

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

GOVERNING BOARD MEETING

VIA TELEPHONE AND WEB LINK

July 22, 2021  
9:04 a.m.

MEMBERS:

LEO VASQUEZ, III, Chair  
BRANDON BATCH, Member  
PAUL A. BRADEN, Member  
KENNY MARCHANT, Member  
AJAY THOMAS, Member  
SHARON THOMASON, Member

BOBBY WILKINSON, Executive Director

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

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P R O C E E D I N G S

1  
2 MR. VASQUEZ: Welcome, everyone, to our Board  
3 meeting this morning.

4 It is 9:04 a.m., and I'm calling to order the  
5 meeting of the Government Board of the Texas Department of  
6 Housing and Community Affairs. Again, 9:04 a.m. on July  
7 22, 2021.

8 We will start out with a roll call, even though  
9 we can see everyone here, but there's formalities.

10 Mr. Batch?

11 MR. BATCH: Here.

12 MR. VASQUEZ: Mr. Braden?

13 MR. BRADEN: Here.

14 MR. VASQUEZ: Mr. Marchant?

15 MR. MARCHANT: Here.

16 MR. VASQUEZ: Mr. Thomas?

17 MR. THOMAS: Here.

18 MR. VASQUEZ: And Ms. Thomason?

19 MS. THOMASON: Here.

20 MR. VASQUEZ: And the Board chair is here, Bobby  
21 is here. We have a quorum; this is great.

22 Moving right along, we will, as customary, ask  
23 Bobby to lead us in the pledges.

24 (The Pledge of Allegiance and the Texas  
25 Allegiance were recited.)

1 MR. VASQUEZ: Thank you, Bobby.

2 We are going to be moving around different parts  
3 of the agenda today, so before I get started, I wanted to  
4 let everyone know after the consent agenda and executive  
5 director's report we're going to go straight to the  
6 appeals, which are much more limited than what was posted.

7 There were several resolved, and I'll talk about  
8 that again when we get to that point. So that way, once we  
9 get the appeals done that gives staff time to finalize the  
10 final list if there are any changes, and we can vote on  
11 that at the end.

12 So with that being said, we will look at the  
13 consent agenda. Does anyone have any items that someone  
14 wants to move to action items? And if not, the chair would  
15 entertain a motion relating to the adoption of the consent  
16 agenda. I need a motion from a Board member.

17 MR. BRADEN: Mr. Chair, I'll move the Board  
18 approve items 1 and 2, as described and presented in the  
19 respective Board action requests under the consent agenda.

20 MR. VASQUEZ: Thank you.

21 Motion made by Mr. Braden. Is there a second?

22 MS. THOMASON: Second.

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

24 MR. VASQUEZ: I heard Ms. Thomason chime in  
25 there first. Motion made and seconded. All those in favor

1 say aye.

2 (A chorus of ayes.)

3 MR. VASQUEZ: Any opposed?

4 (No response.)

5 MR. VASQUEZ: Hearing none, motion carries.

6 Moving right along to the executive director's  
7 report. Mr. Wilkinson.

8 MR. WILKINSON: Thank you, Chairman. Good  
9 morning, members.

10 First I'll dive into Texas Rent Relief. It's  
11 still our big-ticket item. We've crossed \$620 million in  
12 funds disbursed or approved, mostly disbursed and about 40  
13 percent of that is approved and the check is not in the  
14 mail yet. We're going to do another press release soon,  
15 probably at \$750 million, and then do another one at a  
16 billion.

17 With the CDC eviction moratorium expiring at the  
18 end of this month, incoming media requests have increased.

19 This is like a nationally framed story. In Texas the CDC  
20 moratorium really hasn't had teeth since March 31, when our  
21 Texas Supreme Court order that helped enforce it expired.  
22 It's been kind of a JP by JP court issue.

23 I was able to slip in an interview with *Time*  
24 *Magazine* this week when I was on the conference and with  
25 CBS News, Dallas Morning News, and *Texas Tribune* on

1 articles about rent relief and eviction diversion, which  
2 are, you know, two sides of the same coin. And I'm going  
3 to do a phone interview later this week with NBC Nightly  
4 News.

5 So I was just in New Hampshire for an executive  
6 directors conference for the National Council of State  
7 Housing Agencies. I booked it and then I missed TAAHP, so  
8 sorry TAAHP; I won't do that again. But we did receive  
9 many compliments from the other states on the pace of our  
10 rent relief program.

11 We really are leading the nation; it's evident  
12 in the data that came with the White House press release I  
13 think it was yesterday. We're at the top of the stacks.  
14 And you know it's to be expected based on population, but  
15 even on percentage spent we're doing really, really well.  
16 So thanks to Brooke, Mariana, Danny, the whole team, and  
17 frankly our contractors have been doing a great job as  
18 well.

19 They even praised our communications. We had a  
20 presentation from a communications consulting group, and  
21 they used Texas as an example twice during the  
22 presentation. They showed some quotes that we had put  
23 together, and I explained the help that we get from  
24 Christina and Michael and Brittany from GLO, who has been  
25 helping us, and then our Hahn Media Relations consultant is

1 part of the vendor package that we got to begin the  
2 program. So it was a little embarrassing, but the whole  
3 team deserves the praise, and I'm glad things are doing  
4 well.

5 That being said, we're still not resting on our  
6 laurels. Approval rate has been dipped a little bit  
7 recently. As we've worked to extend the contracts with the  
8 three vendors, which we're doing now, I expect it to climb  
9 back up, and the goal is still 2 billion by year-end and to  
10 improve customer service as well.

11 A quota was added to the call center staff to  
12 try to improve those metrics, drop the rate of abandoned  
13 calls, quicker time to pick up, that kind of thing, and  
14 then hopefully the quickness in answers can help.

15 It's often a matter of, well, it's still under  
16 review and there's not a whole lot more to say, but we want  
17 to have people have the best experience they can with the  
18 application and the call center.

19 Similar to this, the Texas Supreme Court this  
20 week extended their emergency order for the eviction  
21 diversion program until October 1. It was going to expire  
22 July 27. For specific eviction aversion we've helped more  
23 than 10,000 households avoid eviction, and that's about \$93  
24 million of the 620- that we've put out.

25 Later on the agenda today is an item for direct

1 award of housing stability services. This is a subset of  
2 our emergency rental assistance appropriation. Last month  
3 we talked about doing a \$100 million NOFA, and that's still  
4 to go out.

5 And then some of the housing stability funds,  
6 because it was a short window to spend, just a year, we  
7 were thinking about just rolling it into rental assistance,  
8 and the governor encouraged us to actually just get it out  
9 there, and so we have 50-something million dollars in  
10 direct awards that you'll be approving today --  
11 hopefully -- to help with homeless services and other  
12 things to really help Texans in need.

13 Along the same lines, we have a new senior  
14 manager just for the housing stability piece. It's a lot;  
15 it will be a couple hundred million dollars, or close to  
16 it. Cate Tracz, our current manager of Fair Housing Data  
17 Management Reporting, has agreed to accept the job, and she  
18 starts next week. So Brooke was doing a lot by herself,  
19 and she really needed to have someone to help her with this  
20 piece.

21 Moving on to other federal pandemic response  
22 programs, ESG CARES is 20 percent expended as of July 13.  
23 We've expended close to \$20 million, meeting our federal  
24 expenditure benchmark more than two months early. Thank  
25 you to Abby, Naomi, and the ESG team who put in long hours

1 to build a strong contracting, reporting, and technical  
2 assistance support system.

3 Some of these same subs are going to be  
4 receiving stability services money, so we're flooded with  
5 money, and we trust that they can get it to Texans in need,  
6 and I think they can.

7 At our last meeting two weeks ago you approved a  
8 plan for the new Emergency Housing Vouchers Program. This  
9 is another of the COVID response appropriation, and we are  
10 about to execute our first contact with the Waco Continuum  
11 of Care, so already working on getting those vouchers to  
12 work.

13 On the community affairs side for the Low Income  
14 Home Energy Assistance Program, or LIHEAP, about this time  
15 we usually shift funds around to the subrecipients who are  
16 doing a better job of spending, all in the interest of  
17 getting the funds expended.

18 Frankly, due to a large amount of funds in play,  
19 we're seeing very few subrecipients able to take on  
20 additional funds at this time. You know, it's a good  
21 problem to have, but we want to make sure that we expend as  
22 much as we can.

23 Most states are encountering the same problem,  
24 and we'll continue to explore our options to maximize  
25 expenditures, but I just wanted to let you know that that

1 is an issue that we're going into.

2 Flipping back to multifamily, thank to you Char  
3 Flickinger and our Multifamily Direct Loan manager and  
4 other staff. We've committed our entire allocation of 2019  
5 National Housing Trust Fund dollars, which was about \$11  
6 million, and staff finalized the last transaction last  
7 week.

8 And in Section 8 news, we recently just got  
9 clearance from HUD to issue another batch of Section 8  
10 vouchers. We issued 74 through Project Access folks,  
11 taking our wait list down to only 43 people. Good work by  
12 our Section 8 manager, Andre Adams, and his crew.

13 In other news, I hear we're doing the 9 percent  
14 awards today, and some of the viewers might be interested  
15 in that. It's been a crazy round. Alena is a new manager,  
16 and she's done a great job, the whole team, the Fab Five,  
17 the reviewers and Marni.

18 As the chair mentioned, we have several appeals  
19 listed, that was because we had to post not knowing. Some  
20 of those withdrew, some of them I granted the appeal, and  
21 the chair will explain that as we go to the item.

22 Any questions from the Board on anything to do  
23 with the Department? This is the second ED report in the  
24 same month, so it might be a little redundant.

25 MR. VASQUEZ: Any questions from Board members?

1 (No response.)

2 MR. VASQUEZ: Well, again, thank you, Bobby.  
3 You're doing well. Mr. Marchant and I tried to fill in for  
4 you at TAAHP.

5 MR. WILKINSON: Thank you.

6 MR. VASQUEZ: Which your B team was there.

7 Okay. So if there are no questions from the  
8 Board members, we will accept the executive director's  
9 report and move on to item 3(b), presentation, discussion,  
10 and possible approval of direct awards of Emergency Rental  
11 Assistance funds to select recipients for housing  
12 stabilization services. I hope I got that right.

13 Brooke, you're on.

14 MS. BOSTON: Thank you.

15 Chairman Vasquez and Board, I'm Brooke Boston  
16 and I'm presenting on item 3(b), which as mentioned,  
17 relates to housing stabilization services awards.

18 As you know, the Department received Emergency  
19 Rental Assistance funds totaling \$1.3 billion from the U.S.  
20 Treasury Department to be used to provide emergency rental  
21 and utility assistance, which we call TRR, Texas Rent  
22 Relief, and that Bobby was filling you in on.

23 And so 10 percent of those funds, so roughly  
24 about \$130.8 million, may be utilized for housing  
25 stabilization services linked to the pandemic outbreak, and

1 that allows households to maintain or obtain housing.

2 If they're not used for that purpose, they  
3 revert back to being used for rental and utility  
4 assistance. Attachment A in your Board item shows you what  
5 type of activities are included under housing stability  
6 services.

7 In May you authorized us to commit \$20 million  
8 of these funds to Texas Access to Justice Foundation, TAJF.

9 After backing that award out and backing out other admin,  
10 that left just about \$107.4 million that could potentially  
11 be used for services.

12 While staff had also obtained authority from you  
13 guys in June to release a notice of funding availability,  
14 or NOFA, we are constrained by the deadline of trying to  
15 obligate the ERA1 funds by September 30 of this year, so  
16 the length of time for a NOFA process that really lets us  
17 get broad access wasn't feasible. So rather than see the  
18 funds revert back, as Bobby mentioned, we decided to pursue  
19 direct awards.

20 We reached out to 50 organizations that were  
21 either star performers in other TDHCA homelessness programs  
22 or providers of veterans' homeless services, Texas Veterans  
23 Commission, or who were suggested to us by state  
24 leadership.

25 Out of those 50 we ultimately ended up with 30

1 providers that were in a position to immediately receive a  
2 contract for these funds, to execute the contract by  
3 September 30, and would be able to spend the funds by  
4 August 31 of '22, so just under a year, in their provision  
5 of services, and that's pretty fast turnaround time in the  
6 world of service delivery.

7           Additionally, we coordinated with the Texas  
8 Veterans Commission and identified several activities that  
9 TVC can provide to veterans to meet the requirements of the  
10 program.

11           So between the 30 that we identified plus TVC,  
12 the Attachment B of your Board item reflects those 31  
13 organizations. It shows the amount of the award we're  
14 recommending and the service area that they're going to  
15 cover.

16           We're recommending that you authorize the  
17 executive director to enter agreements for these 31  
18 providers, conditioned, of course, on them passing our  
19 previous participation review approval.

20           I'm also requesting that if any of these  
21 providers between now and the day that we would execute  
22 contracts with them indicate that they think they can  
23 actually use additional funds that we be allowed to execute  
24 at that higher amount, not to exceed, of course, our  
25 available funds.

1           These organizations were put on a really tight  
2 time frame. They had less than a week from the day we  
3 first reached out to them to the deadline we gave them, so  
4 I think some of them are going to have some other expenses  
5 that they realize are in fact eligible, and so I'd like to  
6 have that flexibility since we do have the funds available.

7           And lastly, I'm just confirming that any funds  
8 that are not put into these contracts will be moved over to  
9 fund utility assistance.

10           With that, I'm happy to answer any questions.

11           MR. VASQUEZ: Great. Thank you, Brooke.

12           Do any Board members have questions for Ms.  
13 Boston?

14           (No response.)

15           MR. VASQUEZ: I think it's great that we're  
16 getting this money out there to have a positive impact, so  
17 thanks for making that happen.

18           Are there any public members or people in the  
19 audience who want to speak on this item? Do we have any  
20 one in the queue?

21           MS. NORRED: We have no one in queue.

22           MR. VASQUEZ: Okay, great.

23           In that case, I will entertain a motion on item  
24 3(b).

25           MS. THOMASON: Mr. Chair, I move that the Board

1 authorize the executive director and his designees to enter  
2 into contracts or interagency agreements with the entities  
3 in the Board action request on this item and that the  
4 executive director be authorized to modify the award  
5 amounts as expressed fully in this action item.

6 MR. VASQUEZ: Thank you.

7 A motion made by Ms. Thomason. Is there a  
8 second, Mr. Batch?

9 MR. BATCH: I'll second, Mr. Chairman.

10 MR. VASQUEZ: Great. Motion made and seconded.

11 All those in favor say aye.

12 (A chorus of ayes.)

13 MR. VASQUEZ: Any opposed?

14 (No response.)

15 MR. VASQUEZ: Hearing none, motion carries.

16 Thank you, Brooke.

17 As I mentioned in the brief opening remarks, we  
18 are going to jump to item 6(d) on the agenda, the  
19 presentation, discussion, and possible action regarding  
20 timely filed appeals.

21 As Mr. Wilkinson earlier stated, there are  
22 several items that have been resolved, thus removed from  
23 the appeals list, and correct me if I'm wrong, but I have  
24 number 21069 Dahlia Villas, the appeal was granted so there  
25 is no appeal to the Board on 21069.

1           On 21104 Heritage Heights at Abilene, again the  
2 executive director granted the timely appeal, thus there's  
3 no appeal to the Board today. Jumping down to 21215  
4 Torrington Silver Creek, the appeal has been withdrawn, so  
5 it will not be heard by the Board.

6           21235 Inn Town Lofts, there is no appeal to the  
7 Board because the executive director granted the timely  
8 appeal. 21286 Blue Sky at Hawks Creek, there is no appeal  
9 to the Board, the appeal was withdrawn. 21290 Fish Pond at  
10 Alice, there is no appeal to the Board because the  
11 executive director granted their appeal.

12           So that leaves us on the agenda for right now --  
13 and if you want to speak on one of these, in the  
14 comments/questions box, start letting the moderators know  
15 that you wish to speak on these -- and that's going to be  
16 21039 Uvalde Villas, 21136 Oaklawn Place, 21185 Weslaco  
17 Village Apartments, and 21206 Woodcrest.

18           So these are the four items that we are going to  
19 be hearing now. Again, let the moderators know if you wish  
20 to comment on one of these items.

21           Did I cover that all right, Bobby and Marni?

22           MR. WILKINSON: Yes, sir.

23           MR. VASQUEZ: Go ahead.

24           MR. WILKINSON: Mr. Chairman, before Marni does  
25 her layout, actually because of some time constraints, can

1 we let Senator Lucio speak on 21039 Uvalde Villas?

2 MR. VASQUEZ: Perfect, because that's the one  
3 we're doing first. So if we could bring up Senator Lucio  
4 and hear his comments on 21039 Uvalde Villas.

5 MS. NORRED: Senator Lucio, you are self-muted.  
6 Can you please unmute yourself?

7 SENATOR LUCIO: Good morning. Can everyone hear  
8 me?

9 MS. NORRED: Yes, we can.

10 SENATOR LUCIO: Okay. Thank you very kindly.  
11 Chairman Vasquez and members of which I consider one of the  
12 most important boards and actually my favorite because it  
13 deals with affordable housing. Being one of ten kids back  
14 in Brownsville, Texas in the early '50s, we didn't have  
15 much to even be able to find for rental, so for a year and  
16 a half my dad put us in a government housing unit that  
17 actually did the job for us and gave us time to be able to  
18 find housing and later on affordable housing as we saw it.

19 I am very, very pleased to see all of you at  
20 work, and I would be remiss if I didn't thank Leslie  
21 Bingham in front of you. You know, Leslie did a wonderful  
22 job for so many years there. And recognize my dear friend,  
23 Kenny Marchant. He and I served in the House in the late  
24 1980s, outstanding representative and still serving the  
25 public. Congratulations to you and other members that have

1 not been on the Board long.

2 Mr. Chairman and members, I thank you again for  
3 allowing me the opportunity to appear before you today to  
4 support affordable housing in my district. My district  
5 includes the site in McAllen upon which Uvalde Villas is  
6 intended to be constructed, which is on appeal in item 6(d)  
7 of your agenda.

8 Now, throughout my career in public service I  
9 have proudly supported affordable housing, as you know, in  
10 the Rio Grande Valley and throughout the state, and have  
11 sponsored legislative changes to improve the program.

12 I have reviewed the QAP rule and state statute  
13 regarding occupied developments that is the basis for  
14 today's Board appeal. It's my understanding neither the  
15 rule nor the Texas Government Code pertaining to occupied  
16 developments applies to Uvalde Villas, which is why that  
17 tab was not filled out.

18 Now, as Board members I also understand you have  
19 a responsibility to make final determinations that consider  
20 all perspectives; however, the applicant's oversight in  
21 explaining non-applicable items should not be considered  
22 grounds for termination, in my humble opinion.

23 Please consider allowing the applicant the  
24 ability to cure the deficiency by resubmitting the tab as  
25 non-applicable instead of leaving it blank.

1           And I'm going to just finish by saying as  
2 Hidalgo County continues to grow -- and as all of you know,  
3 I'm the senator of the eighth largest county in the  
4 state -- as it continues to grow, so does the need for more  
5 affordable housing, and so the decisions you make on issues  
6 like this are critical to meeting this need.

7           And once again, Mr. Chairman and members, I  
8 respectfully request you carefully consider an approach  
9 that can be applied in an equal and fair manner.

10           And I thank you again for allowing me an  
11 opportunity to join with you this morning. Greetings not  
12 only from the Rio Grande Valley but also I found myself  
13 driving in at 12:00 midnight this morning, preparing for  
14 floor action here at the Capitol, and I welcome any  
15 opportunity we might have to discuss affordable housing,  
16 not only in my district but throughout the state.

17           And once again, thank you, sir. Thank you,  
18 members.

19           MR. VASQUEZ: Thank you, Senator Lucio, and  
20 thank you for your continued support on addressing the  
21 affordable housing issues across the state.

