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TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BOARD MEETING

State Capitol Extension Auditorium
1100 Congress Avenue
Austin, Texas

August 19, 2004
11:15 a.m.

BOARD:

ELIZABETH ANDERSON, Chairman
KENT CONINE, Vice-Chairman
SHADRICK BOGANY
NORBERTO SALINAS
VIDAL GONZALEZ
PATRICK GORDON

STAFF:

EDWINA CARRINGTON, Executive Director
CHRIS WITTMAYER, General Counsel
BROOKE BOSTON
ERIC PIKE

ON THE RECORD REPORTING

(512) 450-0342

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P R O C E E D I N G S

MS. ANDERSON: I will call to order the Board meeting for the Texas Department of Housing and Community Affairs for Thursday, August 19, 2004.

Welcome to everyone who is here with us today. The first item of business is to call the roll, which I will do. Beth Anderson is here. Chairman -- vice-chairman Conine.

MR. CONINE: Here.

MS. ANDERSON: Shad Bogany.

MR. SALINAS: Well, he was here.

MALE VOICE: He'll be back.

MS. ANDERSON: Vidal Gonzalez.

MR. GONZALEZ: Present.

MS. ANDERSON: Pat Gordon.

MR. GORDON: Here.

MS. ANDERSON: Mayor Salinas.

MR. SALINAS: Here.

MS. ANDERSON: We have five present. We do have a quorum. And I'm sure that Mr. Bogany will be here very shortly.

The next item of business is to solicit public

ON THE RECORD REPORTING

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comment. As is our practice, we solicit your public comment either at the beginning of the meeting -- we also provide a period for public comment on each agenda item after the presentation made by the Department staff and motions by the Board.

We have a number of people that have asked to make public comment during this initial public comment period. To assist the court reporter and Ms. Groneck with preparation of the minutes I would ask that as you approach the podium that you be sure and state your name and your organization clearly for the microphone. That will save Dolores a lot of time after this meeting preparing the minutes.

The first witness affirmation form I have is from Reymundo Ocanas. And the next speaker will be Randy Stevenson. And I think, based on the number -- the hour and the number of people we have we'll have a three-minute limit on public comment.

MR. OCANAS: Good morning. My name is Reymundo Ocanas. I'm executive director of the Texas Association of Community Development Corporations. We represent the over 250 CDCs, CDFIs, and CHDOs that work in housing and economic development throughout the state.

I provided you with a couple of things that I

think Dolores is passing out to you. One is an individually addressed letter inviting you to an event that I'll mention later. You should have already received copies of these in the mail. Another is a thicker packet with a copy of my comments, along with some additional materials.

I'm actually appearing before you to comment on Item 7 and 8 on your agenda. First, on Item 7, which would be capacity building awards, I wanted to thank the Board and staff for continuing to support building the capacity of Texas nonprofits.

The Community Development Corporations we work with are at many different levels of capacity to provide affordable housing with mission-based approach here in Texas. Some are composed of over 1,000 units and are able to access resources for additional development opportunities due to their past experience and development reserves built up from past projects.

Some produce in the medium range and have significant growth potential needing a boost and some continued technical assistance in order to strengthen their production and internal systems.

And a number of others that you probably are aware of are at the start up or small production phase

built on a dream of meeting an unmet need in their community. They may need a multitude of services to support them as they break ground on their first projects.

Out of all these levels of experience some of them amaze you with their continued success -- and we hear all the success stories all the time. Some will amble along at the same production pace, and some will fail.

This is no different than the private sector. But the difference is that you have a program specifically built in the Trust Fund to support community-based efforts that aim at strengthening systems, boosting skills, and the bottom line for you I know is getting more units on the ground.

The capacity-building dollars in the Housing Trust Fund, though they are limited, are one of the few sources of funding the agency has at its disposal to make a difference with community-based mission-driven organizations.

You know these organizations. They are the ones in your backyard helping to meet a need where the general marketplace will not go, who are helping to fill gaps with families or neighborhoods that others may feel are not lucrative enough.

The staff, Board, and members of the TACDC will

support continued funding of the Housing Trust Fund in this next legislative session. And they are currently working on proposals that may boost the amount available for you in -- to use for development deals to for-profit developers, nonprofits, and local government, and in turn, providing additional predevelopment and capacity-building dollars in the Trust Fund.

I do want to point out before going to Item 8, I attached for you a copy of a newsletter article that just came out. This is the National Housing Trust Fund Campaign. The state of California's State Housing Trust Fund was able to have its housing agency give out over \$23.8 million in trust fund dollars to local housing trust funds to match their efforts.

This is through a bond issue -- a statewide bond issue -- that generated \$2.1 billion approved by voters. But a big portion of that went towards affordable housing. So we're looking at all the different alternatives we can suggest to the state legislature to help provide to you more resources so that we're not funding the Housing Trust Fund at just above 3 million a year.

I'll wrap it up really quickly. Item 8 -- I just wanted to again thank you for putting the rules out

for public comment on the different programs, including Tax Credit Housing Trust Fund and HOME.

We will be working with our members to provide you with feedback, specifically on the Housing Trust Fund.

I've recently met with Chairwoman Anderson and spoke about suggestions we'd like to make so that you actually try to get the outcomes you want out of the Housing Trust Fund Program, specifically in capacity building.

Two other items to provide to you -- one is our latest research publication. It's a Green building report -- little how-to build using energy efficient methods for nonprofits in the state.

And then, finally, again, the invitation to our event, which is the policy summit to be held in September here in Austin. Thank you again. Good luck on the work this year, and we'll be with you.

MS. ANDERSON: Thank you. Randy Stevenson?

MS. ERICKSON: Madame Chair, I'm with Senator Estes' office, and Randy Stevenson called and his flight was delayed. And he has respectfully asked if his name could be put at the end of the list. He should be here in about 45 to 55 minutes.

MS. ANDERSON: Okay. Are you Barbara Erickson?

MS. ERICKSON: Yes, I am.

MS. ANDERSON: Okay. Would you like to go ahead and make your comment now then?

MS. ERICKSON: I'm Barbara Erickson, executive assistant to Senator Craig Estes. Thank you for this opportunity. Senator Estes regrets he's not able to be here in person, but he has several speaking engagements in the eastern part of our district.

I am reading a letter that Senator Estes has written, and it is regarding TDHCA project 04-095. Dear Boar members, I am writing in support of the application submitted by SWHP, Wichita Falls, LP for low- to moderate-income tax credit from TDHCA to develop and build a proposed 140-unit multi-family community in Wichita Falls.

This project was on the recommended list on June 28, 2004. But after the opinion of the attorney general and subsequent rescoring of applications they were not recommended for awards at the July 28 board meeting.

The Wichita Falls City Council is in support of the Greenbriar project. In fact, they adopted a resolution expressing their support of the application sent to TDHCA. The city authorized use of \$62,000 of Block Grant money for this project.

The need for affordable housing is critical in the Shepherd Air Force Base area of Wichita Falls. The

city likes the part of town where the project is located.

Randy Stevenson, vice president of the general partner, has completed two projects for the City of Wichita Falls and is well known, respected, and the city has faith in him and his company.

I urge you to give strong consideration for forward commitments for 2005 to this project. Signed,
Sincerely, Craig Estes.

MS. ANDERSON: Any questions?

(No response.)

MS. ANDERSON: Thank you very much.

MS. ERICKSON: A copy of this letter will be given to each one of you when Mr. Stevenson arrives.

MS. ANDERSON: Great. Thank you.

Representative Menendez, I apologize. I have a stack here and I didn't see your -- or we would be glad to hear comment from you, sir.

MR. MENENDEZ: Good morning. Not a problem. Thank you, Madame Chair. I appreciate the opportunity, and in many cases, I actually prefer to get a chance to listen -- to hear and get a feel -- you know, what's going on.

And the Senator's assistant I think is going to be able to -- has expressed the way I feel as well about

many of the projects that are happening and -- or have been proposed in San Antonio and in South Texas, for that matter.

For the record my name is Jose Menendez. I'm State Representative for District 124. I represent the western portion of Bexar County in San Antonio, Texas. And I'm here today to talk on forward allocations.

