, and
2 then Laura, and Laura has been -- is in opposition, but she
3 is next.

4 MS. BINGHAM: Okay. Yeah. Let's go ahead and
5 do that one, and then -- so we don't want to limit the
6 ability to speak to this agenda item. We just ask those
7 that are speaking to try to limit, maybe, to items that
8 haven't already been addressed by previous speakers, and to
9 stick to the time allotment of three minutes, and
10 hopefully, we can start hearing the rest and kind of get
11 this wrapped up.

12 MS. CANTU: Okay. So Lora. We're going to go
13 ahead and start with Lora.

14 MS. MYRICK: Hello. I hope I can be heard.

15 MS. CANTU: Yes, we can hear you.

16 MS. MYRICK: Good morning to you all, Madame
17 Vice Chair, members of the Board, Mr. Wilkinson. Before I
18 begin my comments, there was a question that was asked, I
19 believe, by Mr. Braden, of CRP points and whether those
20 were awarded or whether those points were selected.

21 And I believe I heard the answer that it was the
22 Department awards those. That is not how we do that in the
23 application. There is a drop-down box for points to be
24 selected, and it goes in order of descending. So you go
25 seven, five, three, two, one, I believe -- four, three,

1 two, one.

2 So they're not awarded. We have to select those
3 for the CRP. So I just wanted to make sure that -- I
4 thought I heard something different, but I wanted to make
5 sure that that was clarified. Okay. Thank you very much
6 for allowing me to speak this afternoon. I'm sorry?

7 MS. HOLLOWAY: She actually corrected me via
8 text. Lora is right. The CRP is one of those other kind
9 of odd things. QCC is an odd thing. It's just by the
10 nature of the item. So -- but Laura is correct. There is
11 a drop-down box in the application for CRP.

12 MS. MYRICK: Thank you very much. Marni, I
13 appreciate that. Okay. So the problem for everyone is not
14 that some applicants did not request four points that they
15 may have been eligible for, because the eligibility is not
16 what we're talking about.

17 The problem is that the Department exceeded
18 their authority by awarding points that were not requested,
19 which violates their own rules. We are here because the
20 Department overstepped their authority by awarding points
21 that were not requested, and by doing so, they harmed
22 approximately 74 percent or the majority of the applicants
23 that did complete the application correctly, as well as the
24 overall process, which we are all subject to.

25 Again, approximately 74 percent versus the

1 26 percent have been unfairly penalized, because we filled
2 out the application correctly. The QAP identifies three
3 areas that talk specifically about not being able to
4 increase points.

5 That's 11.1(g), 11.2017 and 11.9(e)(4)(B). The
6 QAP also states, as well as the procedurals manual, that
7 Department staff cannot and will not take responsibility
8 for completing the application package or any portion of.
9 I think what's important is the self-score here, and on
10 page 9 of the Department's procedurals manual of 2020, this
11 year, it does say, self-score.

12 So like, the points for each scoring item from
13 the drop-down boxes, and the subtotal from the total self-
14 score will auto-populate, and that that self-score cannot
15 change by more than four points between pre-app and full
16 app in order to qualify for your pre-app points.

17 So that's where the self-score comes in. If you
18 cannot deviate more than four points so that you can keep
19 pre-app points. It goes on to say that the readiness to
20 proceed, local government support, quantifiable community
21 participation, QCP, which is what we're talking about,
22 support from state reps and input from community
23 organizations, as well as concerted revitalization plan
24 sections are not available to the self-score.

25 While these items are not in the self-score or

1 included in that calculation and in red, their lettering
2 says, you must indicate points you intend to claim for
3 these items. The Department's position is that QCP points
4 are awarded by rule and not by request, the Department has
5 always awarded in the points in the past without being
6 requested, and that the drop-down box caused confusion.

7 First, the QAP says that QCP may be awarded, and
8 not that points will be awarded, like it says for local
9 government support and for the representative letter. The
10 points were not requested in the past because there was no
11 drop-down box to request the points in the past.

12 The Department added that this year. And anyone
13 who is a seasoned application-filler-outer person knows
14 that you read each question and you answer every drop-down
15 question and don't leave a point on the table. The drop-
16 down box should not have been confusing at all, because it
17 is the same drop-down box that is utilized throughout the
18 application, including all of those other areas that are
19 not included in self-score.

20 I believe that the other side is acting as --
21 and you know, let's be clear about what the Board is being
22 asked to do: to ignore and break away from your own rules
23 and allow an unprecedented increase to the points not
24 requested by an applicant, when there is no mechanism for
25 such action.

1 To ignore the clear design of the application
2 this year, a drop-down box where an applicant must request
3 these points. To treat this drop-down box differently from
4 all of the other drop-down boxes that we are required to
5 fill out, and you're being asked to correct the unfortunate
6 error of a minority of applicants at the expense of the
7 majority of applicants and the process itself, the majority
8 who did do this right, even though we had an application
9 that looked different last year.

10 We didn't understand the drop box -- the drop-
11 down box. The application was confusing. We have not done
12 it this way in the past. We want you to go back and do it
13 the way you did it --

14 MS. BINGHAM: Lora?

15 MS. MYRICK: I'm almost there, almost there.

16 MS. BINGHAM: Lora, can we wrap up?

17 MS. MYRICK: Yes, ma'am. Almost there. These
18 are not compelling reasons to change the rule. The right
19 answer, I think, to do is for the Board to uphold its rule
20 by not granting these points and setting an unfortunate
21 precedent.

22 I believe that next year these applicants will
23 know you must request these points, and I thank you very
24 much for your time today.

25 MS. BINGHAM: Thank you, Lora.

1 MS. MYRICK3: Yes, ma'am.

2 MS. BINGHAM: Naomi, is there anybody left in
3 the queue?

4 MS. CANTU: There's many, many people wanting to
5 speak on this item.

6 MS. BINGHAM: Okay. So just probably need some
7 feedback then from Beau or Board members. We've heard a
8 lot about drop boxes. We've heard a lot about support and
9 intention. They're starting to sound, respectfully, a
10 little redundant, and we do have some more work of the
11 State to get done today.

12 If we -- Beau, can we get some guidance on how
13 to further proceed?

14 MR. ECCLES: Absolutely. There's an opportunity
15 for public comment, and if the public wants to comment --
16 however, you have the discretion to limit it to new
17 material. So I think that the question to the audience
18 that's listening is not whether you want to register for or
19 against staff's action, because you can simply register
20 that by typing it in and saying so, but whether you have
21 new information that bears on this, that has not already
22 been covered by the hour or so of comment that has come
23 before you.

24 And if there -- and if a speaker gets up and
25 starts saying the same thing, then they can be cut off and

1 told that that's all the time they're going to get.

2 MS. BINGHAM: Understood. Okay. I mean,
3 definitely, the intention is to hear public comments, but
4 would ask at this point, when you're in the queue and you
5 come up, we're going to ask you if you have new material,
6 and if you do, then we'll be happy to hear it, and if you
7 don't, then you can yield your time.

8 Okay, Naomi?

9 MS. CANTU: Okay. Thank you. So at this time,
10 we're going to move forward to the question box. Please
11 let me know if you have new material. I see that Brad
12 McMurray and James McDonald both say they have new
13 material.

14 We're going on to Brad McMurray. Brad, you are
15 unmuted.

16 MR. MCMURRAY: Yes. Thank you. Can you hear
17 me?

18 MS. CANTU: Yes, we can.

19 MR. MCMURRAY: Great. I do have some new
20 information. My name is Brad McMurray and I'm here
21 representing Prospera, and I do oppose staff's action of
22 adding QCP points when they were not requested. It has to
23 do with people saying that this was new and they really
24 didn't know what to do or how to handle it differently, and
25 it actually reminded me of what the former TDHCA Board

1 Chair, J. Paul Oxer, said to me at a Board meeting in
2 response to my contesting our loss of pre-application
3 points for our site plan attachment not opening.

4 I had pointed out that it never said anywhere
5 that we didn't -- we had to open the document and ensure
6 that it opened. And he replied, so what you are saying is,
7 staff should have done a better job of telling you not to
8 spill hot coffee on yourself.

9 Well, that's exactly what I think is happening
10 here. The QCP -- the new information that I have, as we
11 keep talking about QCP, that it's one of four items that
12 are on the community input page, Tab 46. There are three
13 other items on that page: the state representative, the
14 community organization letters, and the resolutions of
15 support.

16 Well, all three of those items had drop-down
17 menus added as well, brand-new. So the whole page looked
18 exactly the same, except drop-down menu items were added on
19 all four of the items. Well, what I'm hearing is, some
20 saying that, well, we've left it blank or we put a zero on
21 the QCP because we didn't know what to do, but that seems a
22 bit disingenuous when you look at the other three items
23 that they all -- every single application that's in
24 question completed correctly.

25 They requested the right amount of points. Even

1 though these are all non-self-score items, many of them
2 require a submission of things outside of the application.
3 So it just doesn't make sense, and I think it brings a
4 little more light to the situation.

5 The other thing is to clarify something that --
6 where people put a zero. They said, well, we didn't expect
7 to get a QCP packet. Well, that just doesn't make sense,
8 because if there's no packet and there's no neighborhood
9 organization, then you're supposed to get four points.

10 And they said in the -- previously, that they
11 requested four points in the pre-app. They certify that
12 there were no neighborhood organizations or associations in
13 Tab 16. But then they said, we chose zero points. Well,
14 that's clearly a mistake.

15 Zero points only counts or is only appropriate
16 when there's a letter of opposition, and they didn't have
17 that. So while they were eligible for the four points,
18 they actually didn't claim the four points. And now, when
19 you get to the argument that we've always done it this way,
20 and you should do it again this way, the same way this
21 year, we have a change in the application.

22 By definition, a change requires different
23 performance. And so that's been the information that --

24 MS. BINGHAM: Okay. Thank you very much, Mr.
25 McMurray. Thank you. I think we did -- I think we have

1 heard that argument before, but I appreciate your
2 contribution. Thank you.

3 MS. CANTU: Okay. Next up, we have James
4 McDonald, Zimmerman Properties, and we're looking for him
5 so we can unmute him. After James, we have Donna
6 Rickenbacker and then Zachary -- I do not --

7 MALE VOICE: Krotchtengel.

8 MS. CANTU: -- yes. Thank you. Krotchtengel.
9 All right. I do apologize for that. So James, you are up
10 next.

11 MR. MCDONALD: Thank you, Vice Chair Bingham,
12 Board members and Executive Director Wilkinson. I find
13 myself in an odd place, because we're one of a few
14 different participants in this year's applications that
15 actually did it right, and we did it wrong. I'm admitting
16 that we made a mistake.

17 And in the past when dealing with these similar
18 types of mistakes, the Board and the staff has been very
19 adamant that, you know, you made a mistake. I have three
20 applications we did it correctly on. I have four that we
21 did not, and I would like to go on record that I am against
22 the way that staff is looking at this, this year.

23 Should I make it short? I did. Thank you.

24 MS. CANTU: Thank you, James. Next up, we do
25 have --

1 MS. BINGHAM: Thank you very much, Mr. McDonald.

2

3 MS. CANTU: -- Donna? I'm working to unmute
4 her, and she is unmuted.

5 MS. RICKENBACKER: Hi, this is Donna
6 Rickenbacker. Can you hear me? Can you hear me?

7 MS. CANTU: We can hear you.

8 MS. RICKENBACKER: Okay. Good. It's Donna
9 Rickenbacker, DWR Development. I'll go quickly, Leslie.
10 Thank you for giving us the opportunity to speak further on
11 this matter. First, you know, I'm been listening to a lot
12 of the speakers so far.

13 If there's anything to come out of this agenda
14 item, it's to make sure that staff will never again post an
15 application box on Friday the 13th. I only want to speak
16 to one item that I don't think I'm hearing anybody speak
17 to, and it's really the intent of staff by adding this
18 drop-down box.

19 I've know we've heard a lot about drop-down
20 boxes. But one of staff's most challenging positions is
21 the drop-down box, and if you say the scoring category was
22 added to the application form this year to facilitate data
23 gathering.

24 Okay. If this is the purpose, then I assume the
25 data staff is trying to gather what QCP points you value,

1 the applicant believes their application is eligible to
2 receive. This makes sense, since there are six different
3 QCP point values.