22           With that, let's kind of go back into regular  
23 order process and have Marni introduce the background and  
24 Board action request on 21039 Uvalde Villas.

25           Marni, please go ahead.

1 MS. HOLLOWAY: Good morning.

2 For 21039 Uvalde Villas, staff determined that  
3 the application should be terminated due to a material  
4 deficiency related to requirements for occupied  
5 developments omitted from the application.

6 Our rule requires that items identified in that  
7 subparagraph must be submitted with any application where  
8 any structure on the development site is occupied at any  
9 time after the application acceptance period begins or if  
10 the application proposes the demolition of any housing  
11 occupied at any time after the application acceptance  
12 period begins.

13 There's a list of items that are required to be  
14 included in the application or applicants are required to  
15 describe to us why they aren't applicable.

16 On appeal the applicant referenced its site  
17 control documentation, which showed detail for the single-  
18 family housing structures on the development site, stating  
19 that they should be considered distinct from the occupied  
20 multifamily housing development and rehabilitation site  
21 where extensive relocation requirements are contemplated in  
22 our statute.

23 As stated in the appeal, our statute at  
24 2306.6705(6) requires relocation information only in the  
25 case of rehabilitation. The QAP, on the other hand,

1 requires that applicants explain why parts of the  
2 relocation section don't apply to them if there are  
3 occupied structures on site.

4 And it could be argued that the operating  
5 statement and rent rolls required by the rule apply to all  
6 types of occupied structures, not just multifamily  
7 developments. The appeal argues, again, that the rule is  
8 not applicable.

9 Our question here is whether the inapplicability  
10 of the items described in the rule lead to a conclusion  
11 that failure to provide the report is an administrative  
12 deficiency.

13 Stating a lack of clear direction in the QAP  
14 regarding requirements for relocation of residents of  
15 single-family homes on proposed development sites, staff is  
16 left with little option but to recommend acceptance of this  
17 appeal.

18 I'd be happy to take any questions.

19 MR. VASQUEZ: Thank you, Marni.

20 So just to clarify, the intent or the thought  
21 behind the rule is that there is going to be -- it's  
22 contemplating that there is an existing apartment complex,  
23 and you need to move out all the residents to rehab or  
24 build a new one, so that's really what the intention of  
25 this rule was. Right?

1 MS. HOLLOWAY: The statute is very specific to  
2 multifamily developments and to rehabilitation. The QAP  
3 expands on that to include any potential other structures  
4 and begins to -- in some ways but nowhere close to, begins  
5 to align with some of the federal requirements around  
6 relocation, which is if you're relocating anyone, be it a  
7 multifamily tenant or a single-family tenant or even a  
8 commercial business, that needs to be addressed within your  
9 application or within your process for affordable housing.

10 The QAP, admittedly, is not really very clear,  
11 and neither is our application very clear regarding that  
12 extension of relocation to anyone who could be impacted  
13 because of their occupation of the development site.

14 MR. VASQUEZ: Okay. Do any Board members have  
15 questions to Marni on this?

16 MR. THOMAS: So Marni, can you go over again  
17 what is staff's recommendation here?

18 MS. HOLLOWAY: Staff's recommendation is  
19 acceptance of the appeal with an acknowledgment that the  
20 QAP is not clear regarding the requirement for single-  
21 family housing.

22 MR. THOMAS: So the application would be  
23 reinstated then?

24 MS. HOLLOWAY: It would be reinstated if you  
25 accept this appeal, yes.

1 MR. THOMAS: Okay. Thank you.

2 MR. VASQUEZ: Do any other Board members have  
3 questions for Marni on this one?

4 (No response.)

5 MR. VASQUEZ: And again, I think this is one of  
6 those where it makes sense, and I believe the intention  
7 behind the rules did not really address this situation.

8 MS. HOLLOWAY: Correct, and it points out an  
9 issue that we definitely need to clear up with that rule.

10 MR. VASQUEZ: Okay. In that case, I'd like to  
11 entertain a motion on 12039 Uvalde Villas.

12 MR. THOMAS: Mr. Chairman, I move the Board  
13 grant the appeal by the applicant and that the application  
14 be reinstated for the Uvalde Villas, project 21039, with  
15 the understanding that we're accepting staff's  
16 recommendation based on the QAP being just a little unclear  
17 here, and so this does make sense.

18 MR. BATCH: Mr. Chairman, I'll second.

19 MR. VASQUEZ: Motion made by Mr. Thomas,  
20 seconded by Mr. Batch.

21 Renee, do we have anyone lined up for comment on  
22 this item?

23 MR. WILKINSON: Renee, you might be muted.

24 MS. NORRED: I apologize; I'm sorry. We are  
25 looking to unmute Donna Rickenbacker.

1 Donna, you are self-muted. Can you hear us?

2 MS. RICKENBACKER: Yes, I can. You ready? Can  
3 you hear me?

4 MS. NORRED: Yes.

5 MS. RICKENBACKER: Perfect.

6 Good morning, everyone. This is Donna  
7 Rickenbacker, and I'm a consultant to the Uvalde applicant.  
8 We very much appreciate staff's recommendation that this  
9 appeal be granted.

10 Staff initially determined that the application  
11 be terminated because, as Marni stated, the applicant did  
12 not complete a tab in the application or provide an  
13 explanation of non-applicability, and this is the reason,  
14 obviously, we're before the Board.

15 Tab 21 relates to items that must be submitted  
16 if the development site includes occupied improvements in  
17 order to meet the requirements of Section 11.204 of the QAP  
18 rules.

19 We appealed to staff and explained that this  
20 rule and the associated tab does not apply to the Uvalde  
21 transaction. The rule is intended to apply and  
22 specifically states its application to two types of  
23 transactions, and the applicable items that must be  
24 submitted behind tab 21 if the applicant is proposing  
25 either a rehabilitation of existing residential structures

1 or is applying for Direct Loan funds.

2 Direct Loan recipients with occupied  
3 improvements must meet the requirements of the Uniform  
4 Relocation Act and include a relocation plan and budget in  
5 their application.

6 The list of items that are applicable to  
7 existing residential developments cite the section of the  
8 Texas Government Code that defines occupied developments as  
9 those that are proposing rehabilitation.

10 Uvalde Villas is new construction, not  
11 rehabilitation, and the applicant is not applying for  
12 Direct Loan funds. All improvements, including the  
13 occupied three single-family homes on site that triggered  
14 this action item, will be demolished; therefore, none of  
15 the listed items that include operating statements, paid  
16 rent rolls, relocation plan budget, apply to this  
17 transaction.

18 We also explained to staff our reasons for not  
19 providing an explanation of non-applicability. This  
20 provision is in the rule because some of the listed items  
21 apply to rehabilitation projects, and others apply to  
22 recipients of Direct Loan funds, so the Department wants to  
23 understand the items that relate to the type of transaction  
24 being proposed if the rule applies.

25 It's important to note that the occupied

1 development rule is not a scoring item, and the applicant  
2 did not violate any applicable statutory provision because  
3 it is not proposing rehabilitation.

4 We appropriately clarified all questions that  
5 staff had regarding the applicability of the rule to the  
6 Uvalde transaction and reasons for not completing tab 21 of  
7 the application.

8 We very much appreciate this Board's  
9 consideration and acceptance of staff's recommendation that  
10 this appeal be granted. Thank you.

11 MR. VASQUEZ: Thank you, Ms. Rickenbacker.

12 I believe we have several people lined up in the  
13 queue for this item. We'll call your names that Renee has  
14 registered.

15 I would just encourage everyone to note that  
16 there's a motion on the floor and seconded to approve, to  
17 grant the appeal, so if you're speaking for that, I'd  
18 encourage you to shorten your comments to as short as  
19 possible. You can't make it any more for the motion than  
20 we already are, but of course, you're welcome to speak.

21 Renee, who do we have up next?

22 MS. NORRED: We have Kent Hance, and we are  
23 looking to unmute him now.

24 Kent, you are self-muted. Can you hear us?

25 MR. HANCE: Yes, I can.

1           Mr. Chairman and members of the commission,  
2 first of all, thank you, and congratulations to Brandon  
3 Batch and Kenny Marchant for being on. There's not an  
4 agency that has more of an impact on housing of any type  
5 nationwide than our TDHCA, and I appreciate your service.

6           I will say I second everything that's been said,  
7 and my uncle had Hance Used Cars in Dimmit, Texas, and he  
8 always said, "If you sell them a car, give them the keys."

9           And so I don't want to oversell, I back  
10 everything that everyone has said. I yield back the  
11 balance of my time, just like we do in Washington on many  
12 occasions. And I am in Kenny Marchant's old stomping  
13 grounds, and as Phil Gramm used to say, I'm doing the  
14 Lord's work in the Devil's city, and I will be back to  
15 Austin tonight.

16           Thank y'all for your service, and I yield back  
17 the balance of my time. And Ajay, I think you have a great  
18 motion.

19           MR. THOMAS: Thank you.

20           MR. VASQUEZ: Thank you, Mr. Hance.

21           Who do we have up next, Renee?

22           MS. NORRED: We have Cynthia Bast, and we are  
23 looking to unmute her now.

24           Cynthia, you are self-muted. Can you please  
25 unmute yourself?

1           MR. GARRETT: Cynthia has indicated that she  
2 does not wish to speak.

3           MS. NORRED: Very good.

4           So we are going to look for Henry Flores.

5           Henry, you are unmuted. Can you hear us?

6           MR. FLORES: I can. Can you hear me?

7           MS. NORRED: Yes, we can.

8           MR. FLORES: Good morning, everyone. I'm Henry  
9 Flores, and I represent the applicant who is actually  
10 competing with this, and I appreciate your considering my  
11 comments. I understand the motion has been made, but I  
12 just wanted to offer some clarity to why we actually filed  
13 this appeal.

14           You know, we think that the rules are actually  
15 quite clear, so we disputed staff, and that's unusual,  
16 because your staff does an excellent job. In fact, that is  
17 the purpose for this rule, and if I may just explain.

18           I had the honor of being the first executive  
19 director of this agency. I served under Governor Richards  
20 and then under Governor Bush, so I got to serve both  
21 Republicans and Democrats in this capacity.\

22           The rulemaking process is critical to the  
23 implementation of statute. Statute just frames the  
24 conversation; rulemaking is what makes the engine work. I  
25 can't be quite as colloquial as Senator Hance, but he

1 talked about the car keys. Well, the process of staff is  
2 the gas, and staff can't make determinations without proper  
3 information.

4 The relocation is a potential cost of any single  
5 transaction, and unless we complete the documents  
6 correctly, staff can't make an informed determination. To  
7 assume that the developer will self-police is a bad  
8 assumption.

9 We are going through the process of working  
10 through two deals that involve relocation because we  
11 included the correct tab. In one case it's costing us  
12 \$132,000 and in the other case \$212,000, so it can be a  
13 significant cost to an application.

14 I know this other developer, Steve Lawlis, is an  
15 honorable man. He's a good Texan, and I know that his  
16 failure to submit this tab is purely inadvertent, I know  
17 that with confidence.

18 But the next developer, some flimflam man from  
19 Missouri or some guy from California may try to abuse the  
20 agency by not submitting that document, and staff can't  
21 possibly know with all the applications across Texas  
22 whether there are occupied structures on that site. We  
23 have to declare that to them so they can make an informed  
24 decision.

25 Again, there's no abuse here, but I believe --

1 you know, Senator Lucio talked about equal and fair. Equal  
2 and fair means everybody has to follow the rules because  
3 the rules have a purpose, and equal and fair suggests that  
4 the only conclusion to this process should be the Board  
5 actually overruling staff's recommendation and ruling in  
6 favor of the appeal.

7 I believe we have one other person who would  
8 like to discuss this in the queue, it's the councilwoman  
9 from Laredo. But I thank you for your time and  
10 consideration and I'm happy to answer any questions.  
11 Again, I'm Henry Flores.

12 MR. VASQUEZ: Thank you, Mr. Flores.

13 Renee, who do we have up next?

14 MS. NORRED: We have Vanessa Perez, and we're  
15 looking to unmute her now.

16 MS. PEREZ: Hi. Can you hear me?

17 MS. NORRED: Yes, we can.

18 MS. PEREZ: Okay. Thank you.

19 Well, my name is Vanessa Perez. I'm the council  
20 member for District 7, City of Laredo, and I'm here to  
21 represent the mayor and my fellow city council members, and  
22 I'm here actually to speak in favor of the decision, your  
23 Board's decision to terminate the application in McAllen.  
24 And I don't say that positively, I don't say that with a  
25 smile on my face.

1           The reason why I'm supportive of this, and not  
2 to be any negative behind it, but I was here, I believe two  
3 weeks ago, actually to speak before you on an application,  
4 another application that was in Laredo, 21230, the Calle  
5 del Norte project.

6           That project actually didn't receive a favorable  
7 outcome from the Board because the Board chose to stick to  
8 the rules as written, and in that project there wasn't an  
9 omission; it was actually everything was filled out  
10 complete. It's just that in Laredo we have two school  
11 districts, and they overlap at some point and that project  
12 just so happened to be in that little confusing area for an  
13 outside investor that's not from the area.

14           It was understandable to me and I think the  
15 Board also saw that it was kind of understandable that they  
16 would confuse which school district, and they actually sent  
17 the school district notification to the wrong school  
18 district, and they did end up sending it to the correct  
19 school district and it was all good, everybody was  
20 supportive, however --

21           MR. VASQUEZ: Ms. Perez, I'm sorry to interrupt,  
22 but can you please focus your comments on this application  
23 that is currently being discussed on the table?

24           MS. PEREZ: Okay, yes. It's just background,  
25 because my next comments are related to that.

1           So anyway, because of that ruling we were not  
2 happy about that outcome, because Laredo, we do have a high  
3 need for affordable housing.

4           And so this project being out of the running  
5 actually brought up one of our other projects that's in the  
6 running for Laredo, so the Avanti Legacy Springfield  
7 project are actually now in the running. So if the Board  
8 overturns the staff decision for this one, then the City of  
9 Laredo will again lose our chance at receiving a tax  
10 credit.

11           The City of Laredo does have a high need for  
12 affordable housing. We are more than 1,100 units short of  
13 our demand, and our public housing and Section 8 waiting  
14 list exceeds 2,200 households, and they're all waiting for  
15 applications.

16           So here as a border city, we're the largest  
17 inland port, we do have a high need for this kind of  
18 assistance. The last time Laredo was granted anything like  
19 this was back in 2015, and so it's been a long time, and we  
20 have two outside investors looking to help bring this kind  
21 of program to Laredo.

22           And one of the reasons why I was disheartened by  
23 the last decision was because I felt that developers might  
24 be dissuaded from trying to come to Laredo.

25           And so this application being up for denial to

1 me is just keeping in line with all of the things that were  
2 said at the last hearing, and I know you didn't want me to  
3 bring it up but I think it's important because --

4 MR. VASQUEZ: I'm sorry. I need you to wrap up  
5 your comments. Your time is expired.

6 MS. PEREZ: Okay. Well, I just want to ask that  
7 the Board be consistent in their application of penalties  
8 and support the termination of the Uvalde Villas, since the  
9 transaction in Laredo was terminated for a similar issue,  
10 and just think that we need to be fair and consistent. So  
11 thank you.

12 MR. VASQUEZ: Thank you for your comments, and  
13 again, we are very cognizant of statutory limitations  
14 versus rules where we have some ability to waive rules  
15 where we cannot waive statutes.

16 Renee, is there another speaker on this item?

17 MS. NORRED: Yes, we have Cynthia Bast.

18 Cynthia, you are unmuted. Can you hear us?

19 MS. BAST: Yes. Thank you.

20 This is Cynthia Bast of Locke Lord. I apologize  
21 for the inconvenience. My computer decided to sync this  
22 morning.

23 We represent the competitive applicant that  
24 filed the original RFAD, Mr. Flores's organization, and I  
25 want to share with you a little bit different perspective.

1 I completely respect your staff's recommendation here and  
2 understand it, but what I want to share is that I've dealt  
3 with this very situation in the past.

4 I represented an applicant that was acquiring  
5 land with a couple of small houses occupied by people who  
6 were caretakers. That client asked whether it should  
7 disclose those houses under this threshold section of the  
8 QAP, and I told them absolutely they needed to disclose it.

9 The rule applies to any occupied structure on  
10 the site; that's what the rule says. Even if the various  
11 provisions of the rule are not applicable to the situation,  
12 it is incumbent upon the applicant to tell TDHCA they are  
13 inapplicable for the reasons that Mr. Flores cited.

14 It is also important to note that the statute  
15 says that the application must contain certain information  
16 at a minimum. This language gives the agency authority to  
17 adopt more rigorous requirements on the subject matter.

18 It's also important to note that the statute says the  
19 application must contain any other information required by  
20 the Board in the Qualified Allocation Plan. The provision  
21 regarding occupied developments was duly adopted in the  
22 Qualified Allocation Plan.

23 There are plenty of examples of circumstances  
24 where the requirement of TDHCA's rule is more rigorous than  
25 the requirement of the statute, and that is absolutely

1 permitted.

2 We know that, for instance, the Chevron case  
3 from the United States Supreme Court says that we are going  
4 to give great deference or at least great weight to a  
5 decision of an administrative agency to expand its rules  
6 beyond a statutory provision.

7 Finally, this is not a situation where there's  
8 been an error in the TDHCA materials. The QAP and the  
9 manual, which are the primary documents used by  
10 applications, they're consistent and they're clear. Both  
11 say that the applicant must disclose any occupied structure  
12 on the site, so if there's a structure and it's occupied,  
13 then the application is required to disclose certain  
14 information or explain why it's inapplicable. The rule was  
15 duly adopted in a formal process and is authorized under  
16 relevant legal guidance.

17 So for those reasons we think it is actually  
18 appropriate to deny the appeal and follow the rules set  
19 forth in the QAP. And thank you for your time, I  
20 appreciate it.

21 MR. VASQUEZ: Thank you, Ms. Bast.

22 Renee, are there any other speakers lined up for  
23 this item?

24 MS. NORRED: We have no one else in queue for  
25 this item.

1 MR. VASQUEZ: Great. Thank you.

2 So to reiterate, we have a motion on the floor  
3 by Mr. Thomas, seconded by Mr. Batch, and again, not to  
4 influence your vote, but I have said time and time again  
5 that I believe we shouldn't be looking at "gotcha" moments  
6 and finding reasons to kick out applications. We should be  
7 looking at what's reasonable to try to include it when it's  
8 within our power.

9 So I support the motion, and I guess we're ready  
10 to vote. So all those in favor say aye. I'm sorry. Just  
11 to clarify, it's to grant the appeal.

12 (A chorus of ayes.)

13 MR. VASQUEZ: Any opposed?

14 (No response.)

15 MR. VASQUEZ: Hearing none, motion carries.

16 Thank you.

17 And to remind everyone, from the posted agenda,  
18 21069 Dahlia Villas and 21104 Heritage Heights at Abilene  
19 are not being heard by the Board because the executive  
20 director granted their timely appeals, which brings us to  
21 item 21136 Oaklawn Place.

22 And, Marni, would you like to give us the  
23 background on that?

24 MS. HOLLOWAY: Sure. Thank you.

25 Application 21136 for Oaklawn Place was

1 terminated due to a material deficiency related to required  
2 third-party reports. The application did not include the  
3 appraisal that's required by our rule for identity-of-  
4 interest transactions.

5 In these transactions the buyer and the seller  
6 of a property are related parties, and the appraisal is  
7 used to establish the market value of the property to be  
8 transferred. Our rule related to appraisals provides that  
9 they are required for any application claiming any portion  
10 of the building acquisition in eligible basis and identity-  
11 of-interest transactions, pursuant to Subchapter D of this  
12 chapter. Subchapter D describes the identity-of-interest  
13 relationship.