Madame Chair, members of the Board, Ms. Carrington, you know, we've discussed many times --

(Sound of timer.)

MR. MENENDEZ: -- with the agency staff and some of the members of the Board --

MS. ANDERSON: That wasn't meant for you.

MR. MENENDEZ: I am going to start my stopwatch, not that I don't trust you, but that timer has proved unreliable.

And while you have been very responsive to me and my staff, the fact of the matter does not change that I remained convinced that San Antonio and South Texas regions have been underallocated over the last few years.

And I know that in the recent past there have been changes that are improving that situation.

And I provided you a study from an accounting firm that's going to show you that south Texas has been

underfunded for -- by at least a million dollars.

This summer the House Urban Affairs Committee heard testimony from the City of San Antonio. And the City of San Antonio is very concerned that our state's housing programs, specifically the tax credit program and the bond deals, do not fairly take into account the city's desire for a quantity of affordable housing to not be limited to only qualified census tracts. And because of the way the point system is set up, they sometimes feel that that is the case.

San Antonio is a city that, while our unemployment is low and while we have been growing at a steady pace, our underemployment remains to be quite high.

And a lot of our development is concentrated -- the higher-end development and the higher end jobs and the higher paying jobs are concentrated on the northern portion of our city.

And so what that has done traditionally for many, many years from east side to the west side, if you go below a certain portion of our city you find a concentration of, not necessarily extreme poverty, but you do find a great deal of working poor, and not necessarily unemployed, but underemployed. And so the need for housing in the city of San Antonio -- and affordable

housing -- is extreme, and therefore, obviously more than we've had the capacity to fund in the past.

So, like I said, my belief is supported with empirical data that has been presented to you by the Nobel-Braddock [phonetic] company. They've analyzed the allocations the agency has awarded since 2001, and the study documents what we have been discussing -- that this region has been underfunded exceeding over a million dollars.

You know, it's no mystery that the growth in south Texas has been tremendous as of late. And I know that the Governor's Office has been very responsive in that regard and in Border issues. And I know that everyone on this Board is interested in helping deal with these issues.

And so, therefore, I have a request for you. And I'd like to see if we can have an aggressive and bold forward allocation, one that, because of the contentiousness of this last cycle with SB 264 and the QAP and the confusion in the A.G.'s rescoring, wondered if we couldn't do such an aggressive forward allocation that potentially would create almost a period that we could create some healing, some dialogue between the agency, the Board, the members of the Legislature, the advocates.

And maybe if we do a strong forward of everybody who's put in -- because we have some applications, as many of you know, who initially were at the top in their scoring, and through the rescoring, got knocked out.

Another allocation in my district, where you have a letter from the Archbishop, you have a letter -- I bet you if you asked for one from the Pope you would have gotten one, too -- you know, the whole city council -- every single elected official in one of the poorest school districts in the nation -- in the Edgewood School District.

A senior housing across the street from one of our nicest parks we have in that district with a walking track -- with lit walking track -- it would just be one of those situations where you'd be creating a living legacy.

And so I hope and I implore on you that we discuss and that you could look forward to the wisdom and think about the elimination of headaches if you forward all of this money for next year today, tomorrow, the next day, and work to cure the QAP -- let's all work together.

Let's put this behind us.

Let's get together and just -- and let's award as much as we can here in the short future and try to, in

a short period of time, make up for a lot of lost ground. And at this time I'll be happy to entertain any questions.

MS. ANDERSON: Thank you, sir.

MR. MENENDEZ: Thank you.

MS. ANDERSON: Mark -- I think it's Zaferro -- with Representative Morrison's office. The next speaker will be Sally Gaskin.

MR. ZAFERRO: Not even close.

MS. ANDERSON: Sorry.

MR. ZAFERRO: That's all right. I'm used to it. Good morning, Madame Chairman and members of the Board. For the record my name is Mark Zaferro. I'm a CPA. I'm currently working for Representative Geanie Morrison doing some special projects and research for the House Committee on Higher Education.

And I'm here to speak on behalf of Representative Morrison and the Thomas Ninke [phonetic] Senior Village project, which I believe will be your agenda item 5(c).

Representative Morrison regrets not being able to be here in person today, but previous commitments in her district required her to be in Victoria. She asked me to come today to reiterate the important of the Thomas

Ninke Senior Village project in the Victoria area.

Currently, the Housing Authority of Victoria has only one 17-unit complex designated for elderly residents. Needless to say, as I'm sure across the state, there is no way that this one facility can accommodate the numerous seniors in our area who live on small pensions or Social Security and in need of assistance with affordable housing.

Twenty point six percent of the Victoria residents are age 55 and above. And, of course, many of these -- and it's probably around 15- to 20,000 residents in Victoria and the surrounding areas -- would meet the income levels required for this type of housing.

The waiting list for this facility in Victoria is already well over a year in length. As you can imagine, any delay for this project will ensure that this list will only get longer. And, of course, this is a very serious situation.

There are 85 seniors on the waiting list at this time. They desperately need your help that you can provide. We know that there are numerous projects throughout the state that are seeking your assistance and which have great need.

I know you have a critical job on this Board.

We thank you for your service. You have critical needs with very limited resources. We realize that across the state.

However, it's Representative Morrison's belief that, as a result of the high score received by the Thomas Ninke project, it should receive priority in this approval process for funding.

Representative Morrison knows that you are aware of the project's high score and, once again, asks for your favorable consideration for a forward commitment in support of this project in Victoria.

Again, I thank you for the opportunity to appear before the Board of the Texas Department of Housing and Community Affairs. If you have any questions Representative Morrison said she would be happy to speak with individual members of the Board for additional information or any comments that you may want from her. Thank you for your time and for your service to Texas. Appreciate it.

MS. ANDERSON: Thank you, sir. David Clark? Or is Randy here yet? Do you all want to go together or you want to go ahead?

MR. CLARK: Good morning. My name is David Clark. I'm the community development director for the

City of Wichita Falls. And I apologize to you. I perhaps should have signed up for speaking under the section of 5(c). But since you've got the information and we're here we'll go ahead unless you would advise me otherwise.

The circumstances here is similar that's been mentioned from some other folks this morning regarding forward commitment. This has to do with project number 04-095, which is the Greenbriar project in Wichita Falls, Texas. Senator Estes' office has already spoken about this a little bit earlier.

But I do want to reiterate that the City of Wichita Falls is in -- very much in support of this project -- to that end, has authorized Community Development Block Grant funding for assistance in this project, has worked with the developer for the site location and so forth, and pleased that something was able to be accomplished -- or potentially accomplished very near the main gate of Shepherd Air Force Base to accomplish affordable housing in that area.

I also am aware that the Section 8 housing circumstance in that community continues to be a circumstance where folks are authorized vouchers and then have a difficult time finding a place to -- that is suitable to find apartment accommodations. So there is a

continuing need for this.

And the City of Wichita Falls has submitted written information I think to you all -- or to the office and continues to be very much in support of this project.

I will remain -- and should this come back up in the 5th section. I thank you for your consideration.

MS. ANDERSON: Thank you, sir. Laura Wingfield. And then Mr. John Garvin will be next.

MS. WINGFIELD: Good morning. My name is Laura Wingfield, and I'm with American Agape Foundation in San Antonio. Our subordinate organization, Agape Alhambra, has submitted an application for tax credit funding for Alhambra Apartments in San Antonio.

This is a 140-unit senior new construction development that would provide 140 units of service-enriched housing for senior citizens in the southwest portion of San Antonio. This is an area of the city that the City of San Antonio is working to redevelop.

It's in a state enterprise zone, and it's also received a lot of local support in the form of a HOME funding commitment. I also have a copy of our local councilperson's letter of support for the project if you'd like that.

We're requesting your consideration of forward

allocation for this project under item 5(c) on your agenda today. This is the highest-scoring application in the nonprofit set-aside. It's the number one unfunded deal in the nonprofit set-aside.

Just -- my philosophy is short and succinct makes the best point. So I'll wrap it up and just say appreciate your support and your consideration for approval of the Alhambra Apartments in San Antonio. We look forward to receiving a forward allocation of tax credit funding. Thank you.