4 I believe that staff made a conscious decision
5 this year to add the drop-down box for consistency with all
6 other scoring categories in the application form, and most
7 importantly, so that staff understands what QCP point value
8 the applicant believes their application is eligible to
9 receive.

10 Otherwise, by example, how would staff know
11 whether a neutral statement sent directly to the Department
12 from a neighborhood organization relating to a particular
13 application was worth six points? Because it's from a
14 neighborhood organization that, during one of those three
15 prior rounds, opposed a competitive application.

16 Without this guidance from the applicants, staff
17 was automatically awarding the four points to the
18 application. Therefore, I think staff correctly cleaned up
19 the QCP scoring category by adding the drop-down box in the
20 application form and requiring the applicants to claim the
21 appropriate points.

22 That's all I have to add to it. Thank you so
23 much.

24 MS. BINGHAM: Thank you, Donna.

25 MS. CANTU: Vice Chairwoman Bingham, we have one

1 other, Zachary Krotchtengel, who is up next with new
2 material. Again, we are doing new material only on Item
3 5(c) regarding staff actions or staff determinations. So
4 again, new material only, and Zachary, you are unmuted.

5 MR. KROTCHTENGEL: Hello. I just wanted to
6 quote two points in the QAP, that applying for multifamily
7 funds from the Department is a technical process that must
8 be followed completely. And it also said an application
9 must be complete and submitted by the required deadline.

10 I've reviewed the application log, and the
11 highest-scoring self-score was 141 points. The score of
12 the other categories outside of self-score that all
13 included drop-down boxes is 45 points. There are no
14 provisions in these rules that say you do not have to fill
15 out the parts of the application that are for data
16 collection purposes.

17 However, we do not believe that all of the
18 scoring drop-downs are only for data collection, as they
19 link to the scoring log. The scoring log is important. In
20 fact, it's important enough that it triggers appeal rights.

21 So no, it is not just a box for data collection.

22 It memorializes the amount of points an applicant is
23 requesting. This is consistent with the wording of the
24 pre-application which asks the applicants how many points
25 they will request in the application for scoring items

1 outside of the self-score.

2 If this precedent is set, the next scoring log
3 will come out with a blank for all those 45 points, and it
4 will become meaningless, because those drop-down boxes will
5 become optional. I also want to go back to Marni's point
6 that the applicant does not have control of the materials
7 for scoring materials outside of the self-score.

8 So we have letters of support from 501(c)(3)'s
9 and even in this year, one of our nonprofits sent the
10 letter directly to the Department. I received an email
11 from the Department that said they'd received the letter,
12 but it was not submitted by me, so would not be eligible to
13 be scored.

14 So this is outside of the self-score, but the
15 materials required are in the control of the applicant to
16 submit. Also, the CRP package is made up entirely of
17 materials in the applicant's control, and the CRP package
18 reminds us -- the CRP packets must be complete.

19 Both of these items also have drop-down boxes to
20 identify the points that you're requesting. That further
21 makes this point, that in the QCP, it relies on material
22 outside of the applicant's control. However, she then
23 pointed out that in the pre-application, all of the
24 applicants did not have a qualified neighborhood
25 organization, and they went further to claim that they

1 would request four points on their final application.

2 Once they filled out this pre-application in
3 this manner, they're showing that the applicant did not
4 expect the third party to contribute any materials to this
5 scoring category. Thus, they knew that they should claim
6 the four points, as the materials were entirely in their
7 control.

8 Sometimes, you have to weigh what will cause the
9 most harm to the program, and in this instance, the
10 unilateral granting of points not claimed on the
11 application that has occurred would set a precedent that
12 would cause far more harm to the program than standing by
13 the applications as they were filled out and the scores as
14 they were completed.

15 It would greatly diminish the weight that is
16 placed on accurately and completely filling out the
17 application and allow the scoring process to be far less
18 transparent. Thank you.

19 MS. BINGHAM: Thank you, Zachary. Naomi, is
20 that it?

21 MS. CANTU: I don't have anyone else queued up
22 with new information regarding 5(c) that hasn't already
23 been covered.

24 MS. BINGHAM: Great.

25 MS. CANTU: We have a lot of --

1 MS. BINGHAM: Okay.

2 MS. CANTU: -- comments on individual
3 applications within 5(c), and nothing regarding this
4 specific topic.

5 MS. BINGHAM: Understand. Okay. Thank you.
6 Thanks very much. Okay. So we've heard extensive public
7 comment supporting staff's position and opposing it. Is
8 there any -- do the Board members have any questions or are
9 we prepared to make a motion?

10 Or do you have any questions of Marni?

11 MR. BRADEN: I guess I have a couple questions.
12 I'm still not entirely clear. Does the TDHCA award any
13 points? I mean, at the end of the day, are the people who
14 are saying we maybe take points away if they weren't
15 appropriate or something like that, you know, do -- is
16 every point that's granted part of a drop-down box and
17 people choose the points and then we just verify it?

18 I think you're on mute, Marni.

19 MS. HOLLOWAY: Sorry. I didn't want you all
20 listening to my dog. I believe at -- I believe, and I, you
21 know, not -- I don't have the intimate knowledge of the
22 application that probably some of our speakers have,
23 because they're filling it out.

24 But I believe that, yes, in general, points are
25 requested through the application and then documentation is

1 provided to back it up. Again, QCP, it's -- you know,
2 points they're expecting to get based on information that
3 they're expecting a third party, a neighborhood
4 organization, will provide.

5 The same with state rep letters.

6 MR. BRADEN: Okay. So let's talk about state
7 rep letters. When a state rep letter -- if you're
8 expecting to get that from a third party, as part of your
9 application, do you click something that says, I expect to
10 get it, so I'm self -- or I'm not self-scoring, because
11 that's not self-scoring, but I'm getting so many points for
12 that?

13 MS. HOLLOWAY: Right. In the application, there
14 is a section right below the QCP item that is input from
15 state representatives that does have a point -- does have
16 points requested boxes.

17 MR. BRADEN: So it seems that it's a correct
18 characterization that some of these people have made is --
19 you know, we're in the business of taking away points if
20 people aren't correctly claiming them. We aren't typically
21 in the business of giving people points.

22 MS. HOLLOWAY: I think that that's a fair
23 comment, but I also would refer back to my presentation
24 earlier when I talked about before this box was in the
25 application this year, everyone got these points if there

1 wasn't something from a neighborhood organization.

2 So what has changed is the application form, not
3 how TDHCA handles this item.

4 MR. BRADEN: I understand what you're saying,
5 that this box was not intended to be a substantive change.

6 MS. HOLLOWAY: Correct. Yeah. And I think, you
7 know, that there are valid arguments on either side, but it
8 was not staff's intent to change anything other than use of
9 data gathering -- well, it put that box on there.

10 MS. THOMASON: I have a question for Marni. So
11 does that -- in saying that, is there a rule -- if that's
12 the way it was treated in the past, then there's not a new
13 rule. The only difference is the drop-down box. So was
14 staff violating federal rule by adding these points where
15 they were not requested?

16 MS. HOLLOWAY: We don't believe so. As I said,
17 this is something that we've done in the past, and probably
18 a number of people who are protesting the question this
19 year received those four points last year, before there was
20 a box in the application.

21 I don't believe that we are violating anything
22 in the past. You know, if there isn't a neighborhood
23 organization and the rule says, if there isn't a
24 neighborhood organization you get four points, then we had
25 just been treating that as an automatic.

1 MS. BINGHAM: We did, in our Board materials --
2 we do have kind of a side-by-side comparison of what it was
3 like in 2019 applications and what it looked like in 2020.

4 Having a hard time -- it looks like it was -- I don't know
5 if anybody from staff can point to where it was, but
6 basically, the only -- the difference is that drop-down
7 box.

8 The language and everything is exactly the same.
9 The footnote is the same. Everything was the same.

10 MS. HOLLOWAY: Uh-huh.

11 MS. CANTU: Vice Chairwoman? Vice Chairwoman
12 Bingham, we have several people wanting to speak at this
13 point. Janine Sisak and Cynthia Bast are the first few to
14 respond, and there are several other people after them as
15 well.

16 But that's your discretion, whether --

17 MS. BINGHAM: Yeah. I think we're past public
18 comment. You know, if both Ms. Bast and Ms. Sisak want to
19 take a couple of minutes to tie up loose ends, but I think
20 we're finished with public comment.

21 MS. CANTU: Okay. We'll briefly unmute. We'll
22 start with Janine Sisak, who was the first one. And you
23 are unmuted.

24 MS. SISAK: I just wanted to mention a couple of
25 things in response to some of the discussion from the

1 virtual dais. With regard to the rule that's been
2 violated, you know, to be clear, I don't think staff
3 violated any rule by changing the form.

4 The rule that was violated was giving applicants
5 points that they didn't request. And the reason that rule
6 was violated is because not just this one point item was
7 treated differently on the application, but there was a
8 whole new page.

9 I think one of the prior speakers said, you take
10 the whole page, which covered all of the point items
11 outside of the self-score that relate to kind of community
12 input, the state rep letter, you know, limited political
13 subdivision resolution, all of that, have new drop-downs
14 for points.

15 There wasn't just this point that changed on the
16 app. None of the other rules for the other point
17 categories were changed. No, we're not saying that the
18 rules changed. We're saying that the application changed
19 in a material way, in a purposeful, material way.

20 Why did staff do that? It changed the way these
21 points needed to be treated, and makes them treated like
22 all of the other points that you're left. If you have to
23 go back to them and you did correct them, you do not get
24 them.

25 And those are my final comments. Thank you.

1 MS. CANTU: Thank you. So we're going to move
2 on to Cynthia Bast for a few minutes to wrap up, and as the
3 Board Vice Chair had mentioned, we are concluding our
4 public comment at this point. So Cynthia Bast?

5 MS. BAST: Thank you. I will start by saying
6 that I agree wholeheartedly with Janine that the integrity
7 of the program is the most important thing for all of us.
8 And in my mind, the integrity is found in the rule. You've
9 heard lots of statements today about what the rules say,
10 and frankly, I think we need to cite-check some of that,
11 because the rules don't explicitly say in one sentence, you
12 don't get points you don't ask for.

13 It has statements about not increasing points
14 under administrative deficiencies and in certain
15 circumstances, and that's why I started my remarks talking
16 about the different categories and how historically these
17 different categories have been treated differently.

18 And that they need to be looked at in context.
19 And as we've noted, there are two items where the staff can
20 receive something outside of the application, and even if
21 the applicant says, no, I don't think I'm going to get a
22 state representative letter, and then if one shows up by
23 February 28, then staff is committed to score that.

24 Same thing with the Qualified Community
25 Participation. The form changed but the rule did not

1 change. And even though the form changed, that was not
2 highlighted in the webinars, the workshop, the manual.
3 There was no place where TDHCA said, we expect something
4 different this year.

5 And so that, combined with the actual text for
6 this particular category that says, expect to receive a
7 QCP -- expect to receive these points and then delivery of
8 a packet, makes it perfectly understandable that there was
9 confusion, perhaps.

10 We believe that the forms were filled out
11 appropriately by putting N/A, because there was an
12 indication that there was not an expectation for a QCP
13 packet. So in the case of confusion, we go back to
14 consistency, and consistency being important.

15 And the staff has always taken this rule that
16 says you get four points if you don't have a neighborhood
17 organization. You get zero points if you have a letter of
18 opposition, and they have applied it as such. So
19 therefore, I believe that for the integrity of the program,
20 it is important to be consistent, and that is why we are
21 asking you to uphold staff's action, and I thank you and
22 appreciate your patience with all of the testimony today.

23 MS. BINGHAM: Thank you. Thanks. Thanks,
24 Cynthia. Thank you to everybody, too. Thank you, Janine
25 and Cynthia both, and all of the eloquent speakers. So

1 any -- the Chair will hear a motion.

2 MR. BRADEN: Yes. I'll make a motion. I think
3 there's something to be said for precedent and for
4 consistency, if there is confusion, and since we have
5 interpreted -- TDHCA staff has interpreted this rule in a
6 certain manner, it seems to me that if it's not clear one
7 way or the other, that we should continue with that.

8 So I make a motion that the process utilized by
9 staff in awarding QCP points under 10 TAC 11.9(d)(4),
10 (c)(4) and (5) was appropriate.