14 Because an appraisal was not submitted, the  
15 application was terminated pending the applicant's ability  
16 to appeal. On appeal the applicant stated that the  
17 appraisal is not material because the price of the  
18 development site does not affect the credits, so they were  
19 not taking acquisition credits on this transaction.

20 The entire appraisal was provided to us  
21 immediately after we sent the termination letter, which if  
22 that appraisal had been included in the application and had  
23 been timely submitted, it would have been subject to an  
24 administrative deficiency to correct several issues within  
25 the report, so that it didn't meet our requirements.

1           The application at tab 12 and the appeal both  
2 acknowledge the existence of an identity-of-interest  
3 transaction.

4           The relevant rule in this matter, 10 TAC 11.205,  
5 plainly states if the reports in their entirety are not  
6 received by the deadline, the application will be  
7 terminated.

8           Accordingly, staff terminated the application  
9 and the executive director has denied that appeal. Staff  
10 recommends also that the Board deny the appeal for this  
11 material deficiency to submit the appraisal.

12           I'd be happy to take any questions.

13           MR. VASQUEZ: Do any Board members have  
14 questions for Marni on this item?

15           MR. BATCH: Mr. Chairman, my understanding --  
16 and Marni, correct me -- the application simply wasn't  
17 filed on time. Is that correct?

18           MS. HOLLOWAY: The appraisal that's required by  
19 our rule was not included in the application that was  
20 timely submitted, so we received an appraisal late. That  
21 appraisal did not meet all of our requirements that, had it  
22 been included in the application, it would have been  
23 subject to an administrative deficiency.

24           Our rule says that if any third-party reports  
25 are not received by the deadline, the application will be

1 terminated, so the rule is very, very clear that if these  
2 reports aren't received the application will be terminated,  
3 so of course, that's the action that staff has taken.

4 MR. BATCH: I see. Thank you, Marni.

5 MR. VASQUEZ: Any other Board members have  
6 questions for Marni?

7 (No response.)

8 MR. VASQUEZ: I want to clarify -- and I assume  
9 we're going to have speakers on this -- is there any basis  
10 for the fact that they're stating this part of the  
11 application or this part of the property did not really  
12 have any bearing on the actual development?

13 MS. HOLLOWAY: So they are claiming that because  
14 they aren't taking acquisition credits -- within their  
15 application they're not requesting acquisition credits,  
16 that the appraisal isn't required.

17 Our rule, differently from the previous appeal  
18 where our rule was a little murky about exactly what's  
19 required, in this instance the rule is very, very clear.  
20 If it's an identity-of-interest transaction, an appraisal  
21 needs to be included in the application, and there is no  
22 allowance for whether or not those credits are taken.

23 MR. BRADEN: And a follow-up to that, Marni, so  
24 every time these type of applications come in, an appraisal  
25 is required.

1 MS. HOLLOWAY: Correct.

2 MR. BRADEN: And their response to you pointing  
3 it out to them was: Oh, you don't need it anyway.

4 MS. HOLLOWAY: Correct.

5 MR. VASQUEZ: And to follow on with that, again,  
6 just so I can fully understand, other than checking the box  
7 an appraisal was submitted, it's otherwise unnecessary in  
8 our evaluation of this application?

9 MS. HOLLOWAY: The appeal claims that the  
10 appraisal is not required because they're not taking  
11 acquisition credits. Because I am not an underwriter, I  
12 can't speak to the value of the property and how that plays  
13 into the entire transaction and how a valuation of the  
14 property plays into that transaction, but in general, it  
15 comes in with claiming of acquisition credits.

16 MR. VASQUEZ: Okay.

17 MR. BRADEN: And just for my own clarity, this  
18 has to do with the identity-of-interest nature of the  
19 transaction. Right? It's when the developer's on both  
20 sides of a purchase, and therefore there's an argument to  
21 be made that, well, you need to have an appraisal because  
22 we want to make sure your affiliate is not giving one party  
23 or the other a better deal than the other somehow factors  
24 into this transaction. And I guess their response to that  
25 was, well, we're not taking acquisition credits, so that

1 underlying reason really shouldn't apply to our situation.

2 MS. HOLLOWAY: Correct. I got a text. An  
3 appraisal is needed to support acquisition cost, and it's  
4 not necessarily tied to the credits.

5 MR. VASQUEZ: Okay. Let me ask the Board  
6 members, does anyone object to us hearing public comment on  
7 this item prior to making a motion?

8 MR. BATCH: I support that, Mr. Chairman.

9 MR. VASQUEZ: Okay, great. Then no objection,  
10 let's go ahead and hear public comment on this item, and  
11 then we will discuss a motion. I also believe that there  
12 are some letters that we need to read into the record on  
13 this appeal. Is that correct?

14 MR. WILKINSON: Yes, sir.

15 Michael, could you read the letter from Senator  
16 West, please?

17 MR. LYTTLE: Good morning. Michael Lyttle,  
18 TDHCA staff. I have a letter to the Board that we received  
19 from Senator West. It reads as follows:

20 "Dear Board Members,

21 "This letter comes to your attention  
22 respectively to request that the Board grant an appeal for  
23 Resource Centers affordable housing development, Oaklawn  
24 Place, which will be before you for consideration.

25 "My request for your support of the appeal and

1 to reinstate the application is being made due to the  
2 urgent need for affordable housing in the amenity-rich and  
3 transit-connected areas of Dallas that, if approved, this  
4 project would provide. I am hopeful also that there exists  
5 alternate means of working through the initial decision to  
6 terminate the application and the previous appeal denial  
7 due to what Resource Center believes to have been recent  
8 changes in procedure.

9 "My information is that the application was  
10 terminated for the lack of an appraisal which was  
11 subsequently provided. It was explained to me that a  
12 specific section of the rule that applies to identity-of-  
13 interest transactions was changed this year. Had this been  
14 2020, this application would have met the rule with the  
15 documentation provided with the application.

16 "Additionally, it is Resource Center's  
17 contention that the absence or presence of an appraisal  
18 should not have had a bearing on the application as  
19 submitted. The settlement statement submitted with the  
20 application, which would have satisfied the rule until the  
21 recent change, show that Resource Center paid a price which  
22 is, in fact, reflected in the cost schedule that is  
23 included in the application. Moreover, the applicant  
24 believes that as a land-only transaction, the acquisition  
25 cost is not the basis and should not factor into the credit

1 calculation.

2 "For these reasons I respectfully ask the Board  
3 to reinstate this application. This project would address  
4 a vital need for services and resources for an identified  
5 community, enjoys the support of local and state officials,  
6 and has ownership of site, entitlements approved, and a  
7 near-funded capital campaign. I would hope that there is  
8 latitude and consideration permitted that would prevent the  
9 termination of the application for reasons not related to  
10 the scoring, review of prioritization of the project.

11 "Resource Center is a trusted nonprofit leader  
12 and service provider in the Dallas community, serving more  
13 than 62,000 people each year through programming that  
14 addresses the needs of the LGBTQ community and services to  
15 people living with and impacted by HIV AIDS. Oaklawn is  
16 being developed through a partnership with Matthews  
17 Southwest and Volunteers of America to deliver a high-  
18 quality and financially viable project.

19 "Thank you for your consideration of this  
20 request. I am hopeful of your favorable determination to  
21 grant the applicant's appeal. If you have any questions,  
22 please do not hesitate to contact me.

23 "Respectfully, Royce West, Texas Senate,  
24 District 23."

25 MR. MARCHANT: Mr. Chairman, can I ask a

1 question, please?

2 MR. VASQUEZ: Go ahead, Mr. Marchant.

3 MR. MARCHANT: I'm having a little trouble. Why  
4 did they not want to submit, Marni, an appraisal? Why did  
5 they feel it wasn't necessary to submit an appraisal in the  
6 beginning?

7 MS. HOLLOWAY: Their appeal states that: We  
8 think that under the circumstances of this particular  
9 application, which we had in our hands, when the  
10 application was filed, should be considered a nonmaterial  
11 deficiency. The appraised value of a development site only  
12 affects the tax credit award if acquisition credits are  
13 being requested. This application is for new construction,  
14 and the price of the development site does not support any  
15 tax credits, so the appraisal should not be considered  
16 material to review of the application."

17 But in fact, the acquisition costs affects the  
18 gap, so the acquisition costs are still part of the total  
19 development cost of the site and potentially impact the  
20 amount of credits that are awarded under a gap method. I  
21 don't know if they failed to realize that they needed to  
22 submit an appraisal under the changed rule and --

23 MR. MARCHANT: But they said they already had  
24 it. They said they had it' they just didn't feel like they  
25 needed to give it to you. Right?

1 MS. HOLLOWAY: I'm not going to speak to what  
2 they felt they needed to provide to us or not. I can't  
3 tell you if they did --

4 MR. MARCHANT: Is there anyone, Mr. Chairman,  
5 that's registered to speak that could answer that question?

6 MR. VASQUEZ: I imagine there are.

7 MR. MARCHANT: Okay. If someone else speaks on  
8 this issue, maybe they can answer that question. Thank  
9 you.

10 MR. VASQUEZ: Okay. Does Mr. Lyttle have any  
11 other letters to read into the record?

12 MR. LYTTLE: No, sir, I do not.

13 MR. VASQUEZ: Okay. And I think it should be  
14 noted in the information packages in the Board material  
15 there is another letter of support from Representative  
16 Anchia.

17 So let's go ahead and hear public comment on  
18 this agenda item.

19 Renee, if you could line up the first speaker,  
20 and remind everyone that there's a three-minute clock on  
21 the screen that we're going to do our best to enforce.

22 Who do we have up first?

23 MS. NORRED: First we have Cici Cox, but I do  
24 want to note that the second speaker did say that she can  
25 answer the questions, but first we will queue up Cici Cox.

1 Cici, you are unmuted. Can you hear us?

2 MS. COX: Yes. Thank you.

3 Hello. I'm Cici Cox, the CEO of Resource  
4 Center. We will address your questions and respectfully  
5 disagree with some of the characterizations that have been  
6 put forward in the description.

7 Resource Center is the nonprofit owner and  
8 applicant for Oaklawn Place, application 21136, located in  
9 Dallas in Urban Region 3. Resource Center is a trusted  
10 nonprofit in North Texas who has served our community for  
11 38 years.

12 Our mission is to improve health and wellness,  
13 strengthen families and communities, and provide  
14 transformative education and advocacy. We do this through  
15 programs and services for all North Texans, including the  
16 LGBTQ community and persons living with HIV.

17 Oaklawn Place will provide 84 affordable housing  
18 units for seniors in a safe, welcoming community. We have  
19 partnered with Matthews Southwest and Volunteers of America  
20 on this significant development for our city.

21 The matter at hand is completely within the  
22 discretion of the Board to decide. It is not statutory.  
23 We are facing termination of the application due to a small  
24 change in the Real Estate Analysis rules and guidelines on  
25 when an appraisal is applicable.

1           This change was new for 2021 and also unclear,  
2 similar to the previous appeal, and while the Board book  
3 fails to mention that, Ms. Hicks will provide more detail  
4 in her comments.

5           We are a viable deal that was in the money,  
6 ranked number 4 in the region. The reason cited for  
7 termination was for the lack of a third-party report, in  
8 this case an appraisal. The documentation submitted with  
9 the application would have met the rule in any previous  
10 year.

11           This project is new construction and the  
12 existing buildings are being demolished, so the cost of the  
13 land does not get included in eligible basis for tax  
14 credits, thereby making an appraisal immaterial.

15           I didn't grow up in Dallas, but I moved here 37  
16 years ago right out of college and have proudly called it  
17 my home. Through my work at Resource Center I strive every  
18 day to contribute to my community.

19           Candidly, it has become harder and harder to  
20 have the same pride about Dallas due to its 20,000-unit  
21 shortage of affordable housing. From my office window I  
22 have watched families living in their cars in our parking  
23 lot, and while we can get lost in the weeds and the  
24 intricate details of this project, I ground myself every  
25 day in remembering that it has a noble purpose: to create

1 a home, a community for real people in an area that truly  
2 needs it.

3 This project is ready to go, and Resource Center  
4 is all in. We own the land, we have the zoning, the plat  
5 has been approved, and we have the full support of Dallas  
6 City Council, our state representative, and our state  
7 senator.

8 I am here to respectfully request that you grant  
9 this appeal on the grounds stated. If you view this  
10 differently, however, in the alternative we are prepared to  
11 discuss in underwriting taking out the cost of the land.  
12 After Ms. Hicks and Ms. Dula speak, we can address that if  
13 you wish. This is totally within the discretion of the  
14 Board, and it is the right thing to do to grant this  
15 appeal.

16 Thank you.

17 MR. VASQUEZ: Thank you, Ms. Cox.

18 Renee, who do we have up next?

19 MS. NORRED: We have Jennifer Hicks, and we are  
20 looking to unmute her.

21 Jennifer, you are self-muted. Will you please  
22 unmute yourself?

23 MS. HICKS: I'm unmuted.

24 Chairman Vasquez, Board members, my name is  
25 Jennifer Hicks, and I'm the consultant for Oaklawn Place.

1 I want to bring to your attention a few important points  
2 about this appeal.

3 First, this tweak to the identity-of-interest  
4 rule for land-only transactions was not pointed out in the  
5 September Board book writeup that goes over QAP changes.  
6 Even further, both the application and the procedures  
7 manual refer to the 2020 rule versus the 2021 rule, and  
8 neither reference a change.

9 In preparing the application I read the  
10 reference, the 2020 rule, and followed suit with the  
11 documentation that had been provided and accepted in past  
12 applications. Both the app and manual were not clear, the  
13 exact same situation as the appeal just granted.

14 A key piece of this appeal is this is the first  
15 year an appraisal has been required for identity-of-  
16 interest transactions. It provided proof of the original  
17 land purchase price with the application and accurately  
18 reflected that cost in the development cost schedule.

19 The documentation submitted with the application  
20 this year would have met the rule any past year. A small  
21 tweak to the rule renders this application terminated.

22 Unlike a feasibility report, market study, or  
23 phase one, the applicability of an appraisal to a project  
24 references the underwriting rule. Chairman Vasquez and Mr.  
25 Braden have both referenced looking at the underlying

1 purpose of the rule, and in this case it is to make sure  
2 that an identity of interest is not flipping the land for a  
3 profit. The settlement statement submitted with the app  
4 show the amount Resource Center paid for the land two month  
5 before pre-app, and that cost is reflected in the  
6 development cost schedule.

7 Next I want to stress the narrow application of  
8 this rule. There were 35 appraisals this round; only four  
9 appraisals were land-only identity-of-interest  
10 transactions, and only one of them had a similar situation  
11 of land being transacted recently. The Board would not be  
12 opening up a spigot wide by granting this appeal.

13 The Board has the discretion to not consider  
14 this a third-party report issue. The settlement statement  
15 provided in the app show the value and the cost, and the  
16 cost schedule does not impact credit calculation. The  
17 Board can grant this appeal because the intent of the rule  
18 has been met.

19 Final note, I want to quickly highlight the lack  
20 of 9 percent housing tax credit awards in Dallas. Both  
21 Dallas and San Antonio are MSAs with similar population,  
22 poverty, and per capita income.

23 Since 2015 San Antonio has had 18 projects  
24 approved, Dallas has had four. By granting this appeal, it  
25 will add another project to serve the Dallas community.

1           Thank you so much for your time, and I'm very  
2 grateful for your consideration.

3           MR. MARCHANT: Mr. Chairman?

4           MR. VASQUEZ: Mr. Marchant, go ahead.

5           MR. MARCHANT: I haven't heard yet a specific  
6 answer to why the appraisal was not included in the  
7 original package other than they thought it was  
8 unnecessary.

9           MR. VASQUEZ: Right. I think Ms. Hicks  
10 roundaboutly responded to that. Can we bring her back on?

11          MR. MARCHANT: I mean, a roundabout answer is  
12 fine, but a direct one would be better.

13          MS. HICKS: I can answer that question. So the  
14 reason the appraisal was not submitted was because this was  
15 a tweak to the rule for land-only transactions, and in any  
16 past year if you provided the settlement statement in your  
17 application and you accurately reflected the development  
18 cost in your cost schedule and it was less than the  
19 settlement statement, you did not have to provide an  
20 appraisal.

21          So it wasn't a situation where we just didn't  
22 think -- we were holding back our appraisal or anything  
23 like that; it was that in any past year an appraisal wasn't  
24 required. And both the app manual and the application  
25 referenced the 2020 rule.

1           The QAP changes that were highlighted in the  
2           September Board book, where the staff goes over all the  
3           changes to the QAP, this change was not highlighted, so  
4           there was no reference, as a consultant putting together  
5           the application, that there was a change from past years,  
6           where I'd submitted apps with settlement statements that  
7           showed the development cost.

8           And when we got this deficiency, we submitted  
9           the bank appraisal that we had for the project because  
10          there is a bridge loan for the acquisition of the land, and  
11          we submitted that appraisal, and the very next day we  
12          submitted an appraisal that you have in exhibit, I believe  
13          E, of the Board book that meets all of the TDHCA  
14          requirements, so we turned it around in a day, the bank  
15          appraisal to meet all of the TDHCA requirements. So right  
16          now staff has what they would need.

17          MR. MARCHANT: Okay. One follow-up question.  
18          The appraisal that you had available to you when you  
19          submitted the initial application, is that a different  
20          appraisal than the bank appraisal that you just mentioned?

21          MS. HICKS: No, sir. It's the same appraisal.

22          MR. MARCHANT: Okay. Thank you.

23          MR. VASQUEZ: Thank you again, Ms. Hicks.

24          Renee, who do we have up next?

25          MS. NORRED: We have Tamea Dula, and we're

1 looking to unmute her.

2 Tamea, you are unmuted. Can you hear us?

3 (No response.)

4 MS. NORRED: She could be having difficulties,  
5 I'm not sure. She's not self-muted.

6 MR. VASQUEZ: Okay. Let's move on, and we can  
7 try her back after the other speakers.

8 MS. NORRED: Okay. So let's move on to Sarah  
9 Anderson, and we are looking to unmute her.

10 Sarah, you are unmuted. Can you hear us?

11 MS. ANDERSON: Yes. Can you hear me?

12 MS. NORRED: Yes.

13 MS. ANDERSON: Good morning, Board. My name is  
14 Sarah Anderson, and I am speaking in favor of the appeal.  
15 I'm not related to this transaction in any way, but I would  
16 like to bring a little bit of clarity to the situation that  
17 hasn't really been discussed.

18 An issue like this actually came up last year  
19 and where we challenged an application who was doing a  
20 related-party transaction and did not provide any  
21 documentation, an appraisal nor a settlement statement.

22 And while people are talking about whether to  
23 not there was a change in the QAP, these were still  
24 required last year for a related-party transaction, and  
25 last year that applicant was allowed to continue, and

1 presumably it was determined that this was an underwriting  
2 issue and could be dealt with in underwriting as opposed to  
3 a termination issue.

4           When you look at the rules, they say that the  
5 identity of interest in the QAP portion, it is pursuant to  
6 the requirements of the underwriting rules, and the  
7 underwriting rules are little confusing, but they do say  
8 that the appraisal is solely for the purpose of determining  
9 costs.

10           So while I don't know the specifics of the cost  
11 of this, you know, what they're trying to get, it seems to  
12 me that there should be some consistency in how this is  
13 dealt with, and if it was allowed last year for somebody  
14 not to have this available and was dealt with in  
15 underwriting and presumably it just meant they didn't get  
16 the cost that they thought they should, you know, if  
17 nothing else, again we would just like to see consistency  
18 in the way that these are dealt with. And I feel for this  
19 applicant solely because we saw another applicant  
20 essentially get away with this last year.