MS. ANDERSON: Thank you.

MR. GARVIN: Good morning. My name is John Garvin. I'm with the Texas Affiliation of Affordable Housing Providers. Thank you for the opportunity to comment.

First, I wanted to thank the Board and staff for the incredible job you've been doing on this unending tax credit round. It's been very difficult, and you've done amazing work -- and your staff and Ms. Carrington alike.

Just generally, we'd like to reaffirm our comment that we gave in June that we strongly support using the forward commitment as a tool to fix a lot of stuff that's gone wrong with the A.G. opinions. We've --

wanted to rescoring and the -- some of the issues with scoring neighborhood opposition or support and possible underfunding of a couple of regions.

And lastly, we'd like you all to consider looking at the Section 42 definition of "allocate" as it relates to '04 commitments and '05 forward commitments, and that they really shouldn't have anything to do with each other regarding the one-mile, one-year prohibition of development. And that's it. Thank you.

MS. ANDERSON: Thank you. Mayor Segovia. And then Mr. Uresti.

MAYOR SEGOVIA: Good morning, Madame Chairman and Board members. My name is Roland Segovia. I'm the mayor for the City of Pearsall. This is the first time I've ever had the opportunity to come before you all in the six years that I've been doing this now for the City of Pearsall.

And I guess that you all will be going on staff recommendation for owner-occupied grant -- whoever applied for. And I just come by to ask you for your serious consideration, you know, for the City of Pearsall.

We're a city that's between San Antonio and Laredo -- and, you know, we're growing, you know, pretty fast. And we really need some assistance, you know, for

these older homes that are deteriorating in the City of Pearsall.

And with that, I'll say thank you very much.

MS. ANDERSON: Thank you, sir.

MR. URESTI: We'd like to keep our comments short. Again, my name is Albert Uresti. I'm the city manager for the City of Pearsall, Texas. Madame Chair and members of the Board, we're excited to be here. We're speaking in favor of item number 7(b).

Pearsall, as the mayor stated, is an impoverished community with a tremendous need for housing.

We -- the ten homes that staff has recommended is only a fraction of the number of homes that we need to revamp, but we're grateful for the recommendation by staff.

We ask that you consider the recommendation by staff and allot the full amount of \$500,000. For that we thank you all for your time.

MS. ANDERSON: Thank you, sir. Miguel Polanco. And then Mike Zuniga.

MR. POLANCO: Good morning. My name is Miguel Polanco, and I represent American Sunrise, who's a nonprofit that is sponsoring the project at Converse Village Apartments.

Thank you for the opportunity to present my

request to the Board. My name is Miguel Polanco, as I explained before, and I actually am the finance and operations manger for American Sunrise, a nonprofit general partner for Converse Village Apartments.

At the last TDHCA Board meeting this project was the last appeal to be heard. As you may recall, we appealed the staff rejection of a support letter from the Converse Lion's Club for points. The rejection was based on staff's effort to develop a working definition of neighborhood organization and the resulting emphasis on local organizations that focus on one neighborhood.

The Converse city manager, who is also a Lion's Club member, provided a brief summary of the organization's long track record in community revitalization and is standing as the leading neighborhood organization in this small city of 13,000 people.

It was determined that the Lion's Club submission met all the requirements for scored QCP letter.

The Board's questions and discussion appeared to acknowledge that the Lion's Club is indeed a legitimate neighborhood organization of the type envisioned by the QCP rules.

Prior to the Board's vote Mr. Barry Palmer, an attorney represent competing projects, rushed the podium

demanding to speak. He made an impassioned plea for the Board not to approve our appeal because doing so would hurt projects already awarded in Region 9 and set a dangerous precedent. The Board subsequently rejected the appeal rather than hurt projects in line for 2004 credits.

We are asking the Board today to make a forward commitment of 2005 Housing Tax Credits to the Converse project. It has met every standard for a 2004 award, has strong community support, and the support of local leadership from the mayor to the state senator.

It is located in a community that has never received a 9 percent tax credit allocation. The project's market study documents a 7 percent inclusive capture rate which documents the depth of the local need for this housing.

We feel it was forced out of the competition by the timing delay created as the staff developed a working definition for neighborhood organizations and then mistakenly excluded our project when that definition was initially applied.

Please consider our request for a forward commitment for 2005. Thank you.

MS. ANDERSON: Thank you, sir.

You're next, Mr. Zuniga.

MR. ZUNIGA: Madame Chair and members of the Board, I'd like to thank you for allowing us to make a little small presentation and also remind you all that we -- I think last month it was that we appeared and spoke in behalf. My name is Mike Zuniga, Jr. I'm the district director of District 5 that covers San Angelo.

And the application is the Riverview Apartments. We'd just like to go ahead and remind you all that there's a tremendous need for this program and ask for your help in San Angelo, Texas. And if there's any questions -- if not, we thank you for allowing us to keep kind of reminding you all that maybe in 2005 we'll get funded. Thank you.

MS. ANDERSON: Thank you, sir. Don Currie? And the next speaker will be Tony Sisk.

MR. CURRIE: Thanks for your time. I'm Don Currie. I'm the director of Community Development Corporation in Brownsville, one of the largest nonprofit lenders under your mortgage revenue bond program. And we're the largest-volume lender to families that are earning less than 60 percent of the state median income under the program.

I'm basically here today to address a change that's taken place in the program -- the result of

requiring an additional principal payment to be made by assisted homeowners after the first lien mortgage and their 4 percent assistance has been paid off through the payment of a higher interest rate.

I believe that this change has made your program uncompetitive in the state of Texas and discourages families under 60 percent of median income from applying.

Just a brief history -- as you'll remember, years ago the Board decided to do both an assisted piece and an unassisted piece of the Mortgage Revenue Bond Program. The unassisted families got the premium rate. They got the best and lowest interest rate available with no down payment assistance.

Assisted families, on the other hand, were given 4 percent of the loan amount in assistance and were charged a 50-basis-point markup on the bond loan over the life of the loan basically to repay the up-front assistance that was being able -- that was being generated through the bond proceeds.

Prior to Bond 61 all of these funds were labeled a gift to the buyer. There was no lien on the property. And while these funds were termed a gift the borrower was actually paying back these funds by paying

back the loan in the premium interest rate.

This is the way virtually every bond program in the state of Texas is structured right now, except Bond 61. Now, in Bond 61 you are requiring that the assisted borrower, through a second lien, to not only pay the higher interest rate over the life of the loan, which effectively pays back the 4 percent gift that was made to them at the beginning, but you also require that they make a one-time payment in full of all principal after the first lien loan has been completely paid off on a second lien loan.

So the family pays that 4 percent gift -- or that 4 percent second lien right now over the life of the loan through the higher rate, and they pay for it again after their first lien loan has been paid off in the form of a single payment that's required under the second lien.

And because I know I don't have much time, I created a chart basically just to show how it works. And I won't walk through the chart except to say that if the buyer went out and borrowed -- in our case, on a \$65,000 house, they borrowed \$2,500 more or less in down payment assistance money, and they borrow it at a 5 percent -- 5.5 percent rate, the current rate of the premium bond program, that family would pay the lender in principal and

interest \$5,155 over the life of the loan.

Borrowing that same amount of money under the state program currently would cost that borrower \$9,689.60. So borrowing under your program, should they be able to borrow that 4 percent of assistance, would cost the borrower approximately \$4,500 more than if they just went out and borrowed it on their own.

Basically, I'm here today to ask the Board to reconsider the designation of the 4 percent as a second lien -- the requirement of the second lien payment after the first lien has already been paid off, to rescind the second lien requirement, and to return the program for the 4 percent is able to be provided to the borrower as a gift. Thank you very much.

MS. ANDERSON: Thank you, sir. Tony Sisk. The next speaker is Gilbert Ortiz.

MR. SISK: Good morning, Board. My name is Tony Sisk of Churchill Residential, Irving, Texas. I'm here to speak in favor of the Tyler Senior Community. And we are the developers on this proposed community.

I also spoke at the last month's Board meeting. But Tyler Senior Community had a score of 11 points higher than all of the applications that were approved in all of east Texas. The reason -- the main reason that it

was not selected is that only 38 percent of the money went to urban/exurban, and one at-risk deal took up 87 percent of the urban/exurban allocation, which means there is no new construction in urban areas in all of East Texas.