11 MS. BINGHAM: A motion on the floor that the
12 staff's determinations under 10 TAC 11.9(d)(4) were
13 appropriate. Is there a consideration for a second?

14 MR. VASQUEZ: I second that.

15 MS. BINGHAM: Okay. Mr. Braden makes a motion.
16 Mr. Vasquez seconds. Is there any further discussion?

17 (No response.)

18 MS. BINGHAM: Call for a vote. All those in
19 favor, aye?

20 (A chorus of ayes.)

21 MS. BINGHAM: Opposed?

22 (No response.)

23 MS. BINGHAM: The motion carries. And just as a
24 reminder, so there is an appeal process. Correct, Marni?
25 I think you're muted.

1 MR. ECCLES: This is Beau. I will jump in.
2 There is no appeal process from this. As a matter of fact,
3 many --

4 MS. BINGHAM: Okay.

5 MR. ECCLES: -- of the oppositions were saying
6 that they wanted to appeal. Appeal of somebody else's
7 application score is prohibited by statute.

8 MS. BINGHAM: Right.

9 MR. ECCLES: There would have been an appeal
10 process if the Board had said, staff, we want you to
11 reconsider maybe taking away those points that had been
12 awarded. Then all of the applications that lost points
13 would have the ability to appeal that loss of points.

14 MS. HOLLOWAY: Correct. So then appeals are
15 triggered by scoring notices, or as we've seen in the past,
16 by publication of the laws. This conversation, though
17 you -- this conversation would seem to remove the
18 opportunity for future appeals of the log.

19 Is that correct? Based on this item?

20 MR. ECCLES: I'm sorry. I don't quite
21 understand the question.

22 MS. HOLLOWAY: The publication of the log
23 triggers appeal rights. Correct?

24 MR. ECCLES: It may trigger appeal rights.

25 MS. HOLLOWAY: It may trigger appeal rights. So

1 this item that we have taken up today, and the Board has
2 made their decision, does that mean that there are no
3 further appeal rights of the log based off this particular
4 question?

5 MR. ECCLES: Yes. This is the Board's final
6 decision on the appropriateness of the award of those four
7 QCP points to the applications in the agenda.

8 MS. HOLLOWAY: Right. The appeals that I
9 mentioned earlier in the presentation would potentially,
10 maybe have been available when a scoring notice was issued
11 on an individual application if they lost points, and
12 that's a different question. That's a different kind of
13 appeal process, but I think that, with the Board's decision
14 today, nobody is losing points, and still, that they are --
15 there isn't another appeal right furthered on this
16 particular item.

17 Beau, do you agree?

18 MR. ECCLES: The Board -- I agree, and just to
19 bring it full circle, the action on this item would not
20 have triggered appeal rights for anyone. It would have
21 only been the subsequent actions by multifamily staff in
22 issuing any sort of scoring notices that would have
23 triggered appeals.

24 MS. HOLLOWAY: Right.

25 MS. BINGHAM: Yeah. I don't think our

1 assumption was that this whole thing would be appealed
2 again. This was a Board action that we took seriously and
3 we understand that. They'll move forward with the process
4 and have their appeal rights under their specific -- as
5 they start moving through the process.

6 This didn't eliminate any of their appeal rights
7 moving forward for other issues. In other words, there was
8 a lady that spoke earlier, and it sounded like her speaking
9 was on an issue that was actually internal to the actual
10 application, not the overall decision that the Board made.

11 MS. HOLLOWAY: Right, right. So it is -- and I
12 believe the question there was about the neighborhood
13 organization itself, and that would be an individually-
14 evaluated question.

15 MS. BINGHAM: Correct. Okay. All right. Thank
16 you. Thank you all. So that is 5(c). We still do have
17 the items under Item 6. I would imagine that they'll move
18 a little bit more quickly, but is the Board okay just going
19 ahead and moving through, or do we need a break?

20 (No response.)

21 MS. BINGHAM: Okay. I don't see anybody getting
22 up and leaving, so we'll keep moving through. So let's
23 move on to Item 6(a). Patricia Murphy?

24 MS. MURPHY: Thank you, Marni. Good afternoon.
25 Can you hear me? Naomi, did you unmute me?

1 MS. CANTU: Yes, yes.

2 MALE VOICE: Yes, we can hear you.

3 MS. MURPHY: Great. Thank you. Good afternoon.

4 Patricia Murphy, director of Compliance. The next item on
5 your agenda is final approval of amendments to the
6 compliance rule. These amendments were out for public
7 comment from December 27 through January 27.

8 Comment was received from 36 entities, and as
9 expected, the bulk of the comments is related to a proposed
10 change in calculating utility allowances. The proposed
11 amendment would have required use of a rate plan that is
12 available for at least 12 months.

13 Staff continues to believe a 12-month term is
14 necessary to accurately estimate how to post yearly
15 expected utilities. However, we are not able to identify a
16 clear federal requirement to use a 12-month rate when
17 calculating a utility allowance.

18 Many commenters noted that there would be a
19 fiscal impact if this rule was adopted. Staff and
20 commenters do not agree on the extent of the potential
21 fiscal impact. However, we acknowledge that there would be
22 an impact on existing [indiscernible], and therefore, the
23 rule cannot be adopted as proposed unless there is a change
24 in federal regulation.

25 However, staff is proposing to require a utility

1 allowance with a 12-month term for all properties that
2 applied for funding after January 1, 2021. Any possible
3 fiscal impact of the utility allowance based on a 12-month
4 term can be offset during the application and underwriting
5 process.

6 Utility allowance regulations are different from
7 housing tax credit and the HOME Program. Under the credit
8 program, TDHCA is required to review and approve the
9 utility allowance proposed by the owner. But under the
10 HOME Program, we are required to actually calculate the
11 allowance and provide it to the owner.

12 Our rules give owners of home developments an
13 opportunity to propose an allowance which we review and
14 approve, similar to the credit program. If owners of HOME
15 developments do not take that action by October 1, then we
16 calculate an allowance for them.

17 Staff is proposing to use a 12-month term in
18 that scenario as well. This will herald a significant
19 change to the proposed version of the rule that went out
20 for comment using 10.622, special rules regarding rents and
21 rent limit violation.

22 The proposed rule would have prohibited
23 increases in rent terms during a lease term. Some housing
24 providers have figured out that they can maximize rent if
25 they increase rent every June. The proposed rule would

1 have a financial impact on those properties, so as a
2 compromise, the rule is being proposed to be adopted
3 prohibiting increases in rent more than once during a 12-
4 month period, unless the unit or household is governed by a
5 federal housing program that requires such a change.

6 There are several other comments and changes
7 made, but those were most significant. Staff recommends
8 approval of the rule, as shown in your Board Book, and I'm
9 happy to answer any questions you might have.

10 MS. BINGHAM: Thanks, Patricia. Any questions
11 from the Board?

12 MR. WILKINSON: I have a few comments. As
13 Patricia laid out, we compromised on those two areas. The
14 bulk of the problem with the utility allowance, 12-month,
15 was in the planning to existing properties, that it would
16 affect cash flow.

17 Can everyone hear me?

18 MR. VASQUEZ: Yes.

19 MS. THOMASON: Yeah.

20 MS. BINGHAM: Yes.

21 MR. WILKINSON: And so we changed it to be,
22 like, only January '22 or on applications, only future
23 properties, and that seemed to eliminate the opposition.
24 However, recently, and as recently as last night, TAAHP
25 requested to kick the can on the utility allowance portion

1 of the rule and to send out another staff draft and talk
2 about it more.

3 I think staff recommendation stays the same. I
4 just wanted you to know that that was an actual request
5 from TAAHP as an organization. I think -- yeah -- as even
6 these future properties that somehow cash flow could be so
7 tight that they need the ability to use a three-month rate
8 or a smaller utility allowance.

9 I think our position would be that, well, if
10 there really are areas where it's that tight, we'll have to
11 look at accommodating that in other ways, and that the 12-
12 month utility rate is fixable for the future, not affecting
13 the cash flows of any existing properties.

14 I think there's going to be some testimony on
15 this one. Some people might think, like, well, you can
16 change electric providers every two months in Houston, for
17 instance. You can get on the retail, you know, right to
18 choose, whatever it's called, site.

19 That might be theoretically possible. I don't
20 know how realistic that would be as far as someone actually
21 doing that and deposits each change, whatnot. So that's my
22 only comment. I thought we compromised pretty well on
23 [indiscernible], but we'll hear what the comments say.

24 Thank you.

25 MS. BINGHAM: Thank you, Bobby. Just - I would

1 entertain a motion prior to comment or a motion to hear
2 comment, either way.

3 MR. BRADEN: I'll move to approve staff's
4 recommendation.

5 MS. BINGHAM: Okay. We have a motion from Mr.
6 Braden.

7 MR. VASQUEZ: Second.

8 MS. BINGHAM: And a second from Mr. Vasquez.
9 Naomi, do you have anybody teed up for comment on Item
10 6(a)?

11 MS. CANTU: I do. I have a few people. The
12 first is Roger Arriaga, and then Jim Beets. So we'll go
13 ahead and do Roger. And go ahead, Roger.

14 MR. ARRIAGA: Good afternoon. Good afternoon.
15 I'm Roger Arriaga, executive director of the Texas
16 Affiliation of Affordable Housing Providers, or TAAHP.
17 I'll be brief, since there are other TAAHP members who will
18 speak on this item.

19 Regarding Item 6(a) and utility allowances, I
20 want to thank Mr. Wilkinson and his staff for taking the
21 time to meet and discuss this issue with members of our
22 compliance committee. However, in reviewing the rule and
23 corresponding comments, our members still believe that
24 there are many nuances and questions about implementation
25 as well as financial consequences for property owners that

1 have not been fully considered.

2 Further, given that there is no specific federal
3 guidance on the requirements of 12-month rates and it will
4 not be fully implemented until January 2021, and given that
5 the COVID-19 is causing tenants to experience financial
6 hardships and owners to experience revenue shortfall to
7 maintain properties, we simply are respectfully requesting
8 that this rule be deferred for additional discussion.

9 I'll leave it there and thank you for your time.

10 MS. BINGHAM: Thank you. Any questions for the
11 speaker?

12 (No response.)

13 MS. BINGHAM: We'll move on to the next speaker.
14 Naomi?

15 MS. CANTU: Okay. Next, is Jim Beets, and then
16 we have Cynthia Bast after Jim. So Jim, we're unmuting
17 you. We're looking for you, and you're unmuted.

18 MR. BEETS: Thank you very much. Can you hear
19 me?

20 MS. BINGHAM: Yes.

21 MR. BEETS: I'd like to thank the Board for the
22 opportunity to speak to this. I want to get into some of
23 the minutiae and the details on this. We're addressing a
24 12-month term, and it states here that staff believes a 12-
25 month term is necessary to accurately estimate a

1 household's yearly expected utilities.

2 We live in a state where the electricity market
3 is deregulated. You go to the Power to Choose. You select
4 what you want to use for electricity. Electricity in this
5 state is traded as a commodity. In the deregulated
6 markets, the rates change constantly.

7 The rates offered by a provider on one day may
8 not be available the next day. In preparation for this
9 meeting, we downloaded the rates, some rates on 4/17. We
10 went in today and we downloaded a total of 12 different
11 rates. We went in today, downloaded four of the same
12 rates.

13 Three of them were no longer available today.
14 The rates had changed. So it's a false sense of security
15 to think that, okay, you're selecting the 12-month rate.
16 That rate is going to be available the next 12 months.

17 It's available to the resident who signs up for
18 it on that day, but the rate could be gone the next day.
19 We also have another component of the electricity market,
20 the TDSP, transmission and distribution service provider
21 charge.

22 It's a component that has to be included. That
23 changes on a monthly basis, and even if you signed a fixed
24 rate contract, all of the state and the EFLs, the energy
25 facts labels, tell you this -- the rate can change based on

1 what those state-imposed TDSP charges change on a monthly
2 basis.

3 There are a lot of other points I'd like to
4 make, but we have this restricted time format. I'm going
5 to kind of summarize real quickly. In the package, it's
6 the quote: "The Department is not able to identify a clear
7 federal requirement to use a 12-month rate term when
8 calculating an allowance."