21           So that's all I wanted to say. Thank you.

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

23           Do we want to try Ms. Dula again?

24           MS. NORRED: We will try to unmute her again.

25           Tamea, can you hear us?

1 (No response.)

2 MS. NORRED: I don't know what is happening. I  
3 don't know if she -- she's not self-muted. Can we just  
4 move on to Zachary Krochtengel and maybe we can get her  
5 after that?

6 MR. VASQUEZ: Sure. Let's go ahead and hear  
7 from Mr. Krochtengel.

8 MS. NORRED: Go ahead.

9 MR. KROCHTENGEL: I'm here. Members of the  
10 Board, Zachary Krochtengel. I obviously speak quite a bit.

11 This is near and dear to me because it's in  
12 Dallas. It does not affect any of the applications that I  
13 am on this year. However, I know the area very well, I  
14 know the amount of support coming from the city, and I'm  
15 just going to kind of go over the solution that Sarah and  
16 Cici have both alluded to.

17 This was a third-party report required last  
18 year, and it's required this year; however, it's required  
19 for an extremely narrow purpose. That narrow purpose is  
20 acquisition cost. The rule specifically says that in  
21 underwriting they will use the lesser of the appraised  
22 value or the value that was in the site control  
23 documentation for acquisition cost for underwriting  
24 purposes.

25 Now, there's a lot of different things that have

1 supporting documentation required for a very narrow  
2 purpose. If you don't submit that supporting documentation  
3 for that very narrow purpose, you don't get to claim those  
4 costs.

5 So the easiest solution for this would be to say  
6 their acquisition costs by not submitting an appraisal is  
7 now zero. It shouldn't be a termination, but it also  
8 shouldn't be a third-party report that could be replaced  
9 through the administrative deficiency process, because  
10 other transactions have already been terminated this year  
11 for having a missing third-party report.

12 Last year there was an application that did  
13 claim zero acquisition credits and did not have an  
14 appraisal, and in their underwriting report it said the  
15 land is being donated from the related-party affiliate to  
16 the nonprofit GP, no land acquisition costs have been  
17 claimed; therefore, no substantiation of the identity-of-  
18 interest transaction is required.

19 So that's from last year in the rule saying that  
20 the third-party report was required for identity-of-  
21 interest transactions was still in effect, and they were  
22 allowed to just have zero acquisition costs.

23 This would change the debt structure on this  
24 application in underwriting; however, this would still be a  
25 viable transaction. They would still receive tax credits,

1 they would just receive a lesser amount of tax credits, and  
2 their acquisition costs would not be included in that  
3 calculation.

4 So I think it is clear that it is the lesser of  
5 those two amounts, so if you don't have acquisition costs  
6 in the appraisal, you don't get that amount.

7 There are other examples of things like this,  
8 like we need to get a third-party letter from an engineer  
9 for site costs that go over a certain threshold. If we  
10 don't have that letter, we don't get those costs. It's the  
11 same logic being applied.

12 There are a lot of things that happen in  
13 underwriting to get corrected like this, so just removing  
14 that cost, I think, is the most equitable way while also  
15 keeping and maintaining the importance of having a third-  
16 party report be submitted by the third-party report  
17 deadline, such as market studies which are needed for  
18 underwriting on a broad scale, whereas this is only needed  
19 for that one specific cost.

20 So removing that one specific cost seems to me  
21 the best way to get this extremely important and extremely  
22 supported application in the City of Dallas through to the  
23 finish line. Thank you.

24 MR. VASQUEZ: Thank you, Mr. Krochtengel.

25 Renee, I guess we are not able to get Ms. Dula

1 back up.

2 MR. MARCHANT: Mr. Chairman, can I ask a  
3 question of Marni, please?

4 MR. VASQUEZ: Mr. Marchant, go ahead.

5 MR. MARCHANT: Marni, is a purpose of getting  
6 the appraisal and getting it as well as the acquisition  
7 costs, are there instances where there is a great  
8 discrepancy between the two figures, and is that some way  
9 of kind of truing up the true value of the land that's  
10 going into the deal?

11 MS. HOLLOWAY: I will tell you that, yes, there  
12 has been a change to our rule regarding appraisals in  
13 general, and that especially would impact an identity-of-  
14 interest application that has not been discussed yet on  
15 this item, and that is that we made some really fundamental  
16 changes to how we view appraisals.

17 Appraisals are required for certain  
18 transactions. Those appraisals are actually going to be  
19 submitted to a third party to review that appraisal, so  
20 that we as staff are not being asked to accept a number on  
21 a settlement statement or a number on an appraisal. We're  
22 going to be submitting those appraisals to a third party  
23 who will be verifying those amounts for us.

24 So, yes, appraisals are used -- third-party  
25 appraisals are used in order to verify the cost of the

1 property that's going into this transaction. Regardless if  
2 it's an existing development or if it's vacant land,  
3 there's still a value going into the transaction.

4 MR. VASQUEZ: Okay. Do any other Board members  
5 have questions on this?

6 MR. BRADEN: Mr. Chair, I have a few questions,  
7 and actually some of the comments made lessened the  
8 original concerns I had about somebody just ignoring our  
9 rules and saying you don't need it. I mean, obviously  
10 there's more depth to this issue than that  
11 characterization.

12 So Marni, what about the whole argument of this  
13 shouldn't really be a termination but it should be an  
14 underwriting issue?

15 MS. HOLLOWAY: So our rule is very clear  
16 regarding third-party reports. There is a list of third-  
17 party reports that includes environmental site assessment,  
18 market analysis, scope and cost review if it applies to a  
19 particular transaction.

20 If those reports are not included, the  
21 application is terminated according to our rule. This  
22 Board has supported termination, has denied appeal on other  
23 applications this cycle, because those third-party reports  
24 provide information to our review that's vital.

25 We are not able to complete our reviews without

1 those reports. In this instance it's an appraisal.  
2 Whether or not the appraisal -- whether or not the  
3 applicant believes that we need the appraisal is immaterial  
4 to what the rule says which is that the appraisal is  
5 required. We weren't told at application, we, the  
6 applicant, don't believe you need an appraisal so we're not  
7 going to give you one; it just was not there.

8 MR. BRADEN: Is it correct, as was stated, that  
9 the rule changed where what they did provide would have  
10 been appropriate under the prior rule?

11 MS. HOLLOWAY: That is correct, and as I  
12 mentioned -- yes, that is correct. The rule was changed to  
13 require the appraisal so that we have a third-party  
14 valuation of the property that's going into the transaction  
15 so that that's a reliable amount and it's not based on a  
16 settlement statement along with whatever operating costs or  
17 holding costs the applicant has had in between.

18 This is -- and you are aware of this, an  
19 independent third-party appraisal of a property is  
20 considered to be a valid valuation of that property, so  
21 that's the direction that we're going with the QAP, that  
22 we're not -- yes, we have changed it; it did change from  
23 last year.

24 There are all sorts of rules that changed from  
25 last year. This change was included in the draft QAP that

1 the Board accepted that went out for public comment that  
2 went to the final QAP, so there has been full disclosure  
3 all along that this change was coming.

4 MR. VASQUEZ: But again, just to clarify, Marni,  
5 the value of the property -- separate and apart from the  
6 submitting of the appraisal, the value of the property  
7 itself is immaterial to this part of this transaction, this  
8 transaction they're looking for.

9 MS. HOLLOWAY: The value of the property is  
10 included in the total development cost. The total  
11 development cost is used in calculating the credit at the  
12 end using the gap method.

13 MR. VASQUEZ: Okay. I want to check with Renee.  
14 Did we resolve Ms. Dula's microphone issue?

15 MS. NORRED: We can try. We are going to unmute  
16 her.

17 Tamea, can you hear us?

18 (No response.)

19 MR. MARCHANT: Mr. Chairman, while she's working  
20 on that microphone, can I ask Marni another question,  
21 please?

22 MR. VASQUEZ: Sure. Go ahead.

23 MR. MARCHANT: Marni, in the instance of when a  
24 person donates the property into the partnership at a  
25 certain value and then they give you an appraisal that

1 indicates a different value and then it gets put into the  
2 application at maybe even still another value, how is it  
3 ever ascertained for that process of the application what  
4 the real value of the property is in your total  
5 transaction?

6 MS. HOLLOWAY: And just knowing that situations  
7 like that will arise where an applicant has given us a  
8 value that differs from an appraised value is why we've  
9 gone to this reviewed appraisal structure, this third-party  
10 review appraisal structure, so that if there is any  
11 question, there's another party who's considering it, those  
12 values would be reconciled.

13 If we continue to disagree, of course, we would  
14 come to the executive director and then to the Board, if  
15 necessary, in order to resolve that question.

16 MR. MARCHANT: Do you find in this particular  
17 waiver are any of those factors present?

18 MS. HOLLOWAY: Not that I know of.

19 MR. MARCHANT: Okay. Thank you.

20 MR. VASQUEZ: Okay. Since we cannot get Ms.  
21 Dula back on, let me allow Ms. Cox or Ms. Hicks to present  
22 her comments, because I know they are both familiar with  
23 what Ms. Dula wanted to present.

24 So Renee, could we bring up Ms. Cox?

25 MS. NORRED: Yes, we have Cici Cox.

1 Cici, you are unmuted. Can you hear us?

2 MS. COX: Yes. Thank you. And thank you,  
3 Chairman Vasquez.

4 I can read Ms. Dula's comments -- she's still  
5 trying to get in but obviously has not been able to do  
6 that -- and I can also speak to certain things.

7 There seems to still be ambiguity about  
8 something, but let me be clear: There was a change in the  
9 rule, and it was unclear. The application and the  
10 procedures manual refer to the 2020 rule, and therefore, in  
11 preparing the application we referenced the 2020 rule and  
12 followed suit with the documentation that had been provided  
13 and accepted in the past, and which we would not have been  
14 required to submit an appraisal. We did not make an  
15 arbitrary decision not to submit an appraisal.

16 Also, Mr. Marchant asked a question. When we  
17 were terminated and received that notice, we immediately  
18 turned around and did submit the appraisal we had in hand  
19 all along.

20 We also spun around as quickly as we could,  
21 worked with our banker and got a brand-new appraisal --  
22 which is now only, I don't know, a month or a month and a  
23 half hold, ever since we got the termination -- and it  
24 meets every single requirement that's been brought up by  
25 staff that our first appraisal had deficiencies.

1           We have done everything possible, believing we  
2           didn't need to submit an appraisal, and now we have  
3           submitted appraisals that meet the TDHCA requirements.

4           If you would like me to read Ms. Dula's  
5           comments, I can do that.

6           MR. VASQUEZ: Okay. I believe, guys, that we  
7           have -- that we understand the situation that the  
8           application is in and the staff's position and  
9           recommendation. We're going in circles somewhat now, so I  
10          would actually ask if a Board member would like to make a  
11          motion regarding whether to grant or deny this appeal.

12          MR. BRADEN: Mr. Chair, I'm willing to make a  
13          motion, and I guess before I make it, a couple of things  
14          that stick out in my mind's eye are obviously we had a  
15          change of rule, and at least it's been represented to us by  
16          a couple of people that our recitation of that rule in the  
17          book and in the application wasn't exactly clear, so I  
18          mean, we have that issue.

19          And then we have had consultants, including  
20          consultants who appear before this Board regularly and who  
21          are not related to this application, indicate that there's  
22          precedent that in the past we've allowed this to be taken  
23          care of to the extent it needs to be as far as the  
24          underwriting process.

25          So on that basis, I move the Board grant the

1 appeal by the applicant and the application be reinstated.

2 MR. MARCHANT: Mr. Chairman, I second that.

3 MR. VASQUEZ: Okay. We have a motion made by  
4 Mr. Braden to grant the appeal, a second by Mr. Marchant,  
5 and I'd like to close out comment and go ahead and take a  
6 vote. So all those in favor of Mr. Braden's motion to  
7 grant the appeal on this item say aye.

8 (A chorus of ayes.)

9 MR. VASQUEZ: Any opposed?

10 (No response.)

11 MR. VASQUEZ: Hearing none, motion carries.

12 Moving right along, again the next item is 21185  
13 Weslaco Village Apartments, and Marni, would you like to  
14 give us the background, please?

15 MS. HOLLOWAY: Yes.

16 21185 Weslaco Village Apartments, you will  
17 recall that at our last meeting there was a scoring appeal  
18 that was taken up by the Board; that appeal was granted.  
19 Prior to that action by the Board, this had not been a  
20 priority application, so part of the comment that you may  
21 hear on this item speaks to a very short period for  
22 response to this issue, and I just wanted to make sure that  
23 y'all are aware that having not been a priority  
24 application, we did not take up this particular question  
25 until your action at the last meeting.

1           So this application was determined to not be  
2 eligible to participate under the at-risk set-aside and was  
3 thereby terminated.

4           Staff determined that this applicant is  
5 ineligible to participate pursuant to our -- and this gets  
6 into a lot of citations -- at 2306.6702(a)(5)(A), which is  
7 our definition of at-risk developments. Our statute is  
8 very prescriptive regarding the developments that are  
9 eligible to participate within that set-aside.

10           Under the Section 8 programs that are cited  
11 within our statute, it speaks to, as specified by 24 CFR  
12 Part 886, Subpart A, and as specified in 24 CFR 886,  
13 Subpart C. So these are the two sets of very specific  
14 criteria within our statute that allow a development to  
15 participate in the at-risk set-aside.

16           The appeal that was submitted speaks to older  
17 assisted stock and new assisted stock. The new assisted  
18 stock would apply under Part 886 -- older assisted stock  
19 would apply under Part 886 but not new assisted stock.

20           The applicants believe that under another part  
21 of our statute, not the Housing Tax Credit section under  
22 6700 but under 2306.802, should be read broadly so that the  
23 older and new assisted stock, both of these 24 CFR Part 886  
24 groups, would be able to compete under at-risk.

25           However, it appears that the applicant has

1 admitted the development does not receive the benefit of a  
2 subsidy in the form of the Part A or Part C or any of the  
3 other federal laws listed under 2306.6702(a)(5)(A)(i).

4 Because there is no evidence to support  
5 compliance with the explicit statutory requirements for the  
6 at-risk set-aside, staff terminated the application. The  
7 executive director has denied that appeal; staff recommends  
8 that the Board also deny the appeal.

9 Again, this is a very narrow statutory  
10 requirement that these applications come in under one of  
11 these very specific fund sources.

12 MR. VASQUEZ: Okay. So Marni, just so the Board  
13 members understand, is this a determination that the staff  
14 made that the application only fits in a certain type of  
15 non-qualifying status, whereas we could actually determine  
16 they alternatively fit into another one?

17 MS. HOLLOWAY: Another one? If the application  
18 fit into another category under our at-risk set-aside  
19 definition in statute, presumably the applicant would have  
20 pointed that out during their appeal and said, oh, here,  
21 no, it's this over here.

22 We did not examine all of the documentation from  
23 the development, we don't necessarily have all of it to see  
24 if any of it matched up with any other part of our  
25 statutory definition. They came in saying that they were a

1 Section 8, but they do not qualify under either of those  
2 very specific federal categories that are spelled out in  
3 our statute.

4 MR. VASQUEZ: Okay. Do any Board members have  
5 questions for Marni before we hear comments?

6 (No response.)

7 MR. VASQUEZ: Okay. Then before we make a  
8 motion -- unless someone is very intent on making a motion  
9 right now -- let's go ahead and hear comments on this item.

10 Renee, who do we have up first?

11 MS. NORRED: We have Cynthia Bast, and we are  
12 looking to unmute her right now.

13 Cynthia, you are unmuted. Can you hear us?

14 MS. BAST: Yes. Thank you.

15 This is Cynthia Bast of Locke Lord. I'm  
16 representing the applicant for this appeal.

17 Over the years there have been a variety of HUD  
18 programs for mortgage subsidy and rental subsidy working  
19 hand in hand. Programs have been modernized, new programs  
20 have been implemented, and one succeeds the next.

21 The competitor who submitted the RFAD asserted  
22 that this application cannot qualify for the at-risk set-  
23 aside because its Section 8 subsidy derived from a new  
24 construction program instead of a program for existing  
25 housing properties.

1           The RFAD points to a HUD database that  
2           categorizes Weslaco Village as S8NC for Section 8 new  
3           construction, instead of LMSA for loan management set-  
4           aside. We do not dispute that characterization. However,  
5           TDHCA statute and rules previously have been interpreted to  
6           allow both kinds of project-based Section 8 subsidy to  
7           qualify for the at-risk set-aside.

8           In 1997 Congress enacted mark to market  
9           legislation to reset rent and mortgages for the project-  
10          based Section 8 portfolio. Both LMSA and S8NC properties  
11          were treated the same. Weslaco Village went through a  
12          demonstration program in conjunction with this  
13          implementation.

14          TDHCA staff focuses on a reference in the  
15          statutory definition of the at-risk set-aside to 24 CFR  
16          Part 886 as distinguishing the LMSA properties from the  
17          S8NC properties and excluding Weslaco Village from the  
18          at-risk set-aside.

19          But if you look at the actual Section 8 contract  
20          for this property, an excerpt of which is on page 235 of  
21          your Board book supplement, you will see that the contract  
22          references 24 CFR Part 886 with regard to housing quality  
23          standards.

24          Why would HUD connect this property to 24 CFR  
25          Part 886 if they did not see a linkage there? This

1 supports including Weslaco Village in the at-risk set-  
2 aside.

3 Finally, TDHCA's governing statute provides  
4 directives as to preservation properties. It states that  
5 TDHCA shall give Class A priority to any federally  
6 subsidized property that is at risk because its rent  
7 subsidy or mortgage subsidy is expiring.

8 The statute further says that TDHCA shall  
9 allocate housing tax credits to Class A priority  
10 properties. This is consistent with what Congress and HUD  
11 established in the mark to market program, that certain  
12 historical properties were a priority for preservation  
13 whether they were LMSA or S8NC.

14 A broader reading of TDHCA's at-risk definition  
15 is consistent with the statutory mandate to assist Class A  
16 priority properties. We believe this is why TDHCA has  
17 awarded tax credits from the at-risk set-aside to nine  
18 different applicants by S8NC properties over the years and  
19 as recently as 2019.

20 Weslaco Village asks you to continue that  
21 interpretation and grant this appeal reversing staff's  
22 termination.

23 MR. VASQUEZ: Thank you, Ms. Bast.

24 Don't go far, because I'm assuming there's some  
25 fine technicalities that we need to address on this one.

1 Renee, who do we have up next?

2 MS. NORRED: We have Bill Fisher, and we are  
3 looking to unmute him.

4 Bill, you are self-muted. Will you please  
5 unmute yourself? Mr. Fisher, you are self-muted. Will you  
6 please unmute yourself?

7 MR. FISHER: Board members, good morning. Bill  
8 Fisher, Sonoma Housing Advisors.

9 I am the development consultant for another  
10 application. This section of the QAP has been very clear  
11 for many years. There are very specific statutory  
12 provisions about which developments are to be considered  
13 under the federal rules for at-risk.

14 It's a legislative initiative. It's clear -- I  
15 know Ms. Bast is trying to fit it by somehow expanding the  
16 interpretation -- but there's a list of programs that  
17 qualify for at-risk. Those of us that do a lot of at-risk  
18 know what those are, and they should have had an  
19 explanation in there as to why somehow they fit under one  
20 of those programs.

21 So on behalf of our sponsor, we believe that  
22 this is a statutory requirement, that the Board does not  
23 have discretion to waive it, and that they need to  
24 demonstrate to you today that of these list of program  
25 rules that their paperwork ties to one of those rules.

1           If not, then they need to come forward in the  
2 next QAP round and try to get it corrected, or they'll have  
3 to go to the legislature to get it added to the at-risk  
4 provision.