This project was on the June 28 recommended list and was removed one week before the approvals in last month's Board meeting. The underwriting on this project is very strong in terms of capture rate. It has widespread support in all of Tyler.

Representative -- State Representative Leo Berman sent a letter of support in recent days and apologized -- he had to be in a meeting in another city or he would be here speaking in favor of this Tyler Senior Community.

We also have a new letter of support from the mayor, Joey Seeber of Tyler, and previous letters of support from the city manager, a city council resolution, county judge, State Senator Bob Deuell, and a very strong support from the immediate neighborhood group contiguous to the site.

We applied for and were successful in an approximately \$200,000 federal HOME loan bank grant of around 200,000 that was granted for this project and would go unused if this project does not receive a forward

commitment, which is the purpose of my speaking today.

There's only one other senior tax credit community in the Tyler/Longview metro areas. And it is full, it's about seven years old, and there is a strong need for another senior tax credit community in this area.

So, in summary, I am asking for a forward commitment for Tyler Senior Community. Thank you.

MS. ANDERSON: Thank you, sir.

Mr. Ortiz? Mr. Gilbert Ortiz?

(No response.)

MS. ANDERSON: Has Randy Stevenson joined us?

(No response.)

MS. ANDERSON: Sally Gaskin?

MS. GASKIN: Hello. My name is Sally Gaskin.

I'm the applicant sponsor for Mesa Seniors Apartments.

It's TDHCA number 04-041.

And I am here today to talk with you about requesting a forward -- 2005 forward commitment for Mesa Seniors. Mesa Seniors had a competitive score of 143. It scored ninth highest in Region 6 out of 13 awards. It would have received an award in the 2004 tax credit awards had it not been for a one-mile rule conflict with another application.

I had requested to speak after Representative

Menendez because it was my understanding that there is a letter of intent -- legislative intent that they were hoping to have out this morning. And I am told that it will be coming out. It's just not quite finished yet.

That, basically, provides some legislative intent on the language regarding the allocation or the award -- actually, it's allocation of the one-mile, one-year rule. And that, in fact, the allocation is -- at the time of carryover, not at the time of award, and therefore, a current 2004 award does not conflict under that rule with the 2005 forward. So that is the -- part of the basis for my request.

The other is is that there is a significant need for seniors in this community. We have an updated market analysis capture rate from O'Connor and Associates which indicates that, for both developments, the capture rate would be less than 10 percent. And, in fact, depending on what turnover rate you use it's as low as 7.42 percent for the two developments.

And there is also strong support within the community for the development. And it's also my understanding that this development would be exempt from the one-mile three-year rule because of the HOME funds that the application has received from the City of

Houston.

So that is the basis for my request for a forward commitment. And I appreciate your consideration.

Thank you.

MS. ANDERSON: Thank you.

MS. GASKIN: Any questions?

MS. ANDERSON: Thank you. That's the end of the witness affirmation forms for the public comment period. I have several letters that I've been asked to bring into the record for development number 04258, Vista del Sol, the Rudy C. Perez Senior Apartments. It's an impressive list of letters, so I will read to you who all have submitted letters of support.

Julian Castro, District 7, San Antonio; Enrique Barrera, District 6, San Antonio; Congressman Charles Gonzalez, San Antonio; State Representative Jose Menendez; State Representative Joaquin Castro; Senator Leticia Van de Putte; San Antonio Mayor Edward Garza; and San Antonio Councilwoman Patty Radle, District 5 -- all letters of support for the Rudy C. Perez Apartments.

Okay. And while we are there we will announce other letters that we've received for other transactions.

We'll be here all day if I read the entire thing into the record.

The first one's from State Representative Carl Isett from Lubbock. He is asking that we reevaluate the Bethany Gates Apartments that didn't receive an award and encouraged the Board to forward commit 2005 credits to proposals that would have been awarded under the old rules.

I have a similar letter also concerning Bethany Gates Apartments from State Representative Delwin Jones in Lubbock. And I have a letter from State Senator Robert Duncan also concerning Bethany Gates Apartments in Lubbock supporting the request for forwards.

There is a letter from State Representative Leo Berman in Tyler, which you just heard referenced, supporting forward commitments for the Tyler Senior Community.

Letter from State Senior Ken Armbrister concerning the College Street Apartments in Richmond, Texas, and his support for that application.

From Senator Judith Zafferini a support letter for the Converse Village Apartments in Converse, Texas, supporting a forward commitment for that development.

State Representative David Farabee has written a letter of support for forward commitments for the Gardens of Burkburnett. I also have a letter from mayor

of Burkburnett, Bill Vincent, supporting forward commitment of the Gardens of Burkburnett.

Also from -- another letter from State Representative David Farabee -- this one concerning Greenbriar Village Apartments in Wichita Falls -- supporting a forward for that development.

And from State Senator -- excuse me -- Representative Sefronia Thompson in Houston a letter of opposition concerning Mesa Senior Housing Apartments.

Mr. Stevenson, would you like to address the Board?

MR. STEVENSON: Madame Chair, members of the Committee, members of staff, I appreciate the indulgence.

I got stuck in rain in Dallas this morning. It's a mess, I'll tell you. But you can get down here pretty quickly if you drive fast enough.

I am here representing 04-095, Greenbriar Village in Wichita Falls. We got it like everybody else -- got our QAP last fall. We applied for the pre-ap, and we applied for the ap. We got support of the city fathers, we got support of the city staff, including Dave Clark -- staff did a great job.

The mayor -- we got a city proclamation for our project. We are by Shepherd Air Force Base. We did

whatever everything we thought at the time under the QAP.

To the extent we were awarded in June -- was on the approved list. And as staff said, we are competitive in the region. In July we did not get a 2004 credit application -- I mean, the tax credit award.

There seems to be something wrong with that. I'm not sure what. I would like to point out to you that the Region 2 allocation went to Hensen [phonetic] Park Phase II. Hensen Park Phase I, prior to the July committee meeting here, did not have a building permit. They had not turned a blade of dirt in any form or fashion on phase I. It seems like the citizens of Wichita Falls, with all the support that we were given, would have had some bearing there.

We were outscored 147 to 146 on our score. 146 scored -- and I know how the scoring works. But they're within -- 146 -- except I think one region we would have awarded a tax credit allocation for 2004.

The last thing I'd like to leave with -- and I do appreciate you letting me coming in late once again, and I appreciate your time. Region 2 in West Texas has what I would call just a paltry budget for the tax credit housing process.

If left unattended this year this will be the

second year in a row that that Region 2 will be underserved. And last year -- last year alone it was left \$700,000 short. That does not seem like a fair thing to do to me.

So, once again, I appreciate the time and I appreciate your indulgence. And I would appreciate your consideration for a forward commitment for 2005 for Greenbriar Village. Thank you very much.

MS. ANDERSON: Thank you, sir.

MR. STEVENSON: Do you have any questions or --

MS. ANDERSON: Questions for Mr. Stevenson?

(No response.)

MS. ANDERSON: Thank you very much, sir.

Before we take -- go to the next agenda item I want to welcome several special guests. We heard from State Representative Menendez a few minutes ago. We also have Scott Sims here from the Speaker's office -- I saw him a few minutes ago.

We also have Jeremy Mazur from Representative Callegari's office. And we have Jason Smith, who is the new committee clerk for the House Urban Affairs Committee. Welcome, Jason.

And also I would like to thank Senator Kevin Eltife. Senator Eltife is from Tyler, and it is with his

compliments that we have the use of this nice auditorium today. So we certainly appreciate his lending his support to our use of this room for the meeting today.

We proceed with Item 2. Ms. Carrington?

MS. CARRINGTON: Thank you, Madame Chair. The next item on the agenda is the introduction of TKO Advertising, Inc. In May of this year the Department issued a request for proposals seeking a vendor to perform marketing services for our first-time homebuyer program.

We received nine proposals. One was selected -- TKO Advertising. And they actually began their work on June 1 of this year. The length of the contract is for 12 months, and we have some very specific performance objectives that are built into this contract with TKO.