9 That statement alone -- I'm not sure why we
10 would even consider going forward with this. Another
11 statement: "In the event the U.S. Treasury Department or
12 the U.S. Department of Housing and Urban Development update
13 their regulations" or in the event they do change the
14 regulations, we can address the actual change at that time.

15 It's a false sense of security thinking that the
16 12-month term is going to be available to all the residents
17 for that 12 months. TDHCA regulates housing. The PUC
18 regulates the electric markets. In the case of a written
19 local estimate, we may not be able to -- we don't -- we
20 can't dictate to them what rate they're supposed to use.

21 They are the ones who provide the information.
22 We're in the middle of a global pandemic. This needs to be
23 addressed further. Also, most importantly, the way that
24 these rules are written right now -- two of the methods
25 actually allow for the implementation on 1/21, January 1,

1 '21, which is the HUD model and the energy consumption
2 model.

3 The actual use methodology and the written local
4 estimate do not contain that language if it's still
5 requiring the 12-month period. We can go to page 576,
6 starting on page 576, and see that the language is not
7 included in those two methodologies.

8 So at a minimum, we need to work with TDHCA to
9 get the language straight, but I really would respectfully
10 ask that you consider that this 12-month term not be
11 available at all times. And I thank you for listening to
12 my comments.

13 MS. BINGHAM: Thank you, Jim. Patricia, do you
14 want to comment?

15 MS. MURPHY: Sure. So when the utility
16 allowance regulations were adopted by the IRS and Treasury
17 Department in 2008, their, like, reasoned response to
18 comment addressed this issue, and their regulations were
19 adopted with the assumption that rates do not change more
20 than once every 12 months.

21 So everything these speakers have been pointing
22 out is that the regs change much more often than every
23 12 months, if you're adopting an allowance that's using a
24 term that's only good for three months. So as we've
25 already addressed, for our existing properties, there would

1 be a fiscal impact, and I -- we're not able to adjust the
2 rule.

3 But this is, like, a little mini, you might call
4 it a loophole that we have the regulatory authority to
5 address with future deals. We surely have the regulatory
6 authority to adopt rules regarding these utility
7 allowances, and so to -- but a utility allowance today, in
8 April, is actually good for 21 months.

9 It's good all the way until December 31, 2021.
10 You only have to update the allowance once a calendar year.

11 So allowing an owner to get a utility allowance based on
12 the rate that's available for three months is -- just -- I
13 don't understand how we can say that that's an accurate
14 estimation of the household utilities, but there's nothing
15 we can do about it for the existing deal.

16 So I recommend that you adopt it, moving
17 forward.

18 MR. VASQUEZ: Can I just ask a question here?
19 So really, what we're trying to do is -- we're not saying
20 what the rate is going to be at any given day that you
21 start a 12-month period, but we're trying to at least give
22 the assurance of saying, here is your rate for the next
23 12 months.

24 So that's -- given the best rate today versus
25 tomorrow versus the next day is not the point. The point

1 is that here, you're locking it in for 12 months, time
2 certain, and again, given that transmission rates can
3 change and things like that, but no matter what, that's
4 going to affect it.

5 So that's sort of a moot issue on that. Is that
6 a correct assessment?

7 MS. MURPHY: Yes. So what the rule, going
8 forward, would require - an owner to estimate utilities,
9 based on a rate that is available for 12 months. The lower
10 rate for, like, a promotional rate is available for only
11 three months, and at the end of that time, maybe they could
12 switch plans.

13 They might have to have a new deposit. They
14 might have to go through a credit check. There's a number
15 of things that could happen. The only thing we know is,
16 that's not going to be the rate that their utilities are
17 set by.

18 So what we're saying is, use a rate that's
19 available for 12 months when you're estimating a resident's
20 utilities, going forward.

21 MS. CANTU: Vice Chairwoman Bingham --

22 MS. BINGHAM: Naomi, did you say have another
23 person for comment?

24 MS. CANTU: We do. We're working on Jennifer
25 Brewerton. Jennifer, you do have -- you have not entered

1 your pin. If you could enter your pin -- we did re-send it
2 to you. And we also have Stephanie Naquin who said that
3 she would like to speak on it.

4 And we will start with Jennifer, if you would
5 like to speak on it, you can -- I'm sorry -- Stephanie
6 Naquin? Stephanie Naquin says she does not want to speak
7 on this. I think that's what she's saying. She does not
8 want to speak on this.

9 And Jennifer? We're working on Jennifer. Just
10 one more second. Bear with us. Jennifer, you are unmuted.

11 MS. BREWERTON: Is this Jen Brewerton that
12 you're speaking to?

13 MS. CANTU: Yes. We can hear you.

14 MS. BREWERTON: Hi. I apologize. I had a
15 meeting that I couldn't avoid that was only at one o'clock.
16 I just got out. I wasn't even able to hear the intro.
17 May I ask if anybody else from TAAHP has already spoken?

18 Jim spoke, yes?

19 MS. BINGHAM: Jen, yes.

20 MS. CANTU: Yes. Jim did speak.

21 MS. BREWERTON: Okay. Fantastic. Well, then,
22 I'll just go ahead and start. This is Jen Brewerton. I'm
23 vice-president of compliance at Dominion, and also co-chair
24 of the TAAHP compliance committee. Vice Chairman Bingham
25 and Board, thank you very much for having me today.

1 I know that my clock's already going, so I'll
2 move forward just by saying, I really appreciated, we
3 really appreciated the courtesy calls that we received from
4 staff, from Patricia in particular, as it relates with
5 plans for how she was planning on writing up the rules for
6 this Board meeting, for the compliance items.

7 She kind of talked through them with us. It was
8 very helpful, and with that, we don't have any other
9 comments, other than thank you very much for considering
10 our comments, and we generally feel really good about where
11 the rules landed.

12 So the one thing that we weren't contacted on,
13 and I think it's probably because things are moving in the
14 background, up until the rule was approved for draft for
15 the Board Book, we did not get a call about where we were
16 landing with the utility allowances and with the 12-month
17 requirement bills being required for new transactions,
18 moving forward.

19 I think that we're all in agreement that there
20 was an attempt to make a compromise, and I think that
21 that's fantastic, that there was an attempt there.
22 However, as Jim spoke to, I think that we're not -- we
23 didn't land in a place where if we'd been given the
24 opportunity to help draft the language, we wouldn't -- I
25 think that the language would have been different. And it

1 should, if anything at this point, potentially go back out
2 for comment as a draft rule, so that we can help craft
3 language if we are truly going to be able to meet a
4 compromise, or just take the new 12-month requirement
5 completely out.

6 It is pretty substantive to new owners to have
7 to consider that. The other thing that I just was reminded
8 of last night as I was thinking through what, if anything,
9 I was going to say, is that I'm really, really shocked
10 right now that we're considering where new construction or
11 new properties moving forward, whether it be re-syndication
12 for an acquisition rehab or a new construction property --
13 I'm really shocked that during a COVID crisis that we're
14 talking about lowering NOAI, where new owners that are
15 potentially considering affordable properties that, without
16 this change, would be viable, and would be potentially able
17 to be put on the ground.

18 Keep in mind, we generally think about the
19 9 percent program, as it's competitive, so everybody's kind
20 of at the same advantage. We, Dominion, only do 4 percent
21 transactions, so it wouldn't be that we're all kind of
22 treated the same as the 9 percent pot would be.

23 We, Dominion, and other properties moving
24 forward with 4 percent transactions might not be able to
25 get the field done because of not being able to take

1 advantage of the federal requirement for alternative
2 utility allowance classes.

3 I also will note that, you know, these
4 compliance rules, again, while I appreciate the
5 Department's efforts of reaching out and talking with us --
6 these compliance rules are generally property management
7 items, and right now, property managers are not reading
8 board books.

9 They're struggling to collect, by some national
10 averages, at lowest, one-third of the rents for each month,
11 and oftentimes, up to two-thirds. They're dealing with
12 residents that are off of their medications. I can tell
13 you story after story after story with tons of problems
14 that are going on. It's not considering this utility
15 allowance rule.

16 So again, I really wish that property managers
17 could be more engaged on this than really understand, and
18 maybe even give public comment, but I think that we're
19 missing some today, because they're dealing with COVID.

20 And one last thing, just to reach out again, we
21 are talking about an agreed-upon reduction in net operating
22 income for new properties that, if under this rule as
23 proposed, they will definitely have less NOI, or could have
24 less NOI. And I think there's agreement on that, as
25 opposed to -- if we used the original language, which has

1 been allowed in perpetuity since the rules were created,
2 then they would have more NOI for new affordable housing
3 that will be put on the ground.

4 So I just don't think this is a great time to
5 reduce that opportunity. Thank you very much for my
6 comment -- for allowing me to comment.

7 MS. BINGHAM: Thank you, Jen. Thank you, thank
8 you. Naomi, anybody else?

9 MS. CANTU: So Stephanie Naquin is available if
10 you have questions, and also, Jim Beets has asked to speak
11 again, briefly. Would you allow it, Madame Vice Chair?

12 MS. BINGHAM: Yes.

13 MS. CANTU: Okay. Jim, we're going to go ahead
14 and unmute you briefly. And --

15 MR. BEETS: Thank you very much.

16 MS. CANTU: -- there you go.

17 MR. BEETS: Okay. Thank you very much. Again,
18 back to the 12-month term, that was to be -- a 12-month
19 term may be available today. That does not mean that that
20 12-month term is going to be available to any particular
21 resident to pick within that 12 months.

22 We -- I gave an example of rates we pulled down
23 on the 17th, went in to get those rates again and double-
24 check them today. That rate is no longer available. It's
25 been replaced by another approved rate. So we're getting a

1 false sense of security here, that yes, this is a 12-month
2 rate. It's a 12-month rate for any resident who signs up
3 on the day that it's posted and available, but it may be
4 taken down at any given time.

5 My other concern is the way that this is written
6 right now, we've got -- two of the models clearly state
7 that, yes, it's after 1/1/21, which is the HUD model, the
8 energy consumption model. The language is not consistent
9 for the actual use methodology and the written local
10 estimate.

11 So that -- it's going to apply to the existing
12 deals the way that it's written. So given the fact of how
13 it's written, given the fact of what -- the points that Jen
14 made and the points that Roger made, I would respectfully
15 ask that we have another chance to revisit this with staff.

16 We'll bring in the different rate sheets to show
17 the fact that they're not available at all times and have a
18 chance to continue this discussion. Thank you for the
19 additional -- excuse me -- thank you for the additional
20 time.

21 MS. BINGHAM: Thank you very much. Leo?

22 MR. VASQUEZ: Okay. I'm good right now. I --

23 MS. BINGHAM: Okay.

24 MR. VASQUEZ: I'd just reiterate, though, that
25 we recognize that a 12-month rate today may be different

1 than a 12-month rate tomorrow.

2 MS. BINGHAM: Right. So -- and Patricia, what
3 are we looking at? Obviously, this is a fairly large
4 section. Most of this stuff needs to move forward. Is it
5 worth looking at that one 10 TAC 614 or 10.614 if the Board
6 members are -- if you needed more comment, is there any way
7 for us to move forward with the rest of it?

8 MS. MURPHY: If the Board wants, I could
9 continue working with stakeholders on this issue. It is
10 possible to adopt the rest of the rule and kind of table
11 this. I might need help from Beau about how that would go.

12
13 So it's possible. And again, I recommend
14 approval, as shown in the Board Book.

15 MS. BINGHAM: Understood. Only -- so we have a
16 motion on the floor right now -- I'm sorry, Paul. Did
17 you --

18 MR. BRADEN: Yeah. Can I ask a question? What
19 is the downside for us -- for tabling for a month?

20 MS. MURPHY: Nothing. I have a feeling it would
21 still be for applications for the future. So I don't think
22 there's a big downside.

23 MR. WILKINSON: You could argue both ways.

24 MS. MURPHY: Yes.

25 MR. WILKINSON: It's not being applied until

1 January '21. You could adopt it now, change it later, or
2 table it now, change it later.

3 MR. VASQUEZ: I'll defer to the Chairwoman on
4 her preference on this.

5 MS. BINGHAM: Okay. Okay. So we do have a
6 motion right now, I think, from Mr. Braden, second Mr.
7 Vasquez, to accept staff's recommendation. So we --
8 let's -- do either of you want to withdraw or modify your
9 motion?