5           This has been a separate section of the statute  
6 for many years; 15 percent of the credits that are  
7 allocated to the state every year go for the purposes of  
8 funding on a priority basis USDA transactions and  
9 affordable housing that is at risk of losing its rental  
10 subsidy under specific programs.

11           So we would speak in support of the staff  
12 recommendation and maintain the termination of Weslaco  
13 Village.

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

15           Renee, who do we have up next?

16           MS. NORRED: We have Ryan Sweeney, and we are  
17 looking to unmute him right now.

18           Ryan, you are unmuted. Can you hear us?

19           MR. SWEENEY: I can hear you. Thank you.

20           Chair and members of the Board, first of all I  
21 just want to clarify something on the last comments. This  
22 has been a statutory thing for many years, and TDHCA has  
23 awarded, as Ms. Bast pointed, many, many other applications  
24 under the same contract, and you may be awarding another  
25 one today, absent Weslaco Village, but I'm not going to

1 rehash what was said on that.

2 But my name is Ryan Sweeney. I'm with the  
3 nonprofit developer of this project, and I thank you once  
4 again for hearing us on behalf of the City of Weslaco on  
5 their needs of affordable housing.

6 You've heard how this application, as many have  
7 gone before, does qualify under the CFR through HUD's own  
8 interpretation of that statute. And I want to be clear,  
9 just to look at that paperwork HUD is telling you that it  
10 qualifies, that's not legal argument: HUD is telling you.

11 But I'd like to comment on briefly on the due  
12 process on this application. As we know, this project was  
13 before this Board two weeks ago on a scoring dispute  
14 regarding the City of Weslaco's CRP.

15 Why are we here again on an appeal resulting in  
16 a notice of termination that was sent at the last possible  
17 minute? Why was this not brought up and discussed two  
18 weeks ago? Staff's letter to us of three days ago seems to  
19 indicate that they did not know about the potential issue  
20 until one week after the Board decided our last appeal, and  
21 respectfully, that's not accurate.

22 On May 3 TDHCA received a request for  
23 administrative deficiency on this issue from a competing  
24 project. They sent us the formal administrative deficiency  
25 on May 26.

1           We submitted a response promptly and timely on  
2 June 3. Since that time we have not heard a peep on this  
3 matter and we're six weeks. During the same time frame we  
4 received notice of a scoring adjustment on the CRP issue on  
5 May 17. We responded to that on May 24, and on June 7 we  
6 did receive a response to that which set that matter for  
7 hearing before this Board two weeks ago.

8           All throughout that process there was no  
9 response or other communication on the issue at hand today.

10          Why should a nonprofit developer have to spend thousands  
11 of dollars to defend a scoring issue when TDHCA knew that  
12 they had a potential termination issue already ready to go?

13                 Why did we have to go and do this and why do we  
14 have to do it again? Why was it not done at the same time?

15          Staff's response of three days ago seemed to indicate that  
16 they did not need to do an in-depth review of this  
17 application until after the Board ruled on the CRP issue  
18 two weeks ago.

19                 If that is the case, then what sort of review  
20 prompted the CRP issue to begin with, and why is another  
21 application with the same contract in line to get an award  
22 today? Why was that one not done a review?

23                 When the CRP issue was resolved by the Board on  
24 July 8, they waited an entire week before notifying us on  
25 July 15 that this matter would be heard today, the very

1 last moment, right before TAAHP, right when everybody is  
2 getting ready to do awards.

3 After 81 days of sitting on this, we were  
4 notified that this would be heard at the last possible  
5 minute. That's a "gotcha" and particularly when we  
6 responded and we did not hear anything.

7 This project qualifies for the terms of the HAP  
8 contract. All you have to do is follow your own precedent,  
9 because you have awarded many projects under the same  
10 program over the years, and you're about to award another  
11 one today. Let's treat the projects the same, and this is  
12 the easiest appeal you will ever have.

13 Thank you.

14 MR. VASQUEZ: Thank you, Mr. Sweeney.

15 Renee, do we have another speaker?

16 MS. NORRED: Yes, we have Brad McMurray.

17 And Brad, you are self-muted. Can you please  
18 unmute yourself?

19 MR. McMURRAY: Can you hear me now?

20 MS. NORRED: Yes, we can.

21 MR. McMURRAY: Great. Yes, Chair Vasquez and  
22 Board members, my name is Brad McMurray, and I'm on the  
23 application team for the Weslaco Village Apartments that is  
24 requesting you grant this appeal.

25 I'd like to call your attention to the

1 longstanding TDHCA Board precedent in making awards under  
2 at-risk set-aside to applicants with the very same Section  
3 8 contract as Weslaco Village Apartments that was  
4 terminated by staff in response to an RFAD from a  
5 competitor.

6 Now, if you go to page 240 of your supplement,  
7 you will see an excerpt from that RFAD that basically just  
8 describes the HUD database used to identify that Weslaco  
9 had the Section 8NC contract that Cynthia Bast spoke on.

10 Now if you go to page 242 you will see a list of  
11 nine different projects over a period of several decades  
12 that have the exact same contract. They're listed as the  
13 same Section 8NCm and they qualified under the at-risk set-  
14 aside in these previous years.

15 We've had commenters talk about how this has  
16 been around forever, this is nothing new, these guys are  
17 just trying to do something, and if they were they should  
18 have put it in their application.

19 Well, the truth of the matter is it has been  
20 around for years, and TDHCA has approved these exact same  
21 Section 8 contracts without incident or question.

22 Now, if we look at this -- and I hate to be  
23 using the "gotcha," but it's very, very applicable because  
24 the competitor seems to be trying to create this  
25 circumstance for their less competitive application, and it

1 doesn't appear -- I don't know, but it doesn't appear that  
2 they're really concerned about enforcing their particular  
3 interpretation of the at-risk qualifications because an  
4 applicant that has the same qualifications under the same  
5 type of Section 8 contract is scheduled to be on an award  
6 in another item that follows this one.

7           You know, something that kind of supports the  
8 "gotcha" too is that the competitor in their RFAD to TDHCA  
9 underwriting, apparently trying to negatively influence our  
10 application as well, when TDHCA underwriters are highly  
11 skilled in applying those requirements.

12           So if you go to page 243 of the supplement, you  
13 will see an excerpt from that same HUD database that shows  
14 Weslaco Village and then this other applicant, Longview  
15 Square Apartments, that is scheduled in the at-risk to  
16 receive an award.

17           Both are marked with Section 8NC, so both of  
18 them qualify for the very same reason. So we feel that if  
19 you don't grant this appeal then you've treated Weslaco  
20 Village differently than similar applications in this  
21 cycle.

22           We've also been treated differently than a long  
23 list of precedent that's been set without issue, and we  
24 really believe that not granting this application would be  
25 both arbitrary and inconsistent with this longstanding

1 precedent that's been in existence for over a decade.

2           So something too to look at this, instead of  
3 splitting the hairs, if you look at Weslaco, it's an  
4 existing Section 8 development built in the late '70s  
5 that's composed of 44 units that serve families in need,  
6 and it's reached the end of its useful life. It needs to  
7 be reconstructed and this provides funding -- Section 8  
8 that actually allows them to pay their rent based on their  
9 ability to pay.

10           Now, we believe that all state statutes have  
11 been followed in applying in the previous awards, and also  
12 they would be followed if you supported this appeal and  
13 gave it to Weslaco Village and Longview Square. Now, in  
14 granting these --

15           MR. VASQUEZ: I'm going to need to ask you to  
16 wrap up your comments here.

17           MR. McMURRAY: That's basically it. I think  
18 with Senator Lucio you saw the incredible need for the  
19 affordable housing in Hidalgo County. This preserves  
20 existing -- that was just for new; this is preserving the  
21 existing, so we thank you for your consideration and ask  
22 that you grant the appeal.

23           MR. VASQUEZ: Great. Thank you.

24           Renee, do we have one more?

25           MS. NORRED: We have actually two more speakers,

1 and so we are looking to unmute Robbye Meyer.

2 Robbye, you are self-muted. Can you hear us?

3 Robbye Meyer, you are self-muted. Can you hear us?

4 Oh, she no longer wishes to speak; she just  
5 popped up in the questions box.

6 MR. VASQUEZ: Okay.

7 MS. NORRED: Sorry. Go ahead.

8 MR. VASQUEZ: Who do we have after that?

9 MS. NORRED: We have Tracey Fine.

10 Tracey, you are self-muted. Will you please  
11 unmute yourself?

12 MS. FINE: I'm unmuted. Can you hear me now?

13 MS. NORRED: Yes, we can.

14 MS. FINE: I wanted to point out that the new  
15 construction program that was mentioned by Cynthia and Brad  
16 is under a program called the HUD New Construction Rental  
17 Assistance Part 880, and I also wanted to point out that in  
18 this past 87th Legislative Session, Representative Moody  
19 filed House Bill 2296 that would have added this particular  
20 program, the HUD 880 New Construction program, along with  
21 Part 881 as a list of eligible developments to at-risk.  
22 Clearly, they weren't interpreting Part 886 to be broadly  
23 covering this program.

24 Unfortunately, this bill failed. House Bill  
25 2296 failed, along with several other affordable housing

1 bills aimed at improving the Tax Credit Program. I  
2 personally spent a lot of time at the Capitol trying to get  
3 this very narrow dated, and quite frankly, terrible at-risk  
4 language tweaked. None of those bills passed this session,  
5 so granting the appeal would still be a violation of the  
6 at-risk code.

7 Last meeting an application was terminated since  
8 statute required notification of a superintendent. A  
9 simple error or notifying the incorrect superintendent got  
10 the application terminated.

11 Weslaco points out nine deals have flown under  
12 the radar under this very technical issue and were  
13 previously funded. As mentioned, there's another  
14 application about to walk out the door with an award with  
15 the very same issue, flying under the radar. I'm willing  
16 to guess that someone else maybe got funded after notifying  
17 the wrong superintendent. Unfortunately, it seems that  
18 some applications get caught and some don't.

19 Part of me wants this to be granted this appeal.  
20 To try to get something changed in legislation is nearly  
21 impossible. This shouldn't be added. So if you grant this  
22 appeal, does that mean that we don't have to go back to the  
23 legislature and ask that Part 880 be added; would it just  
24 already be assumed to be included?

25 I just want to point that out, and I'm the first

1 to say that the statute unfortunately does not support the  
2 needs of preservation in our state. I just don't know  
3 whether the Board has the ability to rule over that.

4 That's all I have to say.

5 MR. VASQUEZ: Thank you, Ms. Fine.

6 I believe we can bring back up Marni if any  
7 Board members have some follow-up questions based on the  
8 testimony.

9 I do have one question. I believe I heard, and  
10 I see in the Board materials that HUD made statements that  
11 this property qualified. Was that correct? I think under  
12 Part 886.

13 MS. HOLLOWAY: So Part 886 is a broader piece of  
14 the Federal Code. Our statute calls for qualification  
15 under the at-risk set-aside under Part A and Part C, and  
16 are very specific to those requirements, not the boarder  
17 Part 886, which encompasses other programs and other  
18 requirements.

19 MR. VASQUEZ: Is that it?

20 MS HOLLOWAY: I think that all that I can speak  
21 to as the director of the Multifamily Finance Division is  
22 what our statute says, which is that they have to come in  
23 under one of these two parts of Part 886. I am not expert  
24 in that entire body of Federal Code.

25 MR. VASQUEZ: Okay. Board members, do you have

1 any other questions?

2 MR. BRADEN: Mr. Chair, I have a question, and  
3 maybe it's more appropriately directed towards Bobby or  
4 Beau.

5 Is this a comparable situation to two weeks ago  
6 or is this something where the Board has discretion?

7 MR. ECCLES: This is Beau Eccles.

8 I will say that the definition in the  
9 competitive tax credit section of 2306 is very, very  
10 specific about what will qualify for at-risk as a recipient  
11 of Section 8 benefits, and that is Subpart A and Subpart C.

12 To the idea that there may have been previous  
13 applications that, as Ms. Fine said, snuck under the radar,  
14 doesn't mean that it's okay for the Board to say, okay,  
15 well, we can knowingly go against what is being brought in  
16 front of us.

17 This is not really a matter of interpretation so  
18 much as does this qualify under the very narrow definition.

19 If there's some other part of the definition of at-risk  
20 that they would qualify under, it should certainly be  
21 brought up, but otherwise, as it has been mentioned, this  
22 is an issue to take up with the legislature. I don't  
23 really see an interpretive position for the Board to try to  
24 nuance.

25 MR. BRADEN: I guess I struggle with this issue,

1 because if we were to not grant this appeal, we would not  
2 only be inconsistent with what we've done in the past, we'd  
3 be inconsistent within this same field of applicants.

4 MR. ECCLES: I'm not sure that's the case.

5 MS. HOLLOWAY: Respectfully, respectfully, I am  
6 not able to confirm that that is the case, and if we are  
7 aware of another applicant that is ineligible, it would  
8 have been similarly terminated.

9 MR. BRADEN: Somebody put up snippets from the  
10 HUD site that shows the same S8NC, and if that's supposed  
11 to be the determining factor, I guess the one thing I'm  
12 also asking is is there agreement that it's not under A or  
13 C just because the HUD site references S8 New Construction?  
14 Is that for sure, it doesn't reference the old acronym?

15 Maybe Cynthia Bast or somebody could comment on  
16 that, but I mean, we're banking a lot on the fact and we're  
17 making a determination that it doesn't fall within A or C  
18 because of this S8NC lettering.

19 MS. HOLLOWAY: We are banking on we asked them  
20 how do you qualify under at-risk, and they didn't tell us  
21 that they met any of the very specific criteria in our  
22 statute.

23 MR. VASQUEZ: Paul or everyone, if you'll bear  
24 with me, I would like to -- since that's a very specific  
25 question that you're asking, I'd like to ask if we can

1 bring back up the applicant's counsel, Ms. Bast, to see if  
2 she can concisely add some clarification on this.

3 Can we do that, Renee?

4 MS. NORRED: Cynthia, you are unmuted. Can you  
5 hear us?

6 MS. BAST: Yes. Thank you.

7 This is Cynthia Bast, and thank you for the  
8 further inquiry.

9 I am not by any means a complete historical  
10 expert on Section 8. Project-based Section 8 started when  
11 I was in elementary school, but I will tell you this: I  
12 spent a considerable amount of time understanding these  
13 various programs over the weekend, and first of all, if you  
14 look up 24 CFR Part 886, there are only two subparts,  
15 there's A and there's C. There's no broader body of law  
16 for 24 CFR 886.

17 We admit that 24 CFR 886 related to programs for  
18 existing housing properties with mortgage subsidy that were  
19 at risk and needed to be restructured with their rent  
20 subsidy and their mortgage subsidy. That is correct. The  
21 new construction program for project-based Section 8 did  
22 occur and does occur under Part 880. That is correct as  
23 well.

24 So what I have learned from all of the guidance  
25 out there is that subpart A and C are the LMSA program, and

1 then if you look at HUD's database, they would be coded as  
2 LMSA.

3 The subpart 880 is the new construction program,  
4 and if you look at HUD's database they would be coded as  
5 S8NC. And so that's why we're making this distinction.

6 But both of those, Part 880 and 886, were folded  
7 together when this mark to market legislation occurred, and  
8 HUD acknowledged that both of these sets of properties  
9 needed preservation and needed restructuring.

10 And so to also clarify the record, the point  
11 that I was making with regard to this particular property  
12 is if you look at its Section 8 contract, its Section 8  
13 contract says that for housing quality standards it will  
14 abide by 24 CFR Part 886, and Part 886 that is Subpart C,  
15 that housing quality standards provision is in Subpart C.

16 So our point is that there's a linkage: HUD has  
17 linked it, Congress has linked it in passing the mark to  
18 market legislation. I acknowledge what Ms. Fine said with  
19 regard to the legislation that was proposed this year and  
20 agree that it could be clarified.

21 Honestly, when I saw the data that TDHCA had  
22 awarded nine S8NC properties in the past and was getting  
23 ready to award another one other than Weslaco Village this  
24 cycle, I believed it was because TDHCA had looked at this  
25 and made the interpretation that if you have a project-

1 based Section 8 contract we acknowledge that all of those  
2 project-based Section 8 contracts need preservation, and so  
3 that it was a logical interpretation of the statute and the  
4 rule.

5 So hopefully I've answered your questions. I'm  
6 happy to answer anything else, Mr. Vasquez.

7 MR. VASQUEZ: Thank you, Ms. Bast.

8 Mr. Braden, did that address some of your  
9 concerns?

10 MR. BRADEN: It addressed not all of them, but I  
11 guess a couple of follow-up questions for Cynthia.

12 So Cynthia, there is no Subchapter B of this 886  
13 then; it must have been deleted at some point?

14 MS. BAST: Yes, Mr. Braden, that is correct. It  
15 was -- let's see, the beauty of doing this virtually -- no,  
16 I don't have the date on which it was eliminated, but it is  
17 marked as reserved.

18 MR. BRADEN: What about our statute that  
19 referenced A and C, when was that put in? Does anybody  
20 know that? What I'm trying to get a feel for was is it the  
21 fact that the legislature put that in place at one point in  
22 time and then the federal program has evolved and really  
23 the successor to A and C are these other S8NC and nothing  
24 has caught up with it?

25 It's just you wouldn't interpret a statute that

1 the programs are gone; you would interpret it to the  
2 successor programs underneath that. Is there grounds to  
3 make that type of interpretation?

4 MS. BAST: I think there could be. I mean, as  
5 Mr. Fisher noted, this definition has been in place for a  
6 considerable time, so I think that's possible.

7 But again, I've only had two business days to  
8 prepare for this appeal, so I don't have all of the history  
9 of the Section 8 Program, and I'm sure there's someone out  
10 there in the cyberspace who might know more than I do on  
11 that particular issue.

12 MR. BRADEN: It sounds like the statute and the  
13 rules haven't quite caught up with what the programs are in  
14 terms of what our statute is, and it does sound like maybe  
15 we need to tweak it.

16 But you know, I guess I struggle with  
17 interpreting something that we know that's evolved and this  
18 property, at least what we've been told, clearly has  
19 Section 8 funding associated with it.

20 MR. VASQUEZ: Bobby, you look like you were  
21 wanting to chime in.

22 MR. WILKINSON: The definitions section, at  
23 least, has been amended fairly recently, as recently as  
24 2017 -- '13, '15, '17. I know there has been some tweaks  
25 to the at-risk definition, at least some attempts over the

1 last few sessions. It is very oddly specific, and that's  
2 what we're struggling with here.

3 MR. ECCLES: This is Beau Eccles. I'll have to  
4 double-check this but it's possible that the at-risk  
5 definition went in in 2001, and that would have been after  
6 the mark to market legislation that's been raised here.

7 MR. VASQUEZ: Okay. I believe the Board  
8 understands the issues here at play and whether we decide  
9 it's Section 8 eligible or it still qualifies in the big  
10 picture even though the narrow discussion or narrow  
11 classification that staff is using, and I'm not saying they  
12 were incorrectly using it, but again it still qualifies  
13 under the bigger umbrella, which I'm personally comfortable  
14 with, but I can understand if others are not.

15 I'm personally comfortable with it being  
16 classified as eligible, but again, that's just one opinion  
17 out of six. Does any other Board member care to make a  
18 comment or a motion?

19 MR. MARCHANT: Mr. Chairman, will this reopen  
20 the Laredo issue?

21 MR. VASQUEZ: No. Laredo is closed, decided.

22 MR. MARCHANT: Okay.

23 MR. VASQUEZ: Again, does anyone want to make a  
24 motion to approve the appeal or deny the appeal? Does  
25 anyone have a coin?

1 MS. THOMASON: I have a question, and I think  
2 Marni may have already said that we don't know the answer  
3 to it. So this other application that is being referenced  
4 in this round with similar, is there some difference that  
5 makes that application eligible where this one is being  
6 terminated?