And we have today Mr. Raul Garza, who is president of TKO, to basically just introduce himself to the Board.

MR. GARZA: Good morning. It's a pleasure to be here. I wanted to share what a privilege and what an honor it is to be working with your team as a partner in promoting statewide the first-time homebuyers program. The first thing we learned was that you all expect big results. And that's something that we plan to honor.

In our experience in the past year -- I wanted to share some results with other state agencies. We haven't really gotten off the ground with you all yet, but a couple of programs you may be familiar with include the Texas Workforce Commission's new online employment resource called workintexas.com.

That launched about 12 weeks ago, and we've already received more than 3 million website visits, more than 40,000 Texas businesses have registered, more than 25,000 Texans have become employed.

We also assisted the Attorney General in a campaign in English and Spanish to promote prompt and full child support payments that helped them increase their collections by 11 percent over the previous year. So you're in good hands, and we take this very seriously.

Our specific goal for this program is to help you to reach some underserved areas and help you increase the loan origination to exceed more than 2,000 per year -- just make it more equitable for the regions that haven't been responding and make this program a statewide kind of a household name.

Our first tactic is going to be to develop a plan to get the message out there -- to get the accessibility to all Texans.

As you may know, a challenge in explaining these programs in reaching the market is the number of different programs and different faces that you all have to consumers, to lenders, to agents. Our job is to give a clear direction and a clear call to action.

We do know that we're going to launch in conjunction with your next Mortgage Revenue Bond release. And we do know who we're going to be talking to. We're going to be speaking to lenders, real estate agents, developers, and first-time homebuyers.

And so we are now is currently in a research phase. We're profiling the first-time homebuyer. So that -- we're going to try to figure out the way they think -- their media habits, what they can respond to, and what they have in common, depending on the region that they live. We're going to define your underserved areas and figure out why the response hasn't been what we need it to be.

We're taking care of some urgent needs, as far as publications, advertising, trade show presence. And we're assisting with the accessibility and usability of your website. We're going to make that a real tool for a loan origination.

Already we know that the problem isn't

necessarily that the right information isn't out there. It just may not be shared in the most user friendly format. That's going to be a big priority for us to address some barriers.

So, additional strategies will be to create scaleable training so that you all are more effective and efficient -- less time consuming -- connecting buyers, lenders, and agents with developers, and just guiding the first-time homebuyers through the process -- developing a very compelling call to action.

So we look forward to developing the actual messaging and the content that we're going to launch this fall and really look forward to working with you. And I invite any questions you have about this process.

MR. BOGANY: I have a couple of questions. In regards to profiling your first-time homebuyers, there is information at the Texas Real Estate Center at A&M that they've just done some surveys -- the National Association of Realtors has just done some surveys on first-time homebuyers that's specific to Texas itself. Fannie Mae has done recent surveys in regards to that.

And I would hope that you would try to partner with them. I was just at a meeting before the meeting got here. Texas Association of Realtors are putting together

a proposal to partner with us about the bond programs also. And they are putting together a marketing scheme. And it seems to be able to be something that you would want to do.

And I just don't want us to study this idea to death --

MR. GARZA: Uh-huh.

MR. BOGANY: -- and research it to death. I'd like for us to get it on --

MR. GARZA: Right.

MR. BOGANY: -- and see what we can do to improve it. One concern that I have is that in your proposal -- are you going to come back with the different media sources you want to hit with this and help us in this particular product?

I don't think any of the lenders are having problems signing up for this program. But it seems as though that the realtors and the consumers don't know about this program. And I was told that we had did about 800-and-some loans last year on the bond program.

And it just seemed like we should have done more in that, because, in the city of Houston last year, they did -- the Housing Opportunity of Houston program did a thousand loans themselves in Houston.

So I'm just assuming and hoping that you won't do too much research and try to focus in on the people who have these -- they done the research already.

MR. GARZA: Right. And I appreciate those sources. We don't want to research it to death. The reason that we want to do some research is to make sure that when we allocate media dollars that we're not wasting any of it.

A market like Houston -- it's very diverse ethnically, geographically, and socioeconomically. So there's different pockets and different ways to reach people just within that one market, much less throughout the state of Texas.

What we want to do is create a matrix where we can overlay people's media usage, the way they get to work, things that they are exposed to with this message and figure out the most efficient way to spend any money that we allocate to that.

MR. BOGANY: One last question. What's your time frame on all of this?

MR. GARZA: We are in creative development now on our trade outreach. And we will be submitting for approval materials in the fall -- so the next 90 days.

MS. ANDERSON: Is this a one-year agreement?

It started on June 1. What's the term of the agreement?

MR. GARZA: The term of the agreement is about six months to create the materials. And it's really to get to a point of a recommendation. At that stage we would give you all the option of different media expenditure levels, difference audiences that you would want to prioritize, and then move on from there.

MS. ANDERSON: Ms. Carrington, do you have a sense of when you -- when we might be at that point? December or January or --

MS. CARRINGTON: I don't know. I think maybe Mr. Pike might be able to answer that question.

MS. ANDERSON: I just think it's important to set some expectation from the Board, too, about when we will see something concrete, you know. And do we need another interim meeting before we get a final report.

MR. PIKE: Right. Good morning. I'm Eric Pike, director of single family. We have been working with TKO. They came on board June 1. They have a year-long contract with us, which will run through May 31 of '05.

We -- they are working currently with us to develop a trade show booth. So, just to give you a sense of what -- of -- we have a lot of work to do. We have --

we are rolling out our trade show booth in September. That's been the first order of business.

And we will be making a presence with a marketing campaign that will be used in conjunction with the release of Bond Program 62. Bond Program 62 structure is being brought to you as the next agenda item, and it is scheduled to be released in late October/early November.

So that is basically the answer to your question. We're hoping to roll out some of this new marketing campaign so that we can gauge the results and the impact it will have on our originations under that program.

And we're very excited to have them on board. And we had hoped to bring them to you for a presentation last month. But, as you know, with the overwhelming agenda we had with the tax credit program, we delayed it till this month.

But my thought is, and Raul's thought is, is that we will be coming back to you within the next couple of months as we develop things for a more formal presentation of what they've put together.

MR. CONINE: Mr. Garza, I would echo Mr. Bogany and Ms. Anderson's comments. We're -- we have high expectations on our bond program. We know it's

challenging times and an interest rate environment that's challenging times. But, since you have success in other areas, we wish you all the best success.

Most people, when they hear the letters TKO, they think of technical knockout. And we hope you can do that here with this particular program.

MR. GARZA: We plan to do that. Thank you.

MS. ANDERSON: Any others questions? Comments?

(No response.)

MS. ANDERSON: Thank you both.

MR. GARZA: Thank you again.

MS. ANDERSON: The Chair has goofed -- not the first time, won't be the last. But I sort of skipped over the approval of the minutes. With the indulgence of the Board I'd like to back up to agenda item number 1.

MR. CONINE: Move for approval.

MR. GONZALEZ: Second.

MS. ANDERSON: Any discussion?

(No response.)

MS. ANDERSON: I assume we're ready to vote.

All in favor please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Motion carries.

Item 3 -- Mr. Gonzalez?

MR. GONZALEZ: Presentation, discussion, and possible preliminary approval of Single Family Mortgage Revenue Bonds, 2004 Series C, 2004 Series D, 2004 Series E, and 2004 Series F, Program 62.

MS. ANDERSON: Thank you, Mr. Gonzalez. As was just mentioned, this program will be Program 62 for the Department. It is a Single Family Mortgage Revenue Bond program.

Our volume cap for 2004 is approximately \$165 million. We will be issuing a portion of this \$165 million in mortgage revenue bonds and looking to make mortgage loans from that amount. There will also be an amount of this proposed issue -- 91 million -- which will be issued in convertible option bonds, which basically preserves or saves our volume cap and allows us to use it next year.

We will -- we are proposing to the Board -- and this is the preliminary approval of this structure today.

We will be bringing back the final structure to the Board at the September Board meeting. We are proposing to issue all of the bonds, which will be about 75 million in lendable proceeds, in -- with unassisted mortgage funds

that will be available for low, very low, and moderate income Texans.