10 MR. BRADEN: I'll withdraw my motion, actually.

11 MS. BINGHAM: Okay. Great. All right. So
12 we're pending a new motion, and we -- from what I
13 understand from staff and public comments, we have the
14 options to not approve staff's recommendation, and submit
15 back for more thought, or approve some and not -- and then
16 hold some out.

17 There are a lot of provisions that did not seem
18 to have a lot of concern, it sounded like, from the public
19 speakers -- commenters, that the collaboration was really
20 good, and that the heartburn is really over 10.614, which
21 would be that utility allowance.

22 MR. BRADEN: Uh-huh.

23 MS. BINGHAM: Would there be consideration to
24 move staff's recommendation with the exception of that one
25 section?

1 MR. BRADEN: I'd make a motion to approve
2 staff's recommendation with the exception of 10.614, which
3 we would table till next meeting. Maybe we need two
4 meetings. I don't know.

5 MS. BINGHAM: Okay. Is there a second?

6 MS. THOMASON: Second.

7 MS. BINGHAM: Ms. Thomason seconds. So we have
8 a motion to approve staff's recommendation on the adoption
9 of the amendments listed in Item 6(a), with the exception
10 of 10.614, that we would table for possible follow-up
11 meeting with the provider community to discuss.

12 Great. Any further discussion?

13 (No response.)

14 MS. BINGHAM: All those in favor, aye?

15 (A chorus of ayes.)

16 MS. BINGHAM: Opposed?

17 (No response.)

18 MS. BINGHAM: Motion carries. Thank you, and
19 thanks for the comments, also. Item 6(b), Patricia?

20 MS. MURPHY: The next item on your agenda is
21 final adoption of the Department's previous participation
22 rule. This rule went out for public comment from
23 January 30 to March 3. Comment was received from four
24 entities and several changes were made, based on comments
25 received.

1 However, there were some suggested changes that
2 staff did not agree with and is not proposing today. For
3 example, the Texas Affiliation of Affordable Housing
4 Providers suggested that the definition of actively-
5 monitored development should be deleted, in part, because
6 as drafted it would have been possible for an event of
7 noncompliance to be taken into consideration, but the
8 development itself not considered for purposes of
9 determining portfolio size.

10 Rather than delete the definition, staff
11 clarified in the rule that only events of noncompliance
12 identified on actively-monitored developments are taken
13 into consideration. Three of the four commenters opposed
14 the elimination of the control form.

15 This is a form that makes it possible for a
16 person who meets the definition of control in the
17 Department's other rules to say that, for compliance
18 purposes, they do not control the property. Staff is
19 recommending elimination of this, so that the definition of
20 control would be the same for all participants.

21 Ideally, there should just be one definition
22 that would apply for all purposes, but staff understands
23 that for several reasons this won't always work. Rather
24 than completely eliminate the form or continue blanket use
25 of it, staff proposes that the Board be allowed, and

1 Department staff can request backup, to verify that persons
2 asserting that they cannot control a property truly do not
3 have the authority within their partnership agreement.

4 In addition, federal programs require slightly
5 different review and the form is not appropriate for use
6 when conducting a previous participation review for federal
7 funds. Staff recommends approval of the rule as shown in
8 your Board Book.

9 MS. BINGHAM: Any questions for Patricia?

10 (No response.)

11 MS. BINGHAM: We'll entertain a motion.

12 MS. THOMASON: I'll move to approve staff's
13 recommendation.

14 MR. VASQUEZ: Second.

15 MS. BINGHAM: I have motion from Ms. Thomason,
16 second from Mr. Vasquez. Do we have comments, Naomi?

17 MS. CANTU: I see Stephanie Naquin saying that
18 she registered to talk but does not need to. And then we
19 also have Jennifer Brewerton again. Jennifer, let us know
20 if you would like to speak on this item, and you are
21 unmuted.

22 MS. BREWERTON: No, I thought I -- no. I
23 thought I said earlier in the call chat -- I apologize.
24 No, I did not need to speak on this.

25 MS. CANTU: Okay. Thank you. And with that, I

1 do not see any other comments on this.

2 MS. BINGHAM: Great. So all those in favor,
3 aye?

4 (A chorus of ayes.)

5 MS. BINGHAM: Opposed?

6 (No response.)

7 MS. BINGHAM: Great. Motion carries. Thank
8 you. Item 6(c), Cate?

9 MS. TRACZ: Hi. This is Cate --

10 MS. CANTU: You're unmuted.

11 MS. TRACZ: -- Tracz. Can you hear me okay?

12 MS. CANTU: Yes.

13 MS. TRACZ: Okay. Great. So good afternoon,
14 Board members. I'm Cate Tracz, your housing manager. This
15 item is an order adopting a new subchapter in the rules for
16 affirmative marketing requirements and written policies and
17 procedures.

18 Recently, the oversight of the affirmative
19 marketing requirements on the Department's multifamily
20 portfolio and the written policies and procedures that go
21 along with that portfolio have been moved organizationally
22 in the Department from the Compliance Division to the Fair
23 Housing, Data Management, and Reporting Division.

24 As a result of this organizational move, these
25 two processes that are captured in the new subchapter are

1 being proposed -- are being -- seeking adoption in the new
2 subchapter. So in the development, a roundtable was held
3 on October 21, 2019 and explained the proposed amendments
4 in both the compliance rules and this new subchapter for
5 affirmative marketing and tenant selection criteria.

6 A draft was brought before the Board in November
7 and again in December 2019. Significant items initially
8 proposed in the draft included a modification to the
9 Department's occupancy standards policy and the
10 highlighting of some particular requirement in the
11 multifamily direct loans funded development.

12 Following approval at the December meeting, the
13 proposed new subchapter was released for comment from
14 December 27, 2019, through January 27, 2020, and during
15 this time, we received comments from four total
16 organizations.

17 So based on the public comment received, there
18 are three changes that were made to the final rules before
19 you today. The first change reverts back the original
20 language for a six-month affirmative marketing period
21 instead of the proposed 90-day affirmative marketing
22 period, or when an owner must begin affirmative marketing
23 efforts prior to the anticipated date of the first building
24 being available for occupancy.

25 The next change provides clarification and some

1 examples of acceptable written forms of written
2 notification when a property is informing tenants about the
3 availability of new or revised written policies and
4 procedures.

5 And then the final change provides some
6 clarification on some items that are and are not required
7 specifically to be included within the written policies and
8 procedures. Some other comments, some other topics that
9 were commented on that did not result in changes to the
10 rules as proposed were related to the identification of
11 least likely to apply population and use of an affirmative
12 marketing rent tool, limited English proficiency
13 requirements and the continued requirement to provide VAWA
14 or Violence Against Women Act forms to applicants and
15 tenants.

16 So staff recommends the changes to the adopted
17 rules as described in your Board item to address some of
18 the public comments received. And that concludes my
19 remarks on this item.

20 MS. BINGHAM: Thank you, Cate. Any questions
21 from the Board?

22 (No response.)

23 MS. BINGHAM: I'll entertain a motion.

24 MR. BRADEN: Move to approve staff
25 recommendation.

1 MS. BINGHAM: Okay. Motion by Mr. Braden.

2 MS. THOMASON: Second.

3 MS. BINGHAM: Second by Ms. Thomason. Naomi,
4 are there any comments for Item 6(c)?

5 MS. CANTU: I do not see any in the question
6 box, and no one registered to speak on it, as of 7:30 this
7 morning. So if you have a comment, please remember to put
8 it in the question box, and we can then unmute you so you
9 can speak, but I do not see anything at this time.

10 MS. BINGHAM: Great. We have a motion and a
11 second to approve staff's recommendation for publication in
12 the *Texas Register*. All those in favor, aye?

13 (A chorus of ayes.)

14 MS. BINGHAM: Opposed?

15 (No response.)

16 MS. BINGHAM: Motion carries. Moving right
17 along, Item 7(a). Michael DeYoung, you have the next few.

18 MR. DeYOUNG: -- and Board members. Item 7(a) is
19 in response to the recent award of Community Services Block
20 Grant, CSBG funds, through the CARES Act to the State of
21 Texas. And under the CARES Act, TDHCA will receive
22 approximately \$40 million in additional CSBG funding.

23 These funds are target to COVID-impacted
24 households, and allow the State to go up to 200 percent of
25 federal poverty, which is a change from the normal

1 125 percent of federal poverty. Of the \$40 million,
2 90 percent, or 36 million, is statutorily required to be
3 awarded to the 40 CSBG-eligible entities that we have
4 contracts with across the state of Texas, and they serve
5 all 254 counties.

6 Seven percent will be held back as emergency use
7 or incentive funding. Two percent will support the Texas
8 Homeless Network, and they're responsible for coordinating
9 homeless activities for over 200 counties in the state of
10 Texas, and those are predominantly rural counties, West and
11 South Texas.

12 The large areas are served by continuum of care.
13 And then one percent will be retained for TDHCA
14 administrative expenses. TDHCA will have until
15 September 30, 2022 to fully expend these funds. The
16 additional funds that flow to the 40 eligible entities are
17 directed to assist households that have been impacted by
18 COVID-19 and are extremely flexible in nature.

19 Households could be assisted with food
20 assistance, job search services, utilities, rent, and a
21 host of other activities. Staff is requesting your
22 approval to proceed.

23 MS. BINGHAM: Any questions for Michael?

24 (No response.)

25 MS. BINGHAM: If not, we'll entertain a motion.

1 MR. VASQUEZ: I move that we --

2 MS. THOMASON: I make a --

3 MR. VASQUEZ: -- go ahead. Go ahead, Sharon.

4 MS. THOMASON: -- make a motion to approve
5 staff's recommendation.

6 MS. BINGHAM: Motion by Ms. Thomason, second by
7 Mr. Vasquez?

8 MR. VASQUEZ: Yes.

9 MS. BINGHAM: I'm anticipating no comment, but
10 Naomi, any comment?

11 MS. CANTU: We do have one person signed up to
12 provide comment. That's Cyrus Reed from the Sierra Club,
13 Lone Star Chapter. Do we see him?

14 MS. BINGHAM: Okay.

15 MR. DeYOUNG: I believe Cyrus probably wants to
16 talk on the LIHEAP item, which is the next item.

17 MS. CANTU: He said, 7(b). You're right. Okay.

18

19 MR. DeYOUNG: Yeah.

20 MS. CANTU: We will wait for it. All right. I
21 don't see any --

22 MR. DeYOUNG: No problem.

23 MS. BINGHAM: Thank you. So all those in favor
24 of staff's recommendation under Item 7(a)? All those in
25 favor, aye?

1 (A chorus of ayes.)

2 MS. BINGHAM: Opposed?

3 (No response.)

4 MS. BINGHAM: Motion carries. Okay. Item 7(b).

5 MR. DeYOUNG: Okay. Item 7(b) is in response to
6 the recent award of the Low Income Home Energy Assistance
7 Program. We refer to it as LIHEAP, and through the CARES
8 Act, funding to the State of Texas was approximately 90
9 million additional dollars.

10 Now, these funds are provided for utility
11 assistance and weatherization activities in most years, and
12 this new tranche of funds is in addition to the 163 million
13 that we've already received for 2020. You've already
14 authorized that for utility assistance and weatherization.

15 For this tranche of funds, we are targeting
16 utility assistance with no additional funding going to the
17 weatherization activities. Weatherization activities
18 across the state of Texas are pretty much on hold now, as
19 we go into homes with contractors and with assessors.

20 Because of the COVID, we are unable to have any
21 of our 22 agencies currently active. So we have proposed
22 to put all these funds into the utility assistance
23 activity, and we would consider any agencies across the
24 state that administer the LIHEAP Program, that if they want
25 to move funds over to the weatherization program, we would

1 consider those on a case-by-case basis.

2 We have to be careful in that weatherization
3 activities are capped at 15 percent of the allocation. So
4 we would consider each of those requests individually with
5 the goal of keeping weatherization under 15 percent of this
6 new \$90 million tranche of funds.

7 Staff is requesting your approval to proceed,
8 and I believe Cyrus Reed wants to speak on this item, as
9 well.

10 MS. BINGHAM: Okay. While Naomi is getting him
11 teed up -- so it's capped at 15 percent by what authority?
12 Like, is that --

13 MR. DeYOUNG: Yeah. That's part of the federal
14 statute. It's been in the LIHEAP statute since 1984.
15 States technically can go above 15 percent, but you have to
16 go through a waiver process, and the waiver process
17 requires us to certify that we won't impact people
18 receiving utility assistance if we take money away from
19 utility assistance.