7 MS. HOLLOWAY: If in fact the other application  
8 does not fall under one of these two categories or some  
9 other category, we have not in the course of our review  
10 made that determination, and we have not found that  
11 information. Our review indicated that the other  
12 application that's being referred to is in fact eligible to  
13 participate in the at-risk set-aside, as I'm sure was the  
14 situation with all of the past applications that have been  
15 referred to by the appellant in this situation.

16 MR. VASQUEZ: Okay. Since we need to get this  
17 moving along, as chairman I will take the prerogative to  
18 make a motion and everyone can vote as you see fit.

19 So regarding application 21185 Weslaco Village  
20 Apartments, I move the Board grant the appeal by the  
21 applicant and that the application be reinstated. Is there  
22 a second?

23 MR. MARCHANT: Second. Marchant, second.

24 MR. VASQUEZ: Thank you, Mr. Marchant.

25 All those in favor of the motion to grant the

1 appeal say aye.

2 MR. BRADEN: Aye.

3 MS. THOMASON: Aye.

4 MR. MARCHANT: Aye.

5 MR. VASQUEZ: Those opposed?

6 MR. BATCH: Aye, Mr. Chairman.

7 MR. VASQUEZ: Aye opposed or nay against?

8 MR. BATCH: I apologize. I oppose.

9 MR. THOMAS: I oppose as well.

10 MR. BATCH: If I can make just a general  
11 comment, Mr. Chairman. You know, again, from listening to  
12 counsel, it's clear that -- it's just not exactly clear to  
13 me that we're exactly following the statute on this, and I  
14 think again we've found ourselves in a position where we're  
15 kind of going a little bit out of bounds on this.

16 And not to bring up the Laredo issue, but I  
17 think it was a similar thing, and I feel like we're bending  
18 the rules for one applicant and we didn't for another. I  
19 would just personally like to see a little bit more  
20 consistency.

21 MR. VASQUEZ: Okay. Thank you, Mr. Batch.

22 Noting that Mr. Batch and Mr. Thomas vote  
23 opposed to the motion, we have Mr. Braden, Ms. Thomason,  
24 Mr. Marchant and myself as chair for the motion, so the  
25 motion carries to grant the appeal.

1           And appreciate everyone's input on this. Also,  
2 I do believe these are a different set of circumstances  
3 from the prior infamous Laredo case.

4           So moving along, I have late-breaking  
5 information that the 21206 appeal has been withdrawn;  
6 therefore, we are complete with the appeals, and it is  
7 11:20 and we still have the additional rest of the agenda  
8 to complete, so staff, don't go away, don't go far.

9           Let's go ahead and take an approximately ten-  
10 minute break, so we'll recess here at 11:20 and start  
11 promptly at 11:30.

12           So we stand in recess, and I'll see you all back  
13 in about ten minutes.

14           (A brief recess was taken.)

15           MR. VASQUEZ: It is by my clock 11:32, so the  
16 Board meeting of the Texas Department of Housing and  
17 Community Affairs will recommence, and we will go back to  
18 the original order of the agenda and move to item 4.

19           Agenda item 4(a) is presentation, discussion and  
20 possible action on the State Fiscal Year Ending  
21 Homelessness Fund awards, and we have Ms. Versyp up to  
22 present this information.

23           MR. WILKINSON: Abby, you're muted.

24           MS. VERSYP: Thank you. I was muted twice, so I  
25 undid one but not the other.

1           Good morning -- it's still morning -- Chairman  
2 Vasquez and Board members. I am Abigail Versyp. I'm the  
3 director of our Single-Family and Homeless programs at the  
4 Department. I'll be presenting the next four items on the  
5 agenda today.

6           The first item for consideration is item 4(a)  
7 which is the recommendation for awards under the Ending  
8 Homelessness Fund, or EH Fund, what we call it internally.

9           The EH Fund is a unique funding source because it's  
10 entirely funded through donations that Texans can make to  
11 help end homelessness when they register or renew their  
12 registration for their vehicle.

13           Through the donations of generous Texans for  
14 this important purpose, we're able to recommend awards  
15 totaling over \$450,000 today to nine eligible  
16 subrecipients. The funds can be used for assistance to  
17 persons experiencing homelessness and those at risk of  
18 homelessness, including funding for emergency shelter,  
19 essential services, case management, and rental assistance,  
20 among other needs.

21           The funds are available only to cities and  
22 counties and our current rule for the funds to be  
23 distributed equally amongst cities and counties that have a  
24 current award of funding from either our Emergency  
25 Solutions Grants Program or our Homeless Housing and

1 Services Program.

2 We are recommending awards to nine cities that  
3 meet this criteria and that have accepted funding. The  
4 list of cities is included in attachment 8 of this item.  
5 One city, the City of Houston, was also eligible and  
6 offered an award but declined to apply. Each city would  
7 receive \$51,804 from the fund if these awards are approved.

8 I'm happy to answer any questions you have.

9 MR. VASQUEZ: Great. Thank you, Ms. Versyp.

10 Do any Board members have questions on this  
11 item?

12 (No response.)

13 MR. VASQUEZ: I'm upset with my hometown here  
14 but otherwise happy about the agenda item. This is great  
15 that every little bit helps and it adds up.

16 So I assume we have no one to speak on this  
17 item.

18 MS. NORRED: We have no one in queue. Yes,  
19 that's correct.

20 MR. VASQUEZ: Okay. The chair will entertain a  
21 motion on item 4(a).

22 Mr. BATCH: Mr. Chairman, I move that the Board  
23 authorize the executive director and his designees to  
24 effectuate award of the Ending Homelessness Fund, as fully  
25 expressed in the Board action request for this item.

1 MR. VASQUEZ: Great. Thank you.

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

3 MS. THOMASON: Second.

4 MR. VASQUEZ: Seconded by Ms. Thomason. All  
5 those in favor say aye.

6 (A chorus of ayes.)

7 MR. VASQUEZ: Any opposed?

8 (No response.)

9 MR. VASQUEZ: Hearing none, motion carries.

10 Moving on to 4(b), presentation, discussion, and  
11 possible action on state fiscal years 2020 and 2021  
12 Homeless Housing and Services Program reallocations and  
13 extension requests.

14 Ms. Versyp, please continue.

15 MS. VERSYP: Yes. Thank you.

16 So the HHSP is a state-funded program. We  
17 provide funds annually to cities in Texas with a population  
18 that exceeds 285,500 persons under two separate set-asides.

19 The general HHSP set-aside is the larger of the  
20 two and provides funding for homelessness prevention and  
21 homelessness services to eligible applicants. The smaller  
22 youth set-aside is designated to provide assistance to  
23 Texans under the age of 24 that are experiencing  
24 homelessness, so those funds aren't utilized for  
25 prevention, just homelessness.

1           The funds that were awarded from the 2020  
2 general and youth set-asides were not full expended by the  
3 expiration of their contract term. The cities that were  
4 not fully expended were notified that their funds that were  
5 remaining would be de-obligated at the end of the term and  
6 made available for reallocation. And with the exception of  
7 the City of Dallas, all unexpended funds have been de-  
8 obligated.

9           The funds total \$1,336 in general set-aside  
10 funds and \$31,319 in youth set-aside funds. We recommend  
11 that these funds are awarded to the city or to the city's  
12 designated nonprofit that has the highest expenditure rate  
13 for their own awarded 2020 HHSP funds so long as doing so  
14 wouldn't cause the award to be more than 125 percent of  
15 what they were originally awarded.

16           Using this methodology, Haven for Hope, the  
17 designee for the City of San Antonio, would be awarded the  
18 \$1,336 in general set-aside, and the City of El Paso would  
19 be awarded the \$31,319 in youth set-aside funds. Both of  
20 these were the highest expended in their set-aside and  
21 neither award would cause the total award to exceed 125  
22 percent of what they were originally allotted.

23           Additionally, when the de-obligation notices  
24 were sent to subrecipients that hadn't fully extended, the  
25 City of Dallas submitted an appeal to their de-obligation

1 and an explanation of the low expenditure rate under their  
2 youth set-aside contract. So they did spend appropriately  
3 under their general set-aside, but their youth set-aside  
4 wasn't fully expended. At the end of the original term,  
5 the city had reported expenditures equal to about 21  
6 percent of the youth set-aside funds.

7 They had already requested and they were already  
8 granted a six-month extension, which ended on February 28,  
9 2021. However, they had procured a service provider and  
10 contracted with them for a term that didn't expire until  
11 February 28, 2022.

12 When the appeal related to de-obligation of  
13 funds was granted, the city submitted an extension request  
14 to align the HHSP contract with the service provider  
15 contract. In total that's going to exceed the amount of  
16 time that staff can grant for an extension.

17 They also requested that their 2021 youth  
18 set-aside contract be extended for a term of a more than  
19 six months, so we rolled those into this same item. Their  
20 2021 HHSP youth set-aside contract at that time was only 3  
21 percent expended.

22 We do recommend approval of both of these  
23 extension requests. They have contracted with a service  
24 provider that is a regular contractor under our ESG program  
25 and is known to be very responsible and responsive in

1 expending funds. They just thought they had a year longer  
2 than they really did.

3 So I hope I can answer any questions you have  
4 about either the reallocation of the 2020 funds or the  
5 extension requests for the City of Dallas.

6 MR. VASQUEZ: Great. Thank you for the  
7 background.

8 Do any Board members have questions on item  
9 4(b)?

10 MS. THOMASON: I just had one question. So is  
11 that February 28, 2022, for both the '20 and the '21  
12 amount?

13 MS. VERSYP: No. For the 2021 they asked for  
14 that February 28, 2022, date -- or for the 2020 funds. For  
15 the 2021 funds they wanted to extend that out to May 30,  
16 2022. Those funds will still be available to us through  
17 the Comptroller, and it just provides them a little bit of  
18 buffer to get them all fully expended.

19 MS. THOMASON: Okay. Thank you.

20 MR. VASQUEZ: Okay. Then, Renee, we do not have  
21 anyone lined up for public comment on this item?

22 MS. NORRED: No, there is no one lined up for  
23 public comment.

24 MR. VASQUEZ: Okay. Unless any Board members  
25 have further questions, I will entertain a motion on item

1 4(b).

2 MR. THOMAS: Mr. Chairman, I move the Board  
3 authorize the executive director and his designees to  
4 effectuate awards of reallocated Homeless Housing and  
5 Services Program contract funds and to extend the City of  
6 Dallas's 2020 and 2021 HHSP contracts, as fully expressed  
7 in the Board action request for this item.

8 MR. VASQUEZ: Thank you.

9 Motion made by Mr. Thomas. Do we have a second?

10 MR. BATCH: I second, Mr. Chairman.

11 MR. VASQUEZ: Seconded by Mr. Batch. All those  
12 in favor say aye.

13 (A chorus of ayes.)

14 MR. VASQUEZ: Any opposed?

15 (No response.)

16 MR. VASQUEZ: Hearing none, motion carries.

17 Moving on to 4(c), presentation, discussion, and  
18 possible action on the state fiscal year 2022 Homeless  
19 Housing and Services Program awards.

20 Again, Ms. Versyp.

21 MS. VERSYP: Thank you.

22 This presentation is going to be blessedly brief  
23 since we just discussed HHSP in the last item. Now we're  
24 switching gears to new awards for the 2022 allocation of  
25 HHSP that was approved in the last legislative session.

1           So for the first year of the biennium, we're  
2           able to award about \$4.7 million in general set-aside and  
3           \$1.5 million in youth set-aside. The youth set-aside is a  
4           fixed amount based on the requirements of Rider 16.

5           The amount awarded under the general set-aside  
6           is determined by taking the total allocation, reducing it  
7           by the youth set-aside of \$1.5 million, and also the TDHCA  
8           administrative funds that we hold from HHSP, which is  
9           \$48,000 for 2022.

10           The funds are then distributed to eligible  
11           cities using an allocation formula that's codified in our  
12           Administrative Code. Eligible cities are notified of their  
13           allocation amounts and asked to submit an abbreviated  
14           application that includes their budget, their plan, and  
15           administrative paperwork we need to get into an award.

16           Eligible cities can either directly administer  
17           HHSP or they can choose a nonprofit to contract with TDHCA  
18           on their behalf so that awards can be made to either cities  
19           or nonprofits, but it's at the city's discretion. A  
20           previous participant review and awards are recommended to  
21           EARAC.

22           At the time the Board book was posted, we were  
23           still pending EARAC approval for both Haven for Hope and  
24           the City of Houston. The Haven for Hope, their award has  
25           been approved by EARAC now, so the only the City of Houston

1 is pending approval at this time.

2 We're recommending awards conditioned on this  
3 one EARAC approval that's outstanding for the City of  
4 Houston.

5 The award recommendations for both the general  
6 and the youth set-asides are in attachment A to this item,  
7 and please let me know if you have any questions about  
8 this.

9 MR. VASQUEZ: Thank you again, Abigail.

10 Do any Board members have questions on item  
11 4(c)?

12 (No response.)

13 MR. VASQUEZ: And again, I believe we have no  
14 one in the queue to speak.

15 MS. NORRED: That is correct.

16 MR. VASQUEZ: So the chair would entertain a  
17 motion on item 4(c) of the agenda.

18 MR. BRADEN: Mr. Chair, I move the Board  
19 authorize the executive director and his designees to  
20 effectuate awards of Homeless Housing and Services Program  
21 contracts for general funds and youth set-aside funds, as  
22 fully expressed in the Board action request for this item.

23 MR. VASQUEZ: Thank you.

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

25 MS. THOMASON: Second.

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

3 (A chorus of ayes.)

4 MR. VASQUEZ: Any opposed?

5 (No response.)

6 MR. VASQUEZ: Hearing none, motion carries.

7 Moving right along to item 4(d), presentation,  
8 discussion, and possible action on the 2022-2023 Texas  
9 Housing Trust Fund Biennial Plan.

10 And one more for Ms. Versyp.

11 MS. VERSYP: One more.

12 So this plan that's presented to you today sets  
13 forth the use of funds for the Texas Housing Trust Fund.  
14 Upon approval, the plan is going to be submitted to the  
15 Legislative Budget Board, House Appropriations Committee,  
16 and the Senate Finance Committee.

17 Currently TDHCA operates two housing programs  
18 funded by the Texas Housing Trust Fund. The first is the  
19 Texas Bootstrap Loan Program; we call it Bootstrap for  
20 short. Bootstrap provides financing, usually in the form  
21 of a purchase money note, for housing that was built using  
22 self-help. Participants can receive a Bootstrap loan of up  
23 to \$45,000 at zero percent interest, and in return they  
24 have to provide at least 65 percent of the labor required  
25 to build their home.

1           We provide Bootstrap through a network of  
2 administrators who can either be nonprofit entities or  
3 Colonia Self-Help Centers. The vast majority of our  
4 Bootstrap administrators are affiliates of Habitat for  
5 Humanity. They also provide financing for the projects.

6           Since there's a statutory cap of \$45,000,  
7 Bootstrap is a piece, a very important piece, but the deals  
8 do have to be layered. None of the families assisted under  
9 Bootstrap have an income which exceeds 60 percent of the  
10 median family income.

11           Statutorily, we need to program \$3 million a  
12 year for the Bootstrap Program, and while the appropriation  
13 didn't allow for all of this to come from appropriated  
14 funds in the next biennium, the difference is made up from  
15 interest and loan repayments from prior Texas Housing Trust  
16 Fund activities, many of which are Bootstrap, so the  
17 program is feeding itself.

18           The second program that we operate with the  
19 Texas Housing Trust Fund is the Amy Young Barrier Removal  
20 Program, which was launched in 2010. The program is named  
21 in honor of Amy Young, who was a public policy analyst and  
22 advocate for Texans with disabilities.

23           The program improves the quality of life of  
24 persons with disabilities and allows low-income households  
25 that need accessibility modifications for their disability

1 to receive a grant of up to \$22,500 for modifications and  
2 limited repairs related to health and safety for their  
3 homes.

4 For the 2022-2023 biennium, the proposed plan  
5 allocates a total of about \$2.9 million in funds for this  
6 important purpose. Additionally, the plan includes  
7 authority to use \$250,000 of this flexible funding for  
8 single-family workout activities.

9 From time to time unanticipated events occur  
10 when we're dealing with single-family programs and unique  
11 households, and the funds may be used to resolve issues  
12 when they arise when other funding sources wouldn't permit  
13 it. These funds are set aside specifically for the  
14 Department to utilize, and they come from repayments and  
15 they are not made available to the public.

16 Please let me know if you have any questions  
17 about the plan or comments.

18 MR. VASQUEZ: Very good. Thank you.

19 Do any Board members have questions on this item  
20 4(d)?

21 (No response.)

22 MR. VASQUEZ: Okay. Hearing none, we do not  
23 have any speakers lined up for this item. Is that correct,  
24 Renee?

25 MS. NORRED: Yes, that is correct.

1 MR. VASQUEZ: Okay. So the chair will entertain  
2 a motion on item 4(d) of the agenda.

3 MS. THOMASON: Mr. Chair, I'll move that the  
4 Board approve and submit the proposed 2022-2023 Texas  
5 Housing Trust Fund Biennial Plan and authorize the  
6 executive director and his designees to draft and release  
7 notices of funding availability based on this plan, as  
8 outlined in the Board action request item.

9 MR. VASQUEZ: Thank you.

10 Motion made by Ms. Thomason. Is there a second?

11 MR. BRADEN: Second.

12 MR. THOMAS: Second.

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

15 (A chorus of ayes.)

16 MR. VASQUEZ: Any opposed?

17 (No response.)

18 MR. VASQUEZ: Hearing none, motion carries.

19 Thank you, Abigail.

20 MS. VERSYP: Thank you.

21 MR. VASQUEZ: Item 5 has been removed from the  
22 agenda, so we are continuing directly back to item 6(a),  
23 presentation, discussion, and possible action regarding  
24 eligibility under 10 TAC Section 11.101(b)(1)(C) related to  
25 ineligibility of developments in certain school attendance

1 zones for the Villas at Shriner's Point, application 21612,  
2 in San Angelo.

3 And Marni is back.

4 MS. HOLLOWAY: Good morning again.

5 As described, 6(a) discusses the eligibility for  
6 Villas at Shriner's Point. This is an application that is  
7 currently on the Department's waiting list for a bond  
8 reservation.

9 The proposed new construction development falls  
10 within the attendance zone of an elementary and middle  
11 school that received a 2019 rating of F by TEA and in 2018  
12 Improvement Required rating. These ratings would render  
13 the development site ineligible under the QAP.

14 Historically, Goliad Elementary School achieved  
15 Met Standard ratings for 2015, 2016 and 2017, while Lincoln  
16 Middle School achieved a Met Standard rating for 2015 and  
17 2016.

18 Worth noting is that the high school the  
19 elementary and the middle school feeds into achieved a 2019  
20 rating of B and a 2018 Met Standard rating. Although there  
21 is a neighborhood risk factor relating to schools, that is  
22 for those schools that have met a rating combination of F  
23 and Met Standard or D and Improvement required.

24 As a neighborhood risk factor, information could  
25 be provided that would serve to mitigate the school ratings

1 and staff would find the site eligible. With this  
2 particular rating combination, F and Improvement Required,  
3 the site is considered ineligible with no opportunity to  
4 mitigate.

5 As the 2020 program year unfolded in the COVID-  
6 19 environment, the Board waived the neighborhood risk  
7 factor relating to schools. Sites could be found eligible  
8 and no mitigation was required. The 2021 QAP was adopted  
9 in the same manner, no mitigation as required.

10 Despite the academic disruption caused by the  
11 pandemic, the ineligibility aspect of the school rating  
12 history remained in the QAP. There are materials in your  
13 package that speak to the decision by TEA to pause the  
14 accountability ratings for the 2021 school year, so there  
15 isn't an accurate picture of school improvement that could  
16 be obtained. The waiver provision in the QAP is specific  
17 regarding the need for a waiver to be granted.