A portion of this transaction also -- between 30 and 50 percent -- is proposed to be in the form of variable rate bonds. So it will involve the swap component, which the Board approved for the first time in our bond issue earlier this year of 2003 proceeds that we saved from last year.

The bottom of the first page of your write-up details how we plan to issue -- the Series C will be 45 million -- those will be fixed rate bonds. We have approximately 35 million that would be the variable rate demand bonds.

And then you'll notice that we have refundings -- and this is refundings of the 1993 Single Family Collateralized Home Mortgage Obligations bonds. And then 91 million that will be issued as convertible option bonds and basically preserved until next year.

The second page of your Board write-up details the time line for the issuance of the bonds and when the lendable proceeds will be available. We are assuming that they will be available probably in early November/late October. And the approval date -- we will be bringing back to you -- actually I think our board meeting is the

9th of September as opposed to the 10th of September. So that would be the closing schedule.

As the last item in your information, we have provided for you our existing programs that are out there right now and how much we have available in each of these programs.

And on several of these -- the 57(a) -- even though you see an interest rate of 5.9 and 6.65, at a prior Board meeting the Board did approve buying down the interest rate on those loans to 4.99.

And basically, what we have left in the amount that's uncommitted is either money that is targeted for certain areas that has to be set aside for a year -- so we have some targeted area balances, and we also have funds that are unassisted. On the restructuring that we did down to 4.99 staff anticipates that the originations to deplete those funds will happen probably mid- to late October of this year.

So, as I said, what we are asking for is preliminary approval of this structure for our 2004 Series C, Series D, Series E, and Series F mortgage revenue bonds.

MR. CONINE: Move approval.

MR. BOGANY: Second.

MS. ANDERSON: Discussions? Questions? I have one quick -- which programs, Ms. Carrington, are you saying we will deplete by mid October?

MS. CARRINGTON: We have 57(a) and you also restructure -- you approved that maybe two or three Board meetings ago the elimination of the EA loans in 57(a). So it's basically those two components of 57(a) that we are anticipating will be depleted.

MS. ANDERSON: Thank you. Other questions?

MR. BOGANY: Ms. Carrington, when is this program coming in -- does it take place in September when we start this?

MS. CARRINGTON: No, sir. We anticipate that the lendable proceeds will actually be available late October/early November. Our structuring will take place during the fall and the pricing and the selling of the bonds.

MR. BOGANY: Okay.

MS. ANDERSON: I have one more question, which relates to the refundings on the CHMRBs. What is the purpose for the Department -- or the benefit to the Department of doing that? Is that going to free up some equity?

MS. CARRINGTON: I see the gentleman I have

been looking for.

MR. JOHNSON: Good morning. Byron Johnson, the director of bond finance. I'm sorry. I was getting through the aisle there. And you were asking about the refunding?

MS. ANDERSON: Yes. What's the public purpose of doing that or the benefit to the Department and the State of refunding those?

MS. CARRINGTON: The 1993 --

MS. ANDERSON: You know, I'm not a financial --

MS. CARRINGTON: -- CHMO.

MR. JOHNSON: Yes, ma'am. Those bonds were issued about ten years ago, and they contained first-time homebuyer mortgages. At that time rates were higher, and, as we know, rates are lower now. So we can execute a refunding and transfer those mortgages over into the new program.

Because of tax codes we have to blend the old mortgage rates with the new mortgage rates. And a benefit to the Department and to the new first-time homebuyer is that that blending produces a lower mortgage rate.

MS. ANDERSON: To the --

MR. JOHNSON: To the new homebuyer under Program 62.

MS. ANDERSON: Okay.

MR. SALINAS: What's the savings?

MR. JOHNSON: We're looking at producing per mortgage loan about a 10 to 15-basis-point savings in their mortgage rate.

MS. ANDERSON: Any other questions for Mr. Johnson?

MS. CARRINGTON: I think one very important thing I didn't say was what we're targeting as an interest rate on this program, and that it would be somewhere around 4.99.

MR. JOHNSON: Yes, ma'am. Five percent seems to be the magic threshold, and we're trying to get below 5 percent.

MR. SALINAS: We used to be at what?

MR. JOHNSON: Pardon?

MR. SALINAS: What is the old -- the old rate?

MR. JOHNSON: The old rate?

MR. SALINAS: About ten years ago.

MR. JOHNSON: On that particular series of bonds I believe it was like 7.25 -- in the 7 range.

MR. SALINAS: So this is --

MR. JOHNSON: Pardon?

MR. SALINAS: This is a good idea about doing

this.

MR. JOHNSON: Yes, sir. It's done frequently by the state HFAs. And they roll in the refunding savings into the mortgages because of the tax code. Usually there are no funds to be released from the refunding.

MR. SALINAS: First-time homebuyers would be buying at 5 percent.

MR. JOHNSON: Approximately, yes. 5 percent -- we're trying to get 5 percent or lower.

MR. SALINAS: Or Lower.

MR. BOGANY: I have a question for you. This is in regards to one of the public comments. And I guess it doesn't really regards to this new Bond 62 because we're not doing any assistance program. But I would like to know in the future -- and I thought I'd bring it up now before I forget -- why do we do the gift versus the second lien? And I've heard lenders complain about the second lien, especially in qualifying the buyer. They have to bring it in, even though it -- never have to pay it back or whatever. They seem to be complaining.

And I guess in the future is this something that we can relook at to see if we can -- and that may be why we never use the money and where we're having to reallocate.

MR. JOHNSON: It was an idea brought to us by a highly esteemed gentleman, and we wanted to give it a try.

And we've run it through a trial process. And bond finance and single family finance have been tracking the program, and we've done -- we're in the process of doing some studies.

We've taken a look at I guess some setting up assistance as 100 percent forgivable, repayable in 10 years, 15, 20, and 30, and taking a look at the comparative advantage and marketing advantage of TDHCA's economic advantage and then advantage to the borrower.

And Mr. Currie's presentation is very timely because we anticipate coming to you next month with our findings.

MR. BOGANY: Can you make the change that she's asking for?

MR. JOHNSON: We can, yes -- with the Board approval.

MR. SALINAS: Okay. Because I think that needs to be changed.

MR. CONINE: I wanted to also ask you a question about Mr. Currie's testimony. He made a statement that it's customary that there's a 50-basis-point premium to take care of the down payment assistance

on the rate. Is that an accurate number based on your experience?

MR. JOHNSON: That is generally accurate. When using premium bonds to fund that assistance typically the ratio is one point of assistance for 15 basis points in premium. So on average it's 50 to 60 points for four points.

MR. CONINE: Okay. He also alluded to the fact that if obviously all those mortgages were paid off then the down payment assistance would virtually be paid for. Now, we know that's not reality. In fact, if all the mortgages that were made with the bond program were paid off the day after they all closed that there would have to be a gap based on the formula he said -- or alluded to.

So somewhere in between is probably reality. Can you furnish us with some documentation to show how bond finance and our investment bankers actually recalculate the repayment histories? And if, you know, you have a wave of them that prepay off in two years versus 14 years, how that affects the principal amount of being able to repay the bonds? Can you furnish us with something like that?

MR. JOHNSON: We can furnish that. And Bond Finance has put together amortization schedules for no

forgiveness and 10 through 30-year repayment of that amount. And we're trying to show what the effect is over time. I guess we're taking a look at the payback period and the breakeven period for the Department.

MR. CONINE: I mean, it would -- instead of you imputing payoffs into the future and establishing an interest rate premium for Texans maybe we take a look at a pro rata distribution back of the down payment assistance instead of hitting everybody with the ideal same premium structure and same term on the payoff --

MR. JOHNSON: Okay.

MR. CONINE: -- is kind of where I'm heading with my thought process there. I'm sympathetic with Mr. Currie's comments. On the other hand, I don't think that shoe fits for everybody. And so that's why I want to see how you calculate it before, you know, we get into the discussion on how to fix it.

MR. JOHNSON: We can do that.

MS. ANDERSON: Any other questions for Mr. Johnson? Any other discussion? We have a motion on the floor.

(No response.)

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. JOHNSON: Thank you.