20 So it's kind of a difficult premise to prove up.

21 I will tell you, the DOE -- part of the logic of the
22 decision-making at this point was, the Department of Energy
23 award to the State of Texas went up by 2 million, which is
24 about a 22 percent increase this past year, and so we had
25 more funds going in the DOE weatherization program, and

1 that's one of the reasons we pulled back on the LIHEAP
2 weatherization in this last \$90 million of LIHEAP funds.

3 And I -- when I use the term, 90 million, that
4 is an estimate. We do not have funding letters yet for
5 this tranche of funds.

6 MS. BINGHAM: Okay. Great. So a couple of
7 comments pending. Is there a motion to approve Item 7(b)?

8 MR. VASQUEZ: I move to approve Item 7(b), as
9 recommended by staff.

10 MR. BRADEN: Second.

11 MS. BINGHAM: Motion by Mr. Vasquez, second by
12 Mr. Braden. Okay. Naomi, is Cyrus there?

13 MS. CANTU: Yes. We are working to unmute
14 Cyrus, and he is unmuted. Mr. Reed? Mr. Reed, you can
15 speak on this item.

16 MR. GAGNE: Please check your audio controls,
17 and that your computer microphone is on.

18 MS. CANTU: We're not able to hear you. And
19 we're trying to talk to Mr. Reed. We're still having
20 difficulty hearing him. We have unmuted him on our --

21 MS. BINGHAM: Okay. Naomi, if the Board's okay,
22 if you guys are okay, we'll leave that item open. Just --
23 we'll come back to it, and we'll move on to the next one,
24 and then you tell us when you get Cyrus. Is that okay with
25 the --

1 MS. CANTU: Thank you.

2 MS. BINGHAM: -- Board? Great. Okay. Then
3 let's move to Item 7(c). Michael?

4 MR. DeYOUNG: Sure. Item 7(c) regards the
5 programming of the Community Development Block Grant funds.
6 These are the CDBG funds that were recently awarded
7 through the CARES Act. The Department was designated by
8 the Governor's Office to receive just over \$40 million of
9 CDBG funds.

10 The Department is working closely with the
11 Governor's Office to determine the most effective use of
12 these funds in response to the COVID-19 pandemic. When the
13 activities are determined, the State will need to amend the
14 Consolidated Plan and the one-year action plan.

15 This item will serve as the authority for the ED
16 to draft amendments reflecting the activities and to host a
17 public comment period and a hearing for those amendments
18 and ultimately the submission of the amendments to HUD.
19 Any action that's generated through this process will be
20 reported back to the Board at next month's Board meeting,
21 and staff is requesting your approval to continue to
22 proceed with this program.

23 MS. BINGHAM: Great. Do the Board have any
24 questions on that item for Michael? I know things are
25 moving pretty quickly, Michael, so there's a lot of things

1 that aren't quite in place, but in order to act quickly,
2 you need us to provide some authority at the agency level
3 to get those things nailed down.

4 Correct?

5 MR. DeYOUNG: Correct.

6 MS. BINGHAM: Okay. Entertain a motion?

7 MR. BRADEN: Move to approve.

8 MS. THOMASON: Move --

9 MS. BINGHAM: Thank you. I heard Mr. Braden,
10 motion. Ms. Thomason, second. Great. Any comments on
11 that one, Naomi?

12 MS. CANTU: I do not see any comments on this
13 item in the question box, and no one registered to speak on
14 it as of 7:30 this morning.

15 MS. BINGHAM: Great. Okay. We'll call for a
16 vote. For staff -- I have a motion and a second to
17 recommend staff recommendation on Item 7(e). All those in
18 favor, aye?

19 (A chorus of ayes.)

20 MS. BINGHAM: Opposed?

21 (No response.)

22 MS. BINGHAM: Great. Motion carries. Did we
23 find Cyrus or no?

24 MS. CANTU: We believe we have him. We're going
25 to go ahead and unmute him on his phone.

1 MR. GAGNE: Okay. Mr. Reed, it's showing us you
2 just need to enter your pin.

3 MS. CANTU: And we -- and did we send that to
4 him by email? Okay. So while we wait for that, if you
5 wanted to -- we can wait for that. It's up to your
6 discretion.

7 MS. BINGHAM: Yes. Let's wait just a second
8 because this is Michael's last item, and then we have to
9 move on to Abigail. So --

10 MS. CANTU: All right. We're waiting for him to
11 enter his pin to be able to speak.

12 (Pause.)

13 MR. GAGNE: Mr. Reed, this Jason Gagne. You
14 should be able to see your pin in your audio controls, in
15 your control panel.

16 MS. CANTU: Go ahead and try to unmute him one
17 more time.

18 MR. GAGNE: And can we try one more time?

19 MS. CANTU: Mr. Reed? We are showing that he is
20 unmuted. We have been troubleshooting with him, but I
21 have -- not able to resolve that issue at this time.

22 MR. VASQUEZ: Could Michael convey what he
23 expects him to say?

24 MR. DeYOUNG: I can try. Cyrus is from the
25 Sierra Club, and he has been a long-time participant in our

1 public hearing process. He has been a passionate advocate
2 for as much funding going to the weatherization program as
3 possible.

4 His history with that interest goes back many,
5 many years. I had an email exchange with him this morning
6 explaining the rationale for our recommendation to put the
7 funding into the LIHEAP utility assistance program rather
8 than weatherization at this time.

9 One of our concerns is that the funds were
10 awarded to go to COVID activities, and we don't know when
11 we can start back up weatherization, actually allowing
12 people to go back into homes and getting contractors who
13 are comfortable going into homes where they don't know the
14 occupants.

15 We could be stalled for two to three, maybe even
16 four months until things actually get unlocked and we start
17 to spend weatherization funds, and we have a lot of funds
18 out there right now that remain unspent. Mr. Reed has also
19 been passionate about the public hearing process and making
20 sure that there is input from all the agencies, as we make
21 decisions on LIHEAP funds, predominantly, and also the
22 Department of Energy funds.

23 However, the Board item is not related to the
24 Department of Energy funds. It is only related to the
25 LIHEAP funds that come in this CARES Act.

1 MS. BINGHAM: Right. And Michael, you said --
2 so there's the 15 percent cap anyway. Right?
3 Weatherization can only be 15 percent of the total? And
4 then --

5 MR. DeYOUNG: Correct.

6 MS. BINGHAM: -- you did put in a provision
7 where, if there were requests that still met that condition
8 of the under 15 percent, that you would evaluate those on a
9 case-by-case basis?

10 MR. DeYOUNG: Correct. And what we've done over
11 the last three or four years in our LIHEAP plan is, we have
12 said up to 15 percent. The reason for that is, at the end
13 of the year, many of our LIHEAP agencies don't have the
14 capacity to fully expend their contract in weatherization,
15 so they move it over to utility assistance funds.

16 We've left that provision still intact, so we
17 could go up to 15 percent if we have agencies that request
18 to move some of their funds into the weatherization
19 activities. I will tell you, from my experience, of the 22
20 agencies, I would be shocked if five or six of them
21 actually requested additional LIHEAP funds right now.

22 They are -- they have enough money. They have
23 the increase in the DOE, and we would normally be
24 weatherizing the most homes right now, because it's not
25 cold and it's not overly hot, and my fear as a program

1 administrator is that when this finally does loosen up and
2 we can start to get into weatherizing homes, it becomes
3 July and August, and that's not a great time to be in the
4 attic insulating and climbing around, trying to figure out
5 why the house is inefficient.

6 So we certainly have that flexibility. We will
7 use it if we need it, and we feel like the most prudent
8 activity at this time is the utility assistance, which can
9 help the most households. Not every household is a great
10 candidate for weatherization.

11 That needs to be determined by an assessor, as
12 they go to the house and look at the actual condition of
13 the house prior to making a recommendation.

14 MS. BINGHAM: Great. Got you. Okay. Well,
15 then, if we haven't been able to get Cyrus, we have a
16 motion from Mr. Vasquez, a second from Mr. Braden, to
17 approve staff's recommendation on Item 7(b). Okay. All
18 those in favor, aye?

19 (A chorus of ayes.)

20 MS. BINGHAM: Opposed?

21 (No response.)

22 MS. BINGHAM: Great. Motion carries. All
23 right. So that took us through (b), (c), and now we'll go
24 to 7(d), Abigail Versyp.

25 MS. VERSYP: Hello again. I'm Abigail Versyp,

1 director of Single-family and Homeless Programs. Just one
2 moment. And I'm presenting Agenda Item 7(d), requesting
3 approval of actions for the programming of a special
4 allocation of funding to ESG through the CARES Act.

5 The CARES Act provided 4 billion nationwide to
6 the ESG Program, and that's being distributed by HUD to ESG
7 grantees, including the State of Texas. The funding that's
8 proposed today includes funding allocated to the state from
9 the first \$1 billion round provided for in the CARES Act.

10 We do anticipate that there's going to be
11 additional CARES Act funding, but that allocation's going
12 to be decided by the HUD Secretary, based on factors
13 enumerated in the Act, and we don't have the specific
14 details of how much we will be receiving later.

15 I do need to take a moment to acknowledge all
16 the staff who were instrumental in creation of the plan, in
17 particular Naomi Cantu who is our Homelessness Programs
18 administrator, in addition to our moderator today. Thank
19 you, Naomi, for your role in creation of the plan.

20 From the first billion dollars distributed under
21 CARES, TDHCA has been allocated a little over \$33 million
22 in ESG. For some perspective, our annual allocation of ESG
23 hovers right about at the \$9 million mark, so this is more
24 than three times as much ESG funding as we receive
25 annually, with more to follow.

1 This item is the proposed plan to release the
2 first round of funding to eligible entities as quickly as
3 possible to respond to the pandemic. In addition to
4 allocating funds for ESG CARES -- I'm sorry. In addition
5 to allocating funds for ESG, the CARES Act expands the
6 eligible use of the ESG.

7 First, it increased the income limits for
8 participation in homelessness prevention, so that
9 households up to 50 percent AMI can receive some relief.
10 It also allows for funds to be expended for temporary
11 emergency shelter.

12 We're waiting on some final guidance about the
13 specific limitations of what temporary means, but it does
14 explicitly allow the leasing of property or temporary
15 structures. In creating a plan, staff consulted with
16 organizations that are currently administering ESG funds,
17 as well as lead continuum of care agencies, and they
18 represent providers of homelessness services in all of the
19 continuum of care regions in Texas.

20 We've proposed a plan for distribution of the
21 first allocation that we think is going to provide for
22 efficient distribution of the funds and maximize the
23 geographic distribution. Initially, the funds will be made
24 immediately available to 51 existing ESG subrecipients,
25 followed by distribution after an abbreviated selection

1 process to organizations that are identified by the COC or
2 by TDHCA, if the COC lead doesn't -- elects not to
3 participate.

4 Additionally, the plan does allow for some
5 funding to be retained by TDHCA for our own administrative
6 costs, as well as separate costs that may be awarded for
7 HMIS, which is the data management system for homelessness
8 providers, as well as legal services, that's going to help
9 people obtain or maintain housing.

10 The proposed totals in each category are
11 included in page 5 of the write-up. Since this situation
12 is so fluid and the needs are really, really urgent, the
13 item also includes proposed discretion for the Executive
14 Director to authorize changes to the plan, to move funds
15 from one planned activity to another planned activity, with
16 up to a 25 percent swing.

17 Although the Board item was placed in the agenda
18 to allow some flexibility for emergency rulemaking, since
19 the agenda went up, we did reevaluate and determine that
20 that's not needed at this time. So I'm happy to answer any
21 questions that you might have about the Act or the plan
22 that's proposed.

23 MS. BINGHAM: Thank you, Abigail. Thanks very
24 much. Does the Board have any questions for Abigail?

25 (No response.)

1 MS. BINGHAM: And so we don't need the emergency
2 rulemaking, but we're going to approve staff's
3 recommendation that also includes providing the Executive
4 Director with some authority to move those funds, as the
5 needs dictate.