18 Notwithstanding the school ratings, the  
19 applicant represents that the current supply of affordable  
20 housing in San Angelo is insufficient. According to the  
21 Department's property inventory, there are only seven  
22 multifamily properties in San Angelo, with the earliest  
23 dating back to 2005 and the most recent development was in  
24 2018 for 48 affordable units.

25 Of the seven existing properties, three are

1 elderly and four serve the general population. All of  
2 these developments were funded through the Department's  
3 competitive 9 percent Tax Credit Program. The Private  
4 Activity Bond and 4 percent programs have been an  
5 underutilized funding source for development in San Angelo.

6 Staff believes that the Board could find that  
7 the construction of the proposed development would serve to  
8 not only maximize the number of affordable units added to  
9 the state's housing supply but also better provide for the  
10 housing needs of low-income families within the community  
11 as articulated in the Department's governing statute.

12 The pandemic has caused disruptions to the TEA  
13 accountability system that are not within the applicant's  
14 control. Where it has been determined that a multifamily  
15 development is the highest and best use for a site, where  
16 it is zoned appropriately and has been preliminarily  
17 determined to be financial feasible are factors that could  
18 further the Department's responsibilities under statute.

19 Despite the recommendation of ineligibility  
20 regarding the requirements of 10 TAC 11.101(b)(1)(C), based  
21 on the totality of the information provided, the Board  
22 could find that the waiver request meets the requirements  
23 10 TAC 11.207.

24 I'd be happy to answer any questions.

25 MR. VASQUEZ: Thank you, Marni.

1 Do any Board members have questions for Ms.  
2 Holloway? And I note that I believe we do have speakers  
3 lined up for this item.

4 MS. NORRED: Yes. We have Morgan Chegwidden,  
5 who we are looking to unmute now.

6 Morgan, you are self-muted. Will you please  
7 unmute yourself?

8 MS. CHEGWIDDEN: Yes. Can you hear me now?

9 MS. NORRED: Yes, we can.

10 MS. CHEGWIDDEN: Thank you.

11 I'm Morgan Chegwidden, assistant director of the  
12 City of San Angelo's Neighborhood and Family Services, and  
13 I'm grateful for the opportunity today to speak to the  
14 Board. We are in support of project 21621 Villas at  
15 Shriner's Point that's in front of you today.

16 As mentioned, in 2005 the city initiated a  
17 neighborhood revitalization program with the goal of  
18 eliminating slum and blight, and part of this strategy  
19 included utilizing all available resources, with low-income  
20 housing tax credits being the most significant program to  
21 help increase the affordable housing stock in our  
22 community.

23 The landscape and the neighborhoods targeted for  
24 revitalization look radically different today in 2021 than  
25 when revitalization efforts began. That landscape includes

1 almost 500 new apartment units that were renovated or  
2 reconstructed, approximately 300 new homes constructed, and  
3 about 1,260 homes rehabbed by the coalition partners and  
4 another 1,200 rehabbed by residents and contractors.

5 That also includes new sidewalks, boundary  
6 barriers, street repairs; in general, we're just doing all  
7 the things to bring our community to be even better and  
8 better.

9 Over \$70 million in improvements have been made  
10 in neighborhoods that had previously been ignored. In  
11 addition, the tax base has been meaningfully expanded and  
12 property values have multiplied, and of course, crime has  
13 decreased.

14 The value of the Tax Credit Program cannot be  
15 overstated as an incredibly important tool for our  
16 neighborhood revitalization efforts, and we encourage the  
17 Board to consider awarding points to Villas at Shriner's  
18 Point.

19 Thank you.

20 MR. VASQUEZ: Great. Thank you, Ms. Chegwidden.  
21 Renee, who do we have next?

22 MS. NORRED: We have Cynthia Bast, and we are  
23 looking to unmute her now.

24 Cynthia, you are unmuted. Can you hear us?

25 MS. BAST: Yes. Thank you.

1           Cynthia Bast of Locke Lord, representing the  
2 applicant for this request.

3           I will be addressing the legal issues on this  
4 matter for the record. Staff has already laid out that  
5 this request can be granted under the rule based on the  
6 unique facts and circumstances of the proposed development.

7           In this presentation you have heard or will hear that all  
8 the criteria of the rule are satisfied.

9           The applicant must demonstrate the need for the  
10 waiver is beyond its control. The rule provides examples  
11 for circumstances outside an applicant's control, including  
12 local land codes or other city mandates.

13           You heard that the City of San Angelo has  
14 specifically identified this development site in a  
15 revitalization area where it wants to encourage  
16 development.

17           The rule directs the Board to consider whether  
18 finding this development site eligible would further the  
19 agency's purposes under the Texas Government Code. This  
20 government statute directs, among other things, that TDHCA  
21 should, above all, provide housing for residents in need of  
22 affordable housing who have no other means of assistance.

23           The applicant has shown that San Angelo has an  
24 urgent need for affordable housing for families with a one-  
25 half percent vacancy rate in the current stock.

1           Additionally, the statute says that TDHCA should  
2 assist with the development and redevelopment of  
3 communities as part of its government purpose. The  
4 applicant has shown that the development site is in a  
5 priority area for revitalization as designated by the city.

6           As staff has noted, we request that the Board  
7 find that the construction of this development would serve  
8 the statutory mandates for the agency. Finally, the rule  
9 states that the Board may not grant a waiver that would  
10 waive a requirement in statute.

11           We are not asking you to do that. Indeed, as I  
12 previously stated, granting this request fulfills the goals  
13 of the agency's governing statute.

14           So in light of these factors, we believe the  
15 rules permit and support the Board's finding that this  
16 development site is eligible for an allocation of 4 percent  
17 housing tax credits with tax exempt bonds.

18           Thank you very much for your time.

19           MR. VASQUEZ: Cynthia, before you go, do you  
20 have anyone lined up to actually address the issue of are  
21 there efforts being made to improve the schools?

22           MS. BAST: Yes, sir, we do have additional  
23 commentary coming. Thank you.

24           MR. VASQUEZ: Okay, great.

25           Renee, let's go ahead with the next speaker.

1 MS. NORRED: We have Justin MacDonald, and we  
2 are looking to unmute him now.

3 MR. MacDONALD: Good morning. Can you hear me?

4 MS. NORRED: Yes, we can.

5 MR. MacDONALD: Good morning. My name is Justin  
6 MacDonald. I am the lead of the applicant team for this  
7 development. I'm not going to rehash what staff has gone  
8 over in their presentation or what we submitted in our  
9 written comments, but I believe we do address the issues  
10 around school quality in our written comments, so Chairman  
11 Vasquez, I would direct you to that.

12 I'm primarily here to answer any questions, but  
13 I do just want to reiterate that we've been working with  
14 the city to revitalize the northern part of San Angelo.  
15 We've done more than one project here so far, so we're very  
16 aware of the need in this area.

17 There's quite a bit of data that's emerging to  
18 demonstrate that in fact the schools are not the cause of  
19 blight in an area but rather are an effect, and so  
20 providing stable, quality housing is itself a mitigation  
21 factor for improving the school system.

22 You also heard that the high school that these  
23 schools feed into has already got a B grade in the last  
24 year that grades were issued by TEA, and additionally,  
25 since we've now gone two years without having any A through

1 F grades, we feel that it would not be fair to penalize  
2 this neighborhood simply as an effect of the pandemic and a  
3 lack of data.

4 Again, you've heard from the city, and they're  
5 very supportive, and so I'm happy to answer any questions,  
6 but otherwise, I'd just ask that you favorably look at this  
7 waiver request and grant it. Thank you.

8 MR. VASQUEZ: Great. Thank you, Mr. MacDonald.  
9 Renee, who's next?

10 MS. NORRED: I believe Tamea Dula didn't say if  
11 it was for this item, she just said, Matters under item 6  
12 may need to speak. But I don't have anyone else in queue  
13 for Villas at Shriner's Point at the moment.

14 MR. VASQUEZ: Okay, great.

15 Do any Board members have any further questions  
16 on this item?

17 (No response.)

18 MR. VASQUEZ: Hearing none, would anyone care to  
19 make a motion on item 6(a)?

20 MR. BRADEN: Mr. Chair, I'll make a motion. I  
21 move the Board grant the requested limited waiver of the  
22 rule regarding the ineligibility of developments within  
23 certain school attendance zones for Villas at Shriner's  
24 Point.

25 MR. VASQUEZ: Great. Motion made by Mr. Braden.

1 Is there a second?

2 MR. MARCHANT: Second.

3 MR. VASQUEZ: Seconded by Mr. Marchant. All  
4 those in favor say aye.

5 (A chorus of ayes.)

6 MR. VASQUEZ: Any opposed?

7 (No response.)

8 MR. VASQUEZ: Hearing none, motion carries.

9 Moving right along to 6(b), presentation,  
10 discussion, and possible action on the second amendment to  
11 the 2021-1 Multifamily Direct Loan Notice of Funding, and I  
12 believe Marni is still up.

13 Did Marni say she's had enough?

14 MS. HOLLOWAY: Sorry about that. I'm just  
15 talking away.

16 Before we get started on this NOFA amendment, I  
17 wanted to give y'all a super quick update on our -3 NOFA  
18 that was recently approved to assist specifically the 2020  
19 applications that were suffering from construction price  
20 increases.

21 Our first application deadline was yesterday.  
22 We've received nine applications using up just about half  
23 of the funds that are available, so we're hopeful during  
24 the next couple of months we'll use up the rest of it and  
25 we'll be able to assist those applications moving forward.

1 I though y'all would like to know that that's what's going  
2 on.

3 For the 2021-1 NOFA, this annual NOFA included  
4 \$31,740,258 in HOME funds for the general set-aside, which  
5 \$3 million has been awarded, and there's another  
6 application pending before you later on today.

7 The general set-aside has been consistently  
8 undersubscribed in the recent past, which raises concerns  
9 for risks due to undercommitment. While that risk has been  
10 mitigated to some extent by HUD waivers, this cannot be  
11 expected to extend indefinitely. Furthermore, preservation  
12 of existing affordable housing is a Department priority  
13 under our statute.

14 Staff considered informal feedback from our  
15 borrowers and applicants, and we also consulted with the  
16 Rural Rental Housing Association of Texas in designing  
17 proposed changes to the NOFA.

18 All indicated that conventional loans are  
19 currently more attractive than TDHCA's general set-aside  
20 loans once the required interest rate and cost of  
21 compliance with federal cost-cutting requirements is  
22 incorporated into the analysis. These cost-cutting  
23 requirements are primarily the Davis-Bacon Act and the  
24 Uniform Relocation Act.

25 In response to these concerns, staff is

1 proposing the creation of a new preservation activity,  
2 which includes a reduction of the minimum interest rate to  
3 zero and adds a grant of up to \$50,000 per loan for costs  
4 related to compliance with Davis-Bacon and the Relocation  
5 Act.

6 In addition, we are proposing to increase  
7 administrative efficiency by providing the Real Estate  
8 Analysis Division greater flexibility to adjust Direct Loan  
9 terms and payments in response to superior loan revisions  
10 that commonly occur after award but prior to closing, so  
11 long as the loan continues to meet feasibility requirements  
12 through waiver of a portion of the requirements in our  
13 Direct Loan rule relating to the closing memo for the  
14 underwriting report.

15 Specifically, staff recommends that the sentence  
16 requiring Board approval for any changes to the principal  
17 amount or scheduled payment amount of superior loans that  
18 could result in a debt coverage ratio fluctuating by more  
19 than .05 be waived.

20 Staff recommends amendment of the 2021-1 NOFA to  
21 add the preservation activity under which the Department  
22 will make loans with an interest rate of as little as you  
23 represent and grants of up to \$50,000 available for  
24 compliance with federal cost-cutting requirements, and  
25 recommends waiver of the requirements in 10 TAC 13.1(b)

1 relating to closing memos to the underwriting report that  
2 Board approval is required for DCR fluctuations greater  
3 than .05.

4 I'd be happy to take any questions.

5 MR. VASQUEZ: Thank you, Marni.

6 Do any Board members have questions for Marni on  
7 this item?

8 (No response.)

9 MR. VASQUEZ: And Renee, we don't have anyone  
10 lined up to speak on this?

11 MS. NORRED: No, we do not.

12 MR. VASQUEZ: Okay. In that case the chair will  
13 entertain a motion on item 6(b).

14 MS. THOMASON: Mr. Chair, I move that the Board  
15 approve the amendments to the 2021-1 Multifamily Direct  
16 Loan Notice of Funds Availability, waive the requirement of  
17 Board approval for changes to principal or scheduled  
18 payment amounts of superior loans that result in the debt  
19 coverage ratio fluctuating by more than .05, and direct the  
20 executive director and his designees to execute any such  
21 documents as necessary to effectuate these actions, as  
22 described in this Board action item.

23 MR. VASQUEZ: Thank you, Ms. Thomason, for the  
24 detailed motion.

25 Is there a second?

1 MR. THOMAS: Second, Mr. Chairman.

2 MR. VASQUEZ: Seconded by Mr. Thomas. All those  
3 in favor say aye.

4 (A chorus of ayes.)

5 MR. VASQUEZ: Any opposed?

6 (No response.)

7 MR. VASQUEZ: Hearing none, motion carries.

8 Moving right along to 6(c), presentation,  
9 discussion, and possible action regarding awards of Direct  
10 Loan funds from the 2021-1 Multifamily Direct Loan Notice  
11 of Funding Availability to 9 percent housing tax credit  
12 layered applications.

13 Marni, please go ahead.

14 MS. HOLLOWAY: There are two applications we'll  
15 be discussing. The Reserves at Holdsworth, a proposed  
16 36-unit Direct Loan layered development that would be newly  
17 constructed in Kerrville; ten units of those 36 will be  
18 designated as Direct Loan units at either 30 percent or 50  
19 percent of AMI. On final underwriting the construction to  
20 permanent HOME loan will be a million dollars, and it's  
21 proposed to be hard repayable with a 2.5 percent interest  
22 rate, 30-year amortization period, and a 15-year term at  
23 the second lien position.

24 A review of principals of application 21114 to  
25 meet federal requirements has not been completed, and the

1 Department will not contract with the applicant unless all  
2 persons and principals are eligible under those federal  
3 requirements.

4 Boulevard 61 is a proposed 100-unit tax credit  
5 development to be newly constructed in Houston. Seven of  
6 the units will be designated as Direct Loan units at 30  
7 percent of AMI. The construction to perm Trust Fund loan  
8 will be \$1,440,000. It's proposed to be soft repayable  
9 with a zero percent interest rate, 35-year amortization  
10 period, and an 18-year term in the second lien position.

11 Staff recommends a HOME award under the general  
12 set-aside totaling no more than \$1 million for application  
13 2114 The Reserves at Holdsworth, and a National Housing  
14 Trust Fund award under the soft repayment set-aside of no  
15 more than \$1,440,000 for application 21131 Boulevard 61 be  
16 approved. Of course, these awards are subject to award of  
17 the 9 percent housing tax credits to both applications at  
18 this meeting.

19 MR. VASQUEZ: Do Board members have questions  
20 for Marni on this item?

21 I have just one question as to whether we should  
22 be voting these as one item or two separate items. Bobby  
23 or Beau?

24 MR. WILKINSON: Beau, we're not going to do the  
25 tax credit awards one by one. Hope not.

1 MR. VASQUEZ: Okay. So it's okay just to do  
2 this as one vote then, I take it, the way it's presented.

3 MR. ECCLES: Absolutely, unless a Board member  
4 wants to make a motion to separate them out because they  
5 have different feelings of one versus another.

6 MR. VASQUEZ: Okay, great. Thanks, Beau.

7 I believe there are no speakers lined up for  
8 this item.

9 MS. NORRED: There are no speakers lined up for  
10 this item.

11 MR. VASQUEZ: Okay. So the chair will entertain  
12 a motion on all the items in 6(c).

13 MR. BATCH: Mr. Chairman, I move that the Board  
14 approve the awards for The Reserves at Holds worth and  
15 Boulevard 61, as described in and subject to each and every  
16 condition expressed in the Board action request on this  
17 item.

18 MR. VASQUEZ: Thank you.

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

20 MS. THOMASON: Second.

21 MR. VASQUEZ: Seconded by Ms. Thomason. All  
22 those in favor say aye.

23 (A chorus of ayes.)

24 MR. VASQUEZ: Any opposed?

25 (No response.)

1 MR. VASQUEZ: Hearing none, motion carries.

2 So this brings us to -- we've done all the items  
3 in 6(d) on the agenda so we are now at 6(e), presentation,  
4 discussion, and possible action confirming obligations for  
5 those properties recommended for an award of competitive  
6 Low Income Housing Tax Credits that sought and were awarded  
7 one point for committing at least an additional 2 percent  
8 of the total units to persons referred from a continuum of  
9 care or local homeless service providers to be made  
10 available for those experiencing homelessness under 10 TAC  
11 Section 11.9(c)(6) related to residents with special  
12 housing needs.

13 Ms. Holloway.

14 MS. HOLLOWAY: This Board item is largely  
15 administrative and is dependent on our next item 6(f) which  
16 is our 9 percent awards. Wanted to let everyone who is  
17 listening know that we have now posted to the Board page a  
18 revised application list after the post-appeal items, so  
19 taking into account all of the appeal actions that you took  
20 previously, and of course, that will impact the list of  
21 applications for this item.

22 The residents with special housing needs scoring  
23 item asks that applicants pledge to provide 2 percent of  
24 their units to persons who are referred from a continuum of  
25 care -- every part of the state has some kind of continuum

1 of care or local homeless service providers -- that they  
2 will provide 2 percent of those units to persons who are  
3 experiencing homelessness.

4 This item confirms that they have made that  
5 selection and confirms their obligation to provide those  
6 units in accordance with the QAP.

7 I will be happy to answer any questions.

8 MR. VASQUEZ: Thank you, Marni.

9 Do any Board members have questions on this item  
10 6(e)?

11 (No response.)

12 MR. VASQUEZ: Hearing none, and I believe there  
13 are no speakers that wish to speak; they're just available.

14 Is that correct, Renee?

15 MS. NORRED: I'm scrolling down the list, but I  
16 believe you are correct. That is correct.

17 MR. VASQUEZ: Okay. Thank you.

18 So I will entertain a motion on item 6(e) of the  
19 agenda.

20 MR. THOMAS: Mr. Chairman, I move the Board  
21 require for all applications for 2021 competitive tax  
22 credits that have sought and were awarded one point for  
23 committing at least an additional 2 percent of the total  
24 units to be made available for those experiencing  
25 homelessness and that this condition be included in their

1 land use restriction agreement with the Department, all as  
2 fully described and conditioned in the Board action request  
3 on this item.

4 MR. VASQUEZ: Thank you.

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

6 MR. BRADEN: Second.

7 MR. VASQUEZ: Seconded by who was that, Paul?

8 MR. BRADEN: Yes.

9 MR. VASQUEZ: By Mr. Braden. All those in favor  
10 say aye.

11 (A chorus of ayes.)

12 MR. VASQUEZ: Any opposed?

13 (No response.)

14 MR. VASQUEZ: Hearing none, motion carries.

15 So now should we take another half-hour break or  
16 anything, or should we just move along to 6(f)?

17 MS. HOLLOWAY: The revised log has been posted  
18 to the Board page on our website. Alena has been working  
19 in the background and got that all ready and up,  
20 particularly with the help of our Board moderators and our  
21 IS staff, which we very much appreciate. So if you'd like  
22 to move forward, we can do that.

23 MR. VASQUEZ: Okay. Well, then I'll introduce  
24 item 6(f) on the agenda: presentation, discussion and  
25 possible action regarding awards from the 2021 State

1 Competitive Housing Credit ceiling and approval of the  
2 waiting list for the 2021 Competitive Housing Tax Credit  
3 application round.