MS. ANDERSON: Item 4. Mr. Gonzalez?

MR. GONZALEZ: Presentation, discussion, and possible approval of resolution in request for use of traditional carry forward funds for multi-family bonds.

MS. CARRINGTON: Thank you, Mr. Gonzalez. This item relates to an application to the Texas Bond Review Board for what's called traditional carry forward funds for multi-family mortgage revenue bond transactions.

So this is out of the multi-family amount that is available at the Texas Bond Review Board. Any one issuer can only apply for 50 million -- cannot exceed that amount. We are requesting that the Board give us authorization to apply for an amount up to 50 million.

And this is bond authority that comes back to the Bond Review Board. So it's unused authority from all of the various subceilings that are allocated for mortgage -- not mortgage revenue bonds -- but for private activity bonds. So it's not just a multi-family amount that's available.

At some point during the year all of those subceilings collapse. And so we would be applying for 50 million. And we would be applying sometime between about the 1st and the 15th of December.

And we would be using it for multi-family. And we would put a notice on our website that indicated that we had this money available. And we would look at developers applying to us. And we would score and rank applications in the same way as if they were in the multi-family bond lottery.

MR. CONINE: Move for approval.

MR. BOGANY: Second.

MS. ANDERSON: Discussion. Questions.

(No response.)

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MR. CONINE: Clarify -- my motion was resolution 04-060.

MS. ANDERSON: Thank you, Mr. Conine. Mayor Jim Adams from the City of DeLeon apparently would like to

Speak because he needs to leave and not wait for the agenda item. So I'm going to ask that he come forward.

Mayor Jim --

MAYOR ADAMS: I'm Mayor Jim Adams, mayor of DeLeon. I want to thank you for your indulgence with us here today. I actually got out of my sick bed to come down because I felt like this was something that was important to the state and the citizens of DeLeon and the people of Texas.

I want to thank you for your consideration of our five units in DeLeon. I don't know whether this is the place to bring it, but, in visiting around over the state, when houses are built I believe it should be to help the cities.

And what I mean by that -- I think that if the material can be bought in that locale at a reasonable price and the labor purchased, so to speak, in that local municipality, then it will not only benefit the people who are getting the homes, but it will benefit the community.

And it doesn't only have to be a small city like DeLeon. It can be San Antonio or wherever. I mean, it's a way of making the limited resources we have go farther.

And in traveling around and looking at some of

the housing that have been granted -- I'm talking about for the elderly -- or low income is what I'm -- I still think there should be something in there that is built in to where somebody has some kind of way to inspect these houses because I've seen some that were three years old and were practically unhabitable.

And we've taken our tax money and built these people homes and have no control over what's being done with them. And I feel like the cities that's doing -- or somebody -- I've asked several people and I've never gotten an answer on it.

So that's the reason I felt like was worth my time to come here today and ask this. I feel like there ought to be some kind of control over this money we're giving out to these people. And I would appreciate any input or anything you all can do to help us on that. Thank you very much.

MS. ANDERSON: Thank you, sir.

MR. CONINE: Does he have an answer?

MS. ANDERSON: Ms. Carrington, Mr. Conine's asking if you have a -- want to address his comment.

MR. CONINE: Can you enlighten us a little? I mean, I know the cities are getting the money. I assume the cities are responsible for looking after it.

MS. CARRINGTON: And I am assuming, Mayor, that what you all have received -- or what you will receive by the time the day is over is an allocation of the HOME funds for owner occupied.

MAYOR ADAMS: Yes.

MS. CARRINGTON: And so that is for people who currently own their homes. And we allocate HOME funds either for substantial reconstruction or basically almost a rebuild. And we do, indeed, inspect during the construction phase and make -- ensure that the homes are up to code and meet all of the requirements once all of the HOME funds have gone in.

Since it is owner occupied, at that point, then the Department -- unless I'm misspeaking, Ms. Phillips -- at that point the Department feels that we have met our obligations in allocating those funds and ensuring that that homeowner did get a decent safe and sanitary home. And I think really what we look to at that point is codes enforcement at the local level.

MR. CONINE: Thank you.

MS. ANDERSON: Thank you, Mr. Mayor. At this time we're going to take a short lunch break until ten after 1:00. We have a lot of business ahead this afternoon, and it's probably best done not on an empty

stomach.

(Whereupon, a short recess was taken.)

A F T E R N O O N S E S S I O N

1:20 p.m.

MS. ANDERSON: We'll come back to order. And we are ready to proceed with agenda item 5(a), appeals to the Board from -- on Housing Tax Credit matters.

MS. CARRINGTON: Thank you, Madame Chairman. When we prepared this list I believe that we had 15 appeals for your consideration today. Several of these I've had indications that they have been withdrawn. But I would suggest maybe we just go down appeal by appeal and hear from the audience that, indeed, your intent is that the appeal will be withdrawn.

The first one for the Board's consideration is 04-012, Tyler Square Apartments. And I believe that this one is one, Mr. Gouris, that has been --

MR. GOURIS: It has been withdrawn, yes.

MS. ANDERSON: Has been withdrawn. The next for the Board's consideration is 04-018. And that is College Station Terrace Pines in College Station, Region 8.

MR. GOURIS: Good afternoon. I'm Tom Gouris, director of real estate analysis. The transaction appealing is in College Station Terrace Pines.

The appeal was not timely filed in this case.

The deadline was July 29. The appeal was filed August 10. The applicant acknowledges that it was not timely filed. So staff does not recommend moving forward with the appeal.

I can go through the details of the appeal with you if you'd like, but that's -- I mean, that's the bottom line of it.

(Pause.)

MR. CONINE: Just hold on a second.

MR. GOURIS: Do you need some -- I have extra copies of the appeal packages if you need --

MALE VOICE: Withdraw --

MS. CARRINGTON: Mr. Lankford, you're withdrawing your appeal?

MR. LANKFORD: (No audible response.)

MS. CARRINGTON: We can't -- it doesn't get recorded if you don't come to the microphone.

MR. LANKFORD: Madame Chairman, members of the Board, Director Carrington. My name is Mike Lankford. I'm the applicant and principal for Terrace Pines, 04-018.

I'm in a little bit of a quandary here because, the fact is it was untimely filed. I'm not disputing that. I'm not here, as they said earlier, the dog ate the homework. Things happen.

We were at the TAB conference for the entire week and actually ended up contacting staff and Jennifer requesting, you know, information on how to appeal. And she basically said we should have, you know, received a fax. That was, as Tom mentioned, you know, a week -- almost two weeks later.

It inadvertently was on my desk. I've never been aware of it. So, again, technically, the appeal to the staff was untimely filed.

However, in the -- we did not receive a follow-up call -- the confirmation call -- when we received that fax. I believe it was dated July 22, which I think is maybe not per QAP or requirements, but, in fact, that follow-up confirmation call that I had received under the underwriting for the operating expenses and then again yesterday when I got the fax for denying the appeal I did get a call from staff acknowledging confirmation, and I did call them back to say I've got it.

But we did not, to my knowledge, receive a confirmation call on the timing of the appeal for the underwriting criteria. So, I mean, I'm not sure where I am per the appeal process. But I would certainly like to at least address some of the issues.

MR. CONINE: Did you withdraw it or not?

MR. LANKFORD: No. I rescind my withdrawal. I changed it. No, I did not.

MS. CARRINGTON: Would it be helpful for the Board if Mr. Gouris went over the issues related to this transaction?

MR. GOURIS: The appeal discussed two issues, expenses and costs. The applicant claimed that the expenses used by the underwriter were high, and that led to a debt service reduction.

The applicant in the appeal provided some additional information in the form of operating expenses -- annualized operating expenses for another transaction near -- in the same -- or I think it's in the same region -- it's not that far away -- projects they have.

However, their annualized expenses -- you know, it's one project. It doesn't weigh as much as our database information based on the fact that our database information is based on actual full-year operating expense for other transactions in the area. So we don't feel like that carries a lot -- the expense information that they provided carries a lot of weight.

The second item was with regard to costs. And again, the applicant provided new information to us in the

appeal in the form of a simulated AIA document. This does not appear to be certified in any way, and we weren't able to get corroboration with cost certification information.