6 Abigail?

7 MS. VERSYP: That is the proposal from staff.
8 Yes.

9 MS. BINGHAM: Great. Thank you. We'll
10 entertain a motion.

11 MR. VASQUEZ: I'll move to approve staff's
12 recommendations.

13 MS. BINGHAM: Thank you. Mr. Vasquez makes a
14 motion. Is there a second?

15 MS. THOMASON: Second.

16 MS. BINGHAM: Ms. Thomason seconds. And Naomi,
17 any public comment on Item 7(d)?

18 MS. CANTU: I don't have anything in the
19 question box, but again, if you want to make comments,
20 please type your question in the question box, and we will
21 unmute you, or if you're for or against a particular
22 project or item.

23 And I do not have anyone registered on this as
24 of 7:30 this morning.

25 MS. BINGHAM: All right. We have a motion and a

1 second. All those in favor of staff's recommendation, aye?

2 (A chorus of ayes.)

3 MS. BINGHAM: Opposed?

4 (No response.)

5 MS. BINGHAM: Great. Motion carries. Item
6 7(e). Abigail?

7 MS. VERSYP: Okay. Still Abigail Versyp. Item
8 7(e) is a request for some additional waivers to our Texas
9 Administrative Code to facilitate administration of our
10 short term Tenant-Based Rental Assistance Program for
11 households impacted by COVID-19 that we brought to you last
12 month.

13 So the last time we met, the Department was in
14 the process of requesting waivers from the Office of the
15 Governor and from HUD. The Governor graciously granted the
16 waivers we requested, which are going to allow, among other
17 things, HOME TBRA to be offered in areas that receive their
18 own funding directly from HUD.

19 In addition, HUD has offered a series of waivers
20 to the HOME Program specific to TBRA that are more
21 expansive than anticipated. So program staff began our
22 outreach efforts, including contacting administrators of
23 the regular TBRA Program, and we've taken into
24 consideration some concerns that they raised during our
25 outreach efforts, which prompted us to seek some additional

1 waiver authority for TBRA.

2 The waiver request that is presented in the
3 materials are primarily related to ways to expedite the
4 process or to accommodate for factors outside of the
5 control of the administrators of the households, that could
6 create delays that would normally be cause to disapprove
7 assistance.

8 First, the waiver related to the limitation of
9 the term of assistance for a household would exclude
10 assistance provided under -- we're creating a special
11 COVID-19 set-aside. So families that have been previously
12 assisted with TBRA up to their lifetime cap of assistance
13 could access the set-aside on a temporary basis, even
14 though they wouldn't typically be eligible.

15 Also, any assistance that's received during this
16 time under the set-aside wouldn't be counted for households
17 in the future, should the need arise from them to receive
18 TBRA. Second is the waiver related to the issuance of a
19 certificate of eligibility.

20 Typically, an administrator would be required to
21 reserve funds for a household prior to letting them know
22 that they're eligible, and -- because that's going to
23 trigger the household to begin searching for a unit, with
24 assurance that they may enter into a lease and their rent
25 will be set aside.

1 It's designed as a protection for a household so
2 they don't rent a unit, sign a lease, and then find out
3 that the funding isn't available. For households assisted
4 under the COVID-19 set-aside that already have a unit, and
5 they just are unable to afford rent during the crisis, we
6 don't even need that form.

7 So this is a way for us to strike the form from
8 the requirements for the program for this purpose. The
9 final two waivers are related to timelines for
10 administrative processes. One allows additional time for
11 households to select a unit, because that's becoming
12 problematic with stay-at-home orders, and the other allows
13 administrators to submit requests for payment of rental
14 subsidy earlier than is typically allowed.

15 Both of these are designed to increase
16 flexibility and ease administration of TRBA, especially
17 with the volume that we anticipate, and they were suggested
18 by existing administrators during our outreach efforts.

19 So I'm open to any questions about these
20 waivers.

21 MS. BINGHAM: Do Board members have any
22 questions for Abigail?

23 (No response.)

24 MS. BINGHAM: Great. Good program. Naomi, is
25 anybody teed up for Item 7(e)?

1 MS. CANTU: I do not have anyone in the question
2 box as wanting to comment on this or when they registered.

3 MS. BINGHAM: Great. Very good. So we'll
4 entertain a motion to approve staff's recommendations on
5 Item 7(e).

6 MS. THOMASON: Move to approve.

7 MR. BRADEN: Move to approve staff's
8 recommendation.

9 MS. BINGHAM: I'll say, Ms. Thomason motions and
10 Mr. Braden seconds. If there are no further questions or
11 discussion, all those in favor, aye?

12 (A chorus of ayes.)

13 MS. BINGHAM: Opposed?

14 (No response.)

15 MS. BINGHAM: Great. Excellent. Thank you very
16 much, Abigail. So Item 7(f) is Tom Gouris.

17 MS. VERSYP: Thank you.

18 MS. BINGHAM: Hey, Tom.

19 MR. GOURIS: Good afternoon, Madame Chair, Board
20 members. My name is Tom Gouris, and I'm the director of
21 Single-Family and Homeless Programs -- Homelessness
22 Programs and Special Initiatives right here at the
23 Department.

24 I'm presenting the second-to-the-last rule item
25 regarding COVID-19 for your consideration today. This is a

1 fairly straightforward item which will provide an exception
2 to our regulations regarding required replacement reserves
3 for multifamily developments funded by the Department to
4 allow the conditional use -- additional use -- be used to
5 pay a rent for tenants who have been economically impacted
6 by the pandemic.

7 You may already know that replacement reserves
8 are funds required to be set aside from operating proceeds
9 of a property for future periodic replacement of building
10 components that wear out faster than the building itself.
11 Contributions to the replacement reserves began at between
12 \$200 to \$250 per unit per year for each multifamily
13 development funded by the Department.

14 Then in later years, they are adjusted based on
15 the actual and estimated future replacement needs of the
16 property. Uses of these funds are limited to things like
17 replacing floor coverings, appliances, water heaters,
18 roofing, air conditioning systems and the like.

19 Replacement reserves belong to the property
20 owner for the ongoing benefit of the property. These types
21 of reserves are generally primarily overseen by the first
22 lien lender, but since 2003, the Department has also had a
23 statutory role in the oversight of replacement reserves of
24 developments that we've funded, including [indiscernible]
25 properties.

1 The statute provides the Department the ability
2 to create regulation of replacement reserves, and the
3 Department has done so by prohibiting the use for expenses
4 other than necessary repairs. The proposed emergency rule
5 today allows for the conditional use of such funds by
6 properties to provide rent payment assistance to residents
7 who have been economically impacted by the COVID-19
8 pandemic.

9 Property owners will get to decide if funds will
10 be best spent in this manner and put together a plan to do
11 so. They will also need to get any necessary approval from
12 their first lien lender or anyone else who has notice of
13 interest.

14 Just to note, the Department provided guidance
15 two weeks ago on another type of reserve account known as a
16 special reserve. Of the special reserves, a fund less
17 prevalent in the portfolio, they have only been
18 contractually required for a small subset of developments
19 funded by the Department and have not been mandated for a
20 development like the replacement reserve.

21 Special reserves are set up for some
22 developments to facilitate tenant services and operating
23 stabilization, and though they actually provide much
24 greater flexibility, they still require approval by the
25 Department for their use.

1 The staff is proposing that the Department
2 provide similar guidance for the acceptable temporary use
3 of replacement reserves. The guidance will allow for the
4 use to be repayable or in the form of a grant to provide
5 their limited use for utilities, to the extent utilities
6 are part of the grant, and to limit any fee or profit from
7 the tenant for the use.

8 Under -- also, guides will also include a
9 requirement to require minimum balance to remain in the
10 reserve replacement for future repair needs. So this
11 proposed rule, if it's approved today, will go into effect
12 immediately after publication in the *Texas Register* and
13 will last for 120 days, unless expended or replaced with a
14 formal rule revision.

15 I'm happy to answer any questions you might
16 have.

17 MS. BINGHAM: Great. Thanks, Tom. Does anybody
18 have any questions for Tom?

19 (No response.)

20 MS. BINGHAM: No? Naomi, is there anybody in
21 the queue for comment on Item 7(f)?

22 MS. CANTU: Not for Item 7(f). We don't have
23 anyone in the queue, in the question box, and I don't have
24 anyone who preregistered to speak on that item as of 7:30
25 this morning.

1 MS. BINGHAM: All right. Thank you. We'll
2 entertain a motion.

3 MR. VASQUEZ: I'll move to approve staff's
4 recommendation of Item 7(f).

5 MS. BINGHAM: Okay. Mr. Vasquez moves. Is
6 there a second?

7 MS. THOMASON: Second.

8 MS. BINGHAM: Ms. Thomason seconds. Thank you.
9 No further discussion?

10 (No response.)

11 MS. BINGHAM: All those in favor, aye?

12 (A chorus of ayes.)

13 MS. BINGHAM: Opposed?

14 (No response.)

15 MS. BINGHAM: Great. Motion carries. Thank
16 you, Tom.

17 MR. GOURIS: Thanks.

18 MS. BINGHAM: And then the last item, 7(g), and
19 that's a Marni item. 7(g).

20 MS. HOLLOWAY: Yes, it is. Hello again. 7(g).
21 Hello.

22 MS. BINGHAM: Hello.

23 MS. HOLLOWAY: Credit where it's due. This is
24 actually an item that Teresa Morales conceived and put
25 together for us, and I wanted to make sure everyone knew

1 that this was her thoughtful work that went into this item.

2 This is "Presentation, discussion and possible
3 action on waivers relating to certain requirements under 10
4 TAC Chapter 11, which is the QAP, and 10 TAC Chapter 13,
5 which is the Multifamily Direct Loan (MFDL) Rule in
6 relation to the Department's response to the COVID-19
7 pandemic."

8 There are certain eligibility and professional
9 requirements that applicants for 4 percent housing tax
10 credits or direct loan funds may not be able to meet, due
11 to the effect COVID-19 is having on local governments and
12 other entities, which are required to provide this specific
13 information.

14 Because of these uncertainties, staff recommends
15 that the requirement in the QAP for mitigation for
16 applications for 4 percent housing tax credits or direct
17 loan funds relating to school performance be waived for the
18 remainder of the 2020 program year.

19 Due to the unpredictable and fast-moving nature
20 of the COVID-19 pandemic, staff believes there will be
21 applications submitted where obtaining such information
22 from a school official may be difficult and considering
23 action taken by Governor Abbott and the Texas Education
24 Association related to handling of standardized testing and
25 that there will be no 2020 accountability rating, staff

1 does not believe school officials will be able to provide
2 actual data and progress that has been made under any
3 campus improvement plans currently in effect.

4 So this would only be in instances where
5 mitigation is allowed. It does not change the
6 ineligibility for schools with an F and an improvement
7 required. Further, information required under the QAP
8 relating to nonprofit ownership -- no.

9 Wait. I'm getting ahead of myself. Okay. A
10 waiver to consider development sites eligible despite the
11 presence of this neighborhood risk factor will be applied
12 to applications submitted under the 2020 QAP which would
13 include 4 percent housing tax credit applications that
14 received a certificate of reservation from the BRB in the
15 2020 calendar year.

16 Staff notes that this action does not extend to
17 the portion of our rule regarding ineligibility of
18 developments within certain school attendance zones, which
19 would still be considered ineligible with no opportunity
20 for mitigation.

21 As it relates to 10 TAC 11.20414 of the QAP
22 regarding nonprofit ownership, the QAP would require a
23 resolution at a regular meeting of the board of directors
24 of a nonprofit indicating their awareness of the
25 organization's participation in a specific application.

1 Recognizing that such meetings may not be
2 possible during the pandemic, staff recommends that the
3 Board allow, in lieu of the resolution, a certification
4 from an individual who is authorized to act on behalf of
5 the nonprofit that includes the aforementioned information.

6 This will be applied to applications submitted
7 under the 2020 QAP, which would include 4 percent tax
8 credit applications and any direct-loan-only applications.

9 The resolution will be required for all direct loan
10 transactions prior to contract execution.

11 As it relates to other requirements identified
12 in the QAP that applicants are unable to meet or
13 information from certain parties that is unobtainable,
14 those applications should include a waiver request that
15 meets the requirements of the QAP and describes
16 specifically how COVID-19 has impacted the ability to
17 submit the required information.

18 Staff recommends that the Board approve waiver
19 of these sections of the QAP for applications received for
20 4 percent housing tax credits or direct loan only for the
21 remainder of 2020.