4 Marni, do you want to summarize anything?

5 MS. HOLLOWAY: Certainly. Let me just tell you  
6 a little bit about what's involved in this Board item.  
7 There are a number of reports included.

8 The first is recommended applications from the  
9 at-risk USDA nonprofit set-aside and the rural and regional  
10 allocations. This is the complete list of applications  
11 recommended for award for competitive housing tax credits.

12 You'll see it up on your screen right now. You  
13 can't really read it because it's really tiny, but that is  
14 available on the Board information page as a separate item  
15 so that you can take a look at it.

16 The second report is active applications from  
17 at-risk USDA and nonprofit set-aside and the rural and  
18 urban regional allocations. This is the complete list of  
19 all applications recommended for an award and the waiting  
20 list of all active applications not recommended for award.

21 So this includes any application that continues to be  
22 eligible to receive an award.

23 Report 3, or what used to be called report 3  
24 that but is the action item you just took up, is  
25 commitments under continuum of care. The list of those

1 applicants duplicates the Board item regarding  
2 applications.

3 Report 4 is the credit ceiling summary, which  
4 includes funding amounts for the at-risk USDA and nonprofit  
5 set-aside for subregional allocations and elderly  
6 development maximum percentages.

7 The fifth report is the Real Estate Analysis  
8 summaries that were available on the date on publication.  
9 These include conditions that are placed on awards from  
10 underwriting.

11 I can tell you that a number of real estate  
12 underwriting reports have been published even this morning  
13 so that REA is continuing their work there.

14 The sixth report is a summary of conditions that  
15 are placed on awards that have been recommended by EARAC as  
16 a result of previous participation reviews and by staff as  
17 a result of application reviews.

18 The seventh report is public input provided for  
19 all active and eligible applications.

20 The total amount of competitive housing tax  
21 credits available for the State of Texas to allocate is on  
22 the report. Before the end of the year we may receive  
23 additional credits from the national pool or from  
24 previously awarded applications returning credits. These  
25 credits will be allocated to applications on the waiting

1 list.

2 For credits that are -- I'm sorry; I'm trying to  
3 do multiple things at the same time. There are 70  
4 applications totaling \$84,681,711 being awarded today.  
5 That's 99.88 percent of the available funds.

6 In making recommendations, staff relied on IRS  
7 requirements, regional allocations, satisfied requirements  
8 scored and the application methodology set out in the QAP.

9 These recommendations are reflected in the commitments on  
10 your Board list.

11 The waiting list includes all applications that  
12 are not being recommended to the Board for an award today  
13 which have not been terminated or withdrawn. If additional  
14 credits become available before the end of the calendar  
15 year, applications will be awarded from that waiting list.

16 We will hold all available credits after today's  
17 award until September 30 in order to gather up any that may  
18 become available when the commitments are submitted.

19 In the event that there aren't enough credits to  
20 fund the next eligible application prior to the end of the  
21 year, staff may hold to see if additional credits are  
22 returned or offer the applicant an opportunity to adjust  
23 the size of their credit request, so that would be the next  
24 applicant down on our collapsed list.

25 Some applications do not yet have final

1 underwriting assessments, and these applications are  
2 considered conditionally recommended by EARAC, with the  
3 condition being the completing of the underwriting  
4 assessment and recommendation of award or award with  
5 conditions.

6 Staff recommends that the list of recommended  
7 applications for final commitment for housing tax credits  
8 from the 2021 State Competitive Housing Tax Credit ceiling  
9 and the 2021 Housing Tax Credit waiting list be approved,  
10 conditioned on the completion of underwriting and the  
11 conditions of underwriting, the conditions recommended by  
12 the EARAC, and those resulting from staff review and the  
13 completion of any other required reviews.

14 I'd be happy to take any questions.

15 MR. VASQUEZ: Thank you, Marni.

16 Do Board members have questions for Ms.  
17 Holloway?

18 (No response.)

19 MR. VASQUEZ: Hearing none, Renee, are there any  
20 speakers that want to chime in one more time before we make  
21 a motion and vote.

22 MS. NORRED: Yes. Donna Rickenbacker would like  
23 to speak for 21039 Uvalde Villas.

24 MR. VASQUEZ: Let's bring her on and we'll  
25 clarify.

1 MS. NORRED: Okay. We're looking to unmute her.  
2 Donna, you are unmuted. Can you hear us?

3 MS. RICKENBACKER: Yes, I can.

4 This is Donna Rickenbacker. I did see that  
5 Marni updated the application log to recognize the Uvalde  
6 transaction and the granting of the appeal and adding that  
7 to the log; however, it looks like they have reordered a  
8 couple of applications on the log and that has to do with  
9 Dahlia Villas, which is 21069 and 21276.

10 The tiebreaker tab in the Board book is correct;  
11 it just looks like, for whatever reason, the awards log is  
12 incorrectly ordering the applications. And it's all based  
13 on, by the way, the tiebreaker ranking which puts Dahlia  
14 Villas ahead of 21276 Avant Legacy Springfield, and it  
15 should be ordered in that way.

16 And by the way, it's been ordered that way on  
17 all the applications, so I'm not quite sure why it was  
18 reordered in connection with the awards application.

19 MR. VASQUEZ: Bear with us a moment as we have  
20 people looking at that. Can staff confirm that we're  
21 waiting for someone to re-verify these pages?

22 MR. WILKINSON: Sure. Just give us a minute.

23 (Pause.)

24 MR. VASQUEZ: We're almost there, everyone.  
25 Hang in there.

1 MR. WILKINSON: Mr. Chairman, can you give us a  
2 15-minute break for us to review the tiebreaker situation  
3 on the list, please?

4 MR. VASQUEZ: Okay. It's 12:29, it's almost  
5 12:30. Let's recess until 12:45 and try to promptly  
6 reconvene at 12:45.

7 MR. WILKINSON: Thank you.

8 MR. VASQUEZ: We stand in recess.

9 (A brief recess was taken.)

10 MR. VASQUEZ: It's 12:47 by my clock, and we're  
11 calling back to order the meeting of the Board of the Texas  
12 Department of Housing and Community Affairs after a 17-  
13 minute break.

14 Bobby or Marni, do you want to summarize where  
15 we are?

16 MS. HOLLOWAY: Momentarily.

17 MR. WILKINSON: And I'm not sure if we have  
18 another speaker that needs to comment before we take a  
19 vote.

20 Renee, did you ever get word back from the next  
21 potential speaker?

22 MS. NORRED: No. I think you have to assign the  
23 question to someone else, because I'm not really sure  
24 what's happening with that, so I'm going to say no at this  
25 moment, but we had another commenter that wants to speak

1 about 21139 whenever we get to that point. I kind of just  
2 moved it to the top. And as of right now there's no one  
3 for -- I guess we kind of left off on 21039, but I think  
4 we're good.

5 MR. VASQUEZ: Okay. And also, I want Beau to  
6 stand by to advise as to whether comments at this point on  
7 specific applications, whether that is order or not.

8 MR. WILKINSON: I'd say anything where you think  
9 there's a mistake in the log like what Donna found for the  
10 tiebreaker, that's relevant at this point. It's hard to  
11 think of other items.

12 MR. VASQUEZ: Okay. So if anyone wanted to  
13 speak on a correction, administrative type item, you would  
14 be in order. If you're trying to talk about scoring  
15 evaluation of yours or other items, that would be out of  
16 order.

17 MS. HOLLOWAY: And while we are waiting to see  
18 if anyone wants to speak, we're hearing from IS that the  
19 revised log will be posted momentarily.

20 For our Board, because many of you are new and  
21 may not have a clear picture of what's going on behind the  
22 scenes, we run the competitive tax credit program, we run  
23 all of our programs, on multiple spreadsheets, and the 9  
24 percent in particular runs on two different spreadsheets,  
25 the application log and the ceiling.

1           The ceiling is where we calculate collapse; the  
2 application log is, of course, where we report the results.

3       So when you're going between spreadsheets, it's not  
4 unusual for human error to come into the process, and of  
5 course, we're always open to and prepared to make  
6 corrections.

7           In this particular case what we missed was a  
8 tiebreaker between Dahlia Villas and the application that  
9 was right above it, and Ms. Rickenbacker is entirely  
10 correct that Dahlia does win that particular tiebreaker, so  
11 just for point of information.

12           MR. VASQUEZ: Okay. While that is getting  
13 posted and updated, I think we should be able to go ahead  
14 and check with the public commenters to see if what they  
15 have is relative to this item and in order.

16           So Renee, who do we have lined up?

17           MS. NORRED: We have Tamea Dula first.

18           Tamea, you are unmuted. Can you hear us?

19           MS. DULA: Yes, I can, and I hope you can hear  
20 me this time.

21           MR. VASQUEZ: Yes.

22           MS. DULA: I wanted to follow Donna Rickenbacker  
23 up with regard to the log allocation for Region 11  
24 involving Dahlia Villas. If that's been corrected, then  
25 that was my only concern.

1 MR. VASQUEZ: Okay. Marni, I guess we're  
2 finishing posting that correction. Correct? Or Bobby?

3 MR. WILKINSON: Tamea's comment is on the same  
4 tiebreaker? I didn't quite hear it.

5 MS. HOLLOWAY: Yes, it was the same concern  
6 regarding Dahlia. Dahlia's poverty rate is at 17-point-  
7 something, and the other application is at 20-point-  
8 something, so Dahlia wins that first tiebreaker.

9 MR. VASQUEZ: Okay. Renee, do we have another  
10 speaker?

11 MS. NORRED: Yes. Audrey Martin, and we are  
12 looking to unmute now.

13 Audrey, you are self-muted. Can you please  
14 unmute yourself?

15 MS. MARTIN: Yes, I'm unmuted now. Can you hear  
16 me?

17 MS. NORRED: Yes, we can.

18 MS. MARTIN: Fantastic.

19 This is Audrey Martin with Purple Martin Real  
20 Estate. I'm a tax credit consultant that works on various  
21 apps during the year.

22 I wanted to say thank you to staff for all their  
23 work this year, and I want especially to say thank you for  
24 putting up an application log this quickly during a Board  
25 meeting.

1 I know from personal experience how difficult it  
2 is to reshuffle the day of the Board meeting based on all  
3 these appeals. I was looking at the log and think you guys  
4 have a lot of people sitting behind their computers right  
5 now trying to crunch the log and see how it looks.

6 I noticed one little thing which was in Region  
7 3. The log makes it look like you are about to allocate  
8 more credits than are available in that region, but I think  
9 I understand that you guys had a small credit return in  
10 that region, so Bobby or Marni, correct me if I'm wrong  
11 there. If anyone is looking at that log and it looks like  
12 you guys are going to over-allocate, I don't think that's  
13 actually the case.

14 That was the only thing I was going to comment  
15 on. Thank you.

16 MS. HOLLOWAY: Yes, we did have a small credit  
17 return within the last couple of days, which led to the  
18 award recommendations that we're making today. And the  
19 updated log, as soon as we have it, will reflect that.

20 MR. VASQUEZ: Okay. Thanks, Audrey and Marni.  
21 And Renee, is there anyone else?

22 MS. NORRED: Yes, we do have one commenter.  
23 We're looking to unmute Germaine White.

24 Germaine, you are unmuted. Can you hear us?

25 MS. WHITE: Yes, I can. Can you hear me?

1 MS. NORRED: Yes, we can.

2 MS. WHITE: Okay, perfect.

3 Thank you so much. I wasn't aware that I  
4 actually could speak today until I logged in about 30  
5 minutes about, so I really appreciate this opportunity.

6 This is my first time going through this  
7 process, so in looking at the information it looks like  
8 application number 21139 is being recommended to be  
9 awarded, so I certainly want to speak against it on behalf  
10 of my community, Hamilton Park, and the community across  
11 the street which is called Stults Road communities; there's  
12 about five different neighborhoods located inside of it.  
13 And we did submit our opposition to this back, I guess, for  
14 the July 18 deadline.

15 MR. VASQUEZ: I'm sorry, Ms. White, to cut you  
16 off, and I appreciate you listening in and looking to  
17 contribute, but this unfortunately is out of order at this  
18 point.

19 We're past discussing that, again, unless  
20 there's some sort of administrative or corrective action on  
21 this item, or on the entire item, not just a specific case.

22 At any rate, we really can't entertain a comment  
23 for or against a specific application.

24 MS. WHITE: Okay. I'm sorry; I wasn't sure.

25 MR. VASQUEZ: I'm sorry too. We appreciate it.

1 MS. WHITE: Well, we had some updated stuff  
2 happen around the crime, and that's what I was going to  
3 talk about, but I certainly don't want to be out of order.

4 So then I will just continue to listen, and I  
5 really appreciate you sharing that with me.

6 MR. VASQUEZ: Okay, great. Thank you, ma'am.

7 Renee, are we cleared upon commenters on 6(f)?

8 MS. NORRED: Yes, sir, we are.

9 MR. VASQUEZ: We will have some time for public  
10 comment after this.

11 Marni or Bobby?

12 MR. WILKINSON: I believe we are posted now with  
13 the updated log.

14 MS. HOLLOWAY: I believe we're posted. Let me  
15 double-check. Yes, the log that is posted on the Board  
16 page is the correct log, making that change in Region 11  
17 Urban, taking into account the tiebreaker that Ms.  
18 Rickenbacker mentioned, also adding that very recent return  
19 of credits in Region 3 Urban.

20 So that is, in fact, on the Board page our list  
21 of recommended awards.

22 MR. VASQUEZ: And again, Bobby or Beau, I assume  
23 that if we complete the motion here, which we are about to  
24 receive, and we find some other obvious error,  
25 administrative error on our part, that is still allowed to

1 be corrected even under the motion that we're about to  
2 undertake.

3 MS. HOLLOWAY: If there is some error that  
4 arises in the next coming months regarding the log that was  
5 posted, the decision that was made, and we're not able to  
6 resolve the issue administratively, of course we will bring  
7 that back to the Board.

8 I think Beau would have to speak to what happens  
9 with awards if that should happen.

10 MR. VASQUEZ: Okay. Beau, you want to say  
11 something?

12 MR. ECCLES: Only to say that the awards that  
13 are made right now and the designation of the waiting list,  
14 this is a final decision by the Board.

15 I think there may be a little bit of room for  
16 obvious slight mathematical errors, but the awards and the  
17 wait list is pretty much being set here.

18 MR. VASQUEZ: Okay, great. Understood.

19 With that, we've come to the point in the  
20 meeting and the year where the chair would entertain a  
21 motion on item 6(f).

22 Ms. Thomason, do you want to do the honors?

23 MS. THOMASON: I'm right here. I move that the  
24 Board approve the list of recommended applications for  
25 final commitment of housing tax credits for the 2021 State

1 Competitive Housing Credit ceiling and the 2021 Housing Tax  
2 Credit waiting list, as presented at this meeting and as  
3 amended by the Board as a result of appeals that were heard  
4 and determined at this meeting, and as conditioned and set  
5 out in the Board action request on this item and by the  
6 Board at this meeting.

7 MR. VASQUEZ: Thank you.

8 Motion made by Ms. Thomason. Is there a second?

9 MR. BRADEN: Second.

10 MR. VASQUEZ: Seconded by Mr. Braden. All those  
11 in favor say aye.

12 (A chorus of ayes.)

13 MR. VASQUEZ: Any opposed?

14 (No response.)

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

16 Thank you, Marni and staff for all your  
17 tremendously hard work, and Bobby and all the team. It  
18 takes a lot to get here.

19 And again, thanks to all the constituent  
20 participants out there listening and who have been working  
21 hard on this. And again, we appreciate your patience. We  
22 recognize your frustrations at times, but we got here, and  
23 we'll do it all again starting in a month.

24 So this brings us to the point in the meeting  
25 where we have addressed all the posted agenda items, and

1 members of the public can raise issues with the Board on  
2 matters of relevance to the Department's business or  
3 request that we put specific items on future agendas for  
4 consideration.

5 Renee, do we have anyone that has indicated  
6 they'd like to speak here in public comment?

7 MS. NORRED: Yes, we do. We have Donna  
8 Rickenbacker, and we are going to unmute her right now.

9 MR. VASQUEZ: Great.

10 MS. NORRED: Donna, you are self-muted. Will  
11 you please unmute yourself? Donna, will you please unmute  
12 yourself?

13 MS. RICKENBACKER: One last time for you guys to  
14 hear from me. I really just want to thank staff so very  
15 much. When we speak on behalf of our clients and on behalf  
16 of ourselves, it obviously is to protect our deals in a  
17 very competitive process, and I really appreciate how staff  
18 has handled all of our comments, our questions, our  
19 concerns.

20 They've also been in the middle of this rent  
21 relief program and allocating 4 percent deals. It's just  
22 been a really tough year on staff. I commend them across  
23 the board for all the hard work that they have done this  
24 cycle.

25 With respect to next year, given a couple of

1 things that happened this cycle, I really hope that we'll  
2 spend some time with not only recognizing tiebreaker  
3 calculations from the get-go so that there's no  
4 misunderstanding as we get further along in the cycle.

5 I'd also really like to go back and take a look  
6 at this occupied development rule and see what we can do to  
7 make sure it matches up with what I truly believe is not  
8 only based in statute but based on what the intent of that  
9 rule was meant to address.

10 I'd like to work with staff to provide some  
11 documentation or at least some changes that I think would  
12 be more impactful that makes it very, very clear in our  
13 rules how everything is supposed to apply so we don't go  
14 through this next year.

15 Anyway, once again, thank you very, very much  
16 staff and this Board. Well done. Very much appreciate  
17 everybody's hard work.

18 MR. VASQUEZ: Great. Thank you, Donna.

19 Renee, do we have anyone else lined up?

20 MS. NORRED: We have no one else lined up for  
21 public comment.

22 MR. VASQUEZ: Great. Bobby, do you have any  
23 final thoughts?

24 MR. WILKINSON: I'd like to thank staff for  
25 working hard on this round, getting it done. We try to get

1 the appeals done, ideally at the early July meeting, for  
2 obvious reasons, as today our little kind of fire drill  
3 made clear. But anyway, got it done, and thank you,  
4 members, for hanging around and working with us.  
5 Appreciate it.

6 MR. VASQUEZ: Great. Thank you. And again,  
7 thanks to the staff and thanks for everyone participating.  
8 We're making a positive impact in Texas.

9 Being that we've completed all of the agenda, do  
10 we have a motion to adjourn?

11 MR. BRADEN: So moved.

12 MR. VASQUEZ: Thank you, Mr. Braden.

13 MR. BATCH: Second.

14 MR. VASQUEZ: Mr. Batch seconds. All in favor  
15 say aye.

16 (A chorus of ayes.)

17 MR. VASQUEZ: None are opposed, I'm telling you  
18 that right now.

19 The next scheduled meeting of the Board is  
20 September 2, 2021, at a location to be determined in  
21 person; at least that's the plan as of today, September 2  
22 in person in Austin, so stay tuned for further details.

23 It is 1:07 p.m., and this meeting is adjourned.  
24 Thank you all.

25 (Whereupon, at 1:07 p.m., the meeting was

1

adjourned.)

C E R T I F I C A T E

1  
2  
3 MEETING OF: TDHCA Board  
4 LOCATION: Austin, Texas  
5 DATE: July 22, 2021

6 I do hereby certify that the foregoing pages,  
7 numbers 1 through 146147, inclusive, are the true,  
8 accurate, and complete transcript prepared from the verbal  
9 recording made by electronic recording by Nancy H. King  
10 before the Texas Department of Housing and Community  
11 Affairs.

12 DATE: July 28, 2021  
13  
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19 \_\_\_\_\_  
(Transcriber)

20  
21 On the Record Reporting  
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23 Austin, Texas 78752  
24  
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