22 MS. BINGHAM: Great. Thank you. Does the Board
23 have any questions for Marni?

24 (No response.)

25 MS. BINGHAM: This is great. Super thoughtful.

1 I mean, that was a lot of good catches there that are
2 probably going to be some obstacles moving forward. So
3 great. Naomi, anybody in the queue for comment on Item
4 7(g)?

5 MS. CANTU: I do not have anyone in the question
6 box indicating they would like to speak on Item 7(g), and I
7 have no one preregistered.

8 MS. BINGHAM: Okay. Thank you. I would
9 entertain a motion to approve staff's recommendation on
10 Item 7(g).

11 MR. BRADEN: Move to approve.

12 MS. BINGHAM: Okay. I have a motion from Mr.
13 Braden.

14 MS. THOMASON: Second.

15 MS. BINGHAM: I have a second from Ms. Thomason.
16 No further discussion?

17 (No response.)

18 MS. BINGHAM: All those in favor, aye?

19 (A chorus of ayes.)

20 MS. BINGHAM: No opposed?

21 (No response.)

22 MS. BINGHAM: Motion carries. Whew, this is
23 great. Thank you. Thanks, Teresa, too. Thank you to
24 Teresa on that one. Okay.

25 So just wrapping up the meeting, it would be

1 time now for public comment on any matters other than the
2 items that were posted on the agenda. So this would be for
3 future consideration.

4 And Naomi, will you just let us know if there's
5 anybody in the queue?

6 MS. CANTU: Yes, Vice Chairwoman Bingham. We do
7 have two in the queue there. Victoria Calder is the first.

8 And then Mark English is the second. So we're going to go
9 to Victoria Calder, and he is unmuted -- or she is unmuted.

10 Sorry, Victoria. Victoria, we don't hear you.
11 Can you unmute?

12 MS. CALDER: Oh, yes. Now, can you hear me?
13 Okay. Great.

14 MS. CANTU: We can hear you.

15 MS. CALDER: Great. Thank you so much. I'm
16 Victoria Calder. Can you hear me now?

17 MS. CANTU: Yes. We do have an echo.

18 (Pause.)

19 MR. GAGNE: Both of you, for now -- this is
20 Jason Gagne. For some reason, you're showing as logged in
21 twice, and I think -- I don't know if you're logged in on
22 the phone and the computer, but there's a little bit of
23 feedback between the two, so if you can kind of log out of
24 one of them, we can hear you.

25 MS. CANTU: Okay. And why don't -- while we're

1 waiting for that, Victoria, we do still have you on deck,
2 but we're going to go to Mark English. Going to go ahead
3 and unmute Mark English.

4 MR. ENGLISH: Yes.

5 MS. CANTU: We hear you.

6 MR. ENGLISH: Okay. Good. My name is Mark
7 English. I am asking you to waive 10 TAC 10.402,
8 requirement for a mechanism to engage attendees and a
9 minimum score requirement on testing. We're an approved
10 TDHCA provider of fair housing and fair housing
11 accessibility training.

12 Next Thursday, we're doing a live webinar and
13 accessibility summit that is an opportunity not only for
14 the participants to be able to hear the same information
15 that they get right now on prerecorded webinar that y'all
16 already approved as an approved course, but it would give
17 them the opportunity of interaction in between them -- in
18 other words, ask questions to the three panelists which
19 are -- and never before have these three panelists been
20 together.

21 So it's going to be a wonderful opportunity for
22 people to be able to engage and ask questions that are
23 pertinent to their development on accessibility. And so
24 that's my request.

25 MS. BINGHAM: Thank you. Thanks, Mark. What

1 organization are you with?

2 MR. ENGLISH: My company is E&A Team, Inc.
3 We've been a TDHCA-approved provider for probably eight,
4 nine years. In fact, we're the only provider that's been
5 approved not only on the architect, developer, contractor
6 side of the equation, but also we're approved on the
7 property management training on fair housing issues for
8 property management staff.

9 MS. BINGHAM: Great. Thank you very much, Mark.

10 MR. ENGLISH: Yes, ma'am.

11 MS. CANTU: Okay. This is Naomi Cantu,
12 moderator, again, and we're going to try Victoria one more
13 time.

14 MS. CALDER: Yes.

15 MS. CANTU: Go ahead.

16 MS. CALDER: Okay. Can you hear me now?

17 MS. CANTU: We can.

18 MS. CALDER: You can? Great. Okay. Thank you.

19 I'm Victoria Calder, and my role is the point of contact
20 for a petition against the project for Hood County. It's
21 the proposed low income multifamily housing project called
22 Meander Park, Agenda Item 20123.

23 And I just wanted to make you aware that we do
24 have a petition against the project signed by over 556
25 residents of the homeowners associations for the

1 neighborhoods in close proximity to the intended project
2 location.

3 That petition with all of the original
4 signatures was sent to the TDHCA by our Congressman for
5 District 60, Representative Mike Lang, and I wanted to make
6 sure that that is considered as you go forward in reviewing
7 the project for Meander Park.

8 The neighborhoods in the surrounding area are
9 well-established, and they include Bentwater, Meander
10 Estates, Mallard Point, and Hideaway Bay, and our
11 primary -- I won't detail it very much at this point -- but
12 our primary concern is that the existing infrastructure in
13 the area where this project is proposed to be is currently
14 extremely impoverished and inadequate in terms of the
15 roads, the bridges, the flood control, the lighting, the
16 drainage, the schools.

17 At our city council meeting for the Granbury
18 City Council, February 18 of this year, our city manager
19 noted -- and this is a direct quote -- that he was
20 "throwing the red flag in as a caution regarding additional
21 multifamily development in Hood County."

22 The number of multifamily units in Granbury
23 involving projects being built, approved or in the planning
24 stage, is significantly higher already than the 59 units
25 per year that our city can handle, as stated in our 2016

1 comprehensive plan.

2 He went on to conclude, "I think we've reached
3 our capacity." And we agree. Again, I don't want to use
4 too much time. The schools that the families would be
5 attending, the children of the families, and this project
6 is typically proposed as a family development -- the
7 schools are already receiving many concerns from parents
8 about the existing overcrowding that's already far above
9 the ratio for the Texas state levels.

10 The road that goes into -- it's the only main
11 road that goes to where this project would be -- is also
12 the road for all of our surrounding neighborhoods. Even
13 though we only had 556 signatures, we believe we would have
14 had well over 1,000, had we not collected the signatures
15 during our spring break when many, many residents were on
16 vacation.

17 So the road in is designated by our city as a
18 transportation thoroughfare, but at best, it was built and
19 is a rural road with no shoulder, extremely treacherous,
20 already over-congested. It's narrow with poor signage,
21 unmarked lanes and no shoulders.

22 So it's already extremely dangerous in the area,
23 extremely overcrowded, and we just wanted to make you aware
24 that there's a significant opposition, not to a multifamily
25 housing project being built for low income in the

1 community, but it's absolutely the wrong place and the
2 wrong time, given the existing impoverished infrastructure.

3 Thank you so much for your time and for -- I
4 realize this is not the primary forum for this, and there
5 are subsequent hearings to come, but we do appreciate your
6 consideration.

7 MS. BINGHAM: Thank you. Thank you, Ms. Calder.
8 Naomi, is any -- are there any other comments?

9 MS. CANTU: I have one more from Anita Branch.
10 We will go ahead and unmute you. Anita, you are the last
11 one I see today. If you would like to make a comment on
12 anything that was not on the agenda, now is your time.

13 Please go ahead and type your request to speak
14 in the question box, and we will get to you. Anita, we're
15 going ahead and unmuting you.

16 MS. BRANCH: Okay. Great. Can you hear me?

17 MS. CANTU: Yes.

18 MS. BRANCH: Okay. Wonderful. My name is Anita
19 Branch. I am a registered professional engineer, and I
20 live in the subdivision of Bentwater Estates. This is the
21 same subdivision that Victoria just mentioned. And I
22 wanted to also about the Meander Park -- the proposed
23 Meander Park multifamily housing project that is currently
24 zoned as agricultural, and the reason for that is that the
25 entire area used to be ranch land, and as such, the

1 infrastructure that supports the area, including the roads
2 and bridges, were designed to accommodate rural traffic.

3 So because of the design for rural traffic, it
4 has narrow, two-lane roads without shoulders. It has no
5 pavement markings. It has no lighting. It has very few
6 signs. And the drainage is atrocious. It floods very
7 frequently, any time that we have heavy precipitation.

8 And so that really wasn't a problem until about
9 20 years ago, because you know, you had very few people
10 actually trafficking the area because it was farmland. But
11 about 20 years ago, when it was repurposed and the land use
12 went from agricultural farmland to subdivision and
13 residential use, that changed everything.

14 It changed not only the type of property, but it
15 also changed the drainage patterns and everything like
16 that, and so now, we have a situation where we have
17 significant traffic, and the infrastructure has not been
18 modified to keep up with that.

19 And so when it was just a ranch land, it moved
20 100 -- a few hundred vehicles a day, and now it moves
21 thousands, and we have a two-lane road, a very narrow, two-
22 lane road, and the increased load from the passenger and
23 heavy commercial traffic that moves through there every
24 single day have failed the inadequate pavement sections,
25 and there's improper surface drainage that has caused

1 erosion along the sides adjacent to the highway, which is
2 going to further destabilize the pavement.

3 And so it's made the road more treacherous than
4 it was before. So until recently, the county was
5 responsible for maintaining the road, but the city of
6 Granbury recently came in and annexed Meander Road, and
7 they did that because they wanted to bring Meander Park
8 development in to that.

9 Well, unfortunately, all the people that live in
10 the subdivisions, like Bentwater and Mallard Point and so
11 many of the other subdivisions, we aren't part of the city,
12 and so we don't have a say in any of this. And we had a
13 public meeting, and at that public meeting, the city
14 officials came in and they basically told us -- we asked
15 them about the infrastructure, and they told us that they
16 intended to proceed without any regard to the impact to the
17 infrastructure and the people and properties that have been
18 here for so many years.

19 And so as a result of that, I'm pretty much
20 against the project, and so are my neighbors and the people
21 that signed that petition that Victoria mentioned. So
22 until such time as the roads and bridges are updated and
23 brought into compliance with current TxDOT standards for
24 urban roads, and the drainage and floodplains are
25 appropriately dredged, I'm against the Meander Road

1 project.

2 And I thank you for hearing my comment.

3 MS. BINGHAM: Thank you very much, Ms. Branch.

4 MS. BRANCH: Thank you.

5 MS. BINGHAM: Naomi, anything else?

6 MS. CANTU: I don't see anything else in the
7 question box in GoToWebinar, and we don't have anyone else
8 signed up, preregistered, as of 7:30 this morning, that is
9 logged on. Hold on one second. Do you see a Larry or
10 Vicky Mason or a Neil Sober?

11 MR. GAGNE: No.

12 MS. CANTU: Okay. So I believe that we do not
13 have anyone else queued up for public comment at this time.

14 MS. BINGHAM: Very good. Any other comments
15 from staff? Bobby, anything else? Board members?

16 MR. WILKINSON: Thank you, Board, for sticking
17 with us today. It's been great work. Appreciate it.

18 MS. BINGHAM: Thank you all so much for your
19 patience. If there's no further business, thank you all.
20 Thank you, staff, for all the work you've put into this. A
21 lot of good things accomplished today, and thank you all
22 for hanging in there.

23 If there's no further business, I'll entertain a
24 motion for adjournment.

25 MR. VASQUEZ: So moved.

1
2
3
4
5
6
7
8

MR. BRADEN: Second.

MS. BINGHAM: Vasquez motions. Braden seconded.
Everybody seconded? Motion carries. Thank you guys very
much.

(Whereupon, at 2:55 p.m., the meeting of the
Governing Board of the Texas Department of Housing and
Community Affairs was adjourned.)

C E R T I F I C A T E

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

MEETING OF: TDHCA Board
LOCATION: Austin, Texas
DATE: April 23, 2020

I do hereby certify that the foregoing pages, numbers 1 through 242, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Latrice Porter before the Texas Department of Housing and Community Affairs.

DATE: April 30, 2020

(Transcriber)

On the Record Reporting
7703 N. Lamar Blvd., #515
Austin, Texas 78752