So we weren't able to take into -- we don't think we should be able -- we don't think it's going to carry as much weight as the other information that we used to assist this transaction.

So, in both cases, the information that was provided -- the new information provided as part of the appeal, one, was new, and two, we don't feel like carries the same amount of weight as the tools that we used when we did the underwriting.

MALE VOICE: [indiscernible].

MS. ANDERSON: No, he has a witness affirmation form.

Did you finish your testimony, Mr. Lankford?

MR. LANKFORD: No, I'd like to respond.

MS. ANDERSON: Okay. Sir, if you -- yes, Mr. Lankford, if you would go ahead and complete your testimony on this.

MR. LANKFORD: I'd like to address both of those issues from -- with Tom. Regarding the operating expenses, again, we've gone through this before. In the QAP underwriting guidelines it states -- you know, one of

the most subjective element of underwriting is the expense data point -- justifying those and confirming those.

In my application I included a document that basically said my expenses were based on actuals from the Veranda at Twin Creek. Those were based on '04 numbers -- or '03 annual costs and -- which is in the same region -- similar size, et cetera.

I did receive a fax on June 19 from underwriting then that several of the different line items were not within the 5 percent guidelines. I submitted additional documentation, called and confirmed that that was received, and never was subsequently contacted to discuss those items.

And with regard to the line items in the database, I -- and they depend on IREM quite a bit, and I understand that. But I really do think that IREM doesn't make the distinction between family and elderly in a couple of specific line items, that being maybe utility use. I am paying for water, and, in fact, there's -- in the Veranda 88 units. Eighty-five percent -- 75 of those units are single resident occupants. They don't use the same amount of utilities that may go into a family project that would be reflected in the state or IREM database.

The same with repairs and maintenance. Okay.

I have eight turnovers in four years. There's no make readies. These folks don't, you know, take care of their -- they do take care of their units. So there's some line items individually in there that I think there should be a little more variance.

Bottom line, I think the NOI between what I proposed and what the state proposed -- the underwriting was like 1 percent -- I think \$3,000 annually. That 1 percent -- by capping the actual debt service amount of \$259,068 is resulting in possibly in the reduction of over \$100,000 of loan amount.

At the very least I would think that we could cap it -- or understand to cap it at a 110 or 115 debt service coverage, which, again, once we get the appraisal, get current rents, our interest rate environment -- I think that would, you know, provide a lot more current and available data to do this underwriting.

And there are -- we've been in conversation with both the equity partner and debt providers that are willing to look at different numbers.

With regard to the cost construction, again, we're about -- I think my numbers and state's numbers were about 2 percent off. I was within 2 percent within the 5 percent, if you would. They were about -- we were about

\$4.50 higher. Again, they make adjustments for elderly with elevators. They don't, I think, make adjustments for the number of roofs, the number of slabs -- all the additional costs associated with that.

You know, we don't know all the soil reports, we don't know a lot of things at this point. We still -- we're asked to budget and don't really know.

The assimilated 705 -- 702 that he referred to is actual numbers on a construct project I have constructed today. That cost is \$65 a foot. When you consider the sales tax exemption and a slight increase we're right at the \$67.

And lastly, in Mr. Conine's group, National Homebuilders Association, last Monday came out with an article that says, Builders fear shortages and rising costs could affect the housing business. So, with the hurricane last week and a lot of unknowns, there can be some construction increases. Thank you.

MS. ANDERSON: Thank you, sir.

MR. CONINE: Bottom line, it was late. Right?

MR. GOURIS: Yes.

MR. CONINE: Move to deny the appeal.

MR. BOGANY: Second.

MS. ANDERSON: Discussion.

(No response.)

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Motion carries. I'm sorry. Representative Menendez?

MR. MENENDEZ: Once again, Madame Chair, Board members, Director Carrington, thank you for indulging me.

I wanted to speak specifically to item 5(a) and (b) and potentially (c), but I'm going to reduce my remarks to one specific issue, and that's the one-mile, one-year issue.

And the reason I do it is because there's an allocation -- and I feel that many of the potential projects that are presented for this year have been adversely affected when they scored extremely low. And I can use one example of one project, application number 04-131, which received a score of 149, but, because of the one-mile, one-year rule was knocked out.

Earlier I saw a copy of a letter that Chairman Tarlton wrote to Phil Wilson in Governor Perry's office and carbon copied the speaker on, and specifically said

that -- in the letter that the one-mile, one-year rule was not to apply to forward commitments unless the tax credits were going to be used in that same calendar year.

And in doing some research, the word allocate is not defined in the Texas Government Code. However, the word "allocate" does have specific meaning under Section 42 of the IRS Code. And in order for the one-mile, one-year to occur, it would have to do -- it would have to apply if these forward commitments were actually being built in the same year until they -- it would not -- until Form 8609 were to be issued to the project by the state housing agency.

Therefore, I think -- and I believe legally -- the Board would not be acting to allocate tax credits in the same calendar year, and the one-mile, one-year rule would not apply by doing the forward commitments.

And I think there is good legal standing. I am not a lawyer; I don't propose myself to be a lawyer. But I do believe that, in doing the research and having received some research from lawyers and my good chairman Robert Tarlton writing the letter saying that he did not intend and it was not his impression that the one-mile, one-year rule would apply to forward commitments. So I'd like to see if we could excuse a forward commitment from

the one-mile, one-year rule.

Therefore, going back to the issue of -- I think this would help, not only the proposal in San Antonio, but I think Los Milagros down in Weslaco would benefit from this interpretation, which I do believe is the accurate interpretation of the one-mile, one-year rule as it was intended in the spirit of the law.

And the fact of the matter is, that if you don't have allocated defined in the Texas Government Code I think you need to go to the next place where we do use definitions to help us in the carrying forward of this program -- and that would be Section 42 of the IRS Code.

And I think I heard earlier -- John Garvin surprised me by telling me that he was in agreement with this definition. And I want to thank him.

John? I'm impressed, John. You're coming along.

But, anyway, so, with that, I won't take any more of your time. I will answer any questions you may or may not have. I do want you to know that, you know, if we were to do some significant, if not -- maybe some people could consider extreme -- if you as the Board, you know, exercise your authority to allocate forward commitments -- if all of the allocations for next year, I think you might

be able to help save yourselves some headaches, and I think we could work together on helping prepare maybe hopefully in the future a two-year QAP and help improve the system.

And so whatever we can do -- I stand before you committed to working with you -- with the agency -- and try to -- and maybe heal what some people have considered a contentious process. Any questions?

You know, and so I stand here on behalf of my constituents asking you for as many allocations for Bexar County as you see fit. I'd love to see you all do four projects. I know that we had four of them score extremely high. And I know also that the Rudy C. Perez -- if it would have been given the neighborhood points that it deserved would have scored the highest in the state.

So, with that, I don't think -- I don't know if there are any questions. If not, I'll just head back down to San Antonio and get back to work.

MS. ANDERSON: Any questions?

(No response.)

MS. ANDERSON: Thank you, sir.

MR. MENENDEZ: Thank you.

MS. CARRINGTON: The next appeal for the Board's consideration -- and I might put this in context.

All of the appeals that you are listening to today, I think with the exception of one, are related to underwriting appeals.

MR. GOURIS: Right.

MS. CARRINGTON: And all of the transactions, I believe with the exception of one, are all transactions that are on the recommended list. So all of these transactions are being recommended I believe with the exception of one.

And so what the developers are appealing then is the amount of the credit that is being recommended. And if the amount of the credit has been reduced it's been because of issues that have been identified in underwriting. So I didn't say that initially, so I think that puts these appeals in context.

The next one for your consideration is 04-032, Los Milagros Apartments in Weslaco -- and that is in Region 11. And, Mr. Smith, has that one been pulled?

(No audible response.)

MS. CARRINGTON: Okay. The next one is 04-036, Villa Del Sol in Pharr, which is Region 11. It's my understanding that this one has been pulled also.

MR. GOURIS: Yes, ma'am. We actually granted the relief that they requested, and they've withdrawn any

further --

MS. CARRINGTON: Okay.

MR. GOURIS: -- relief.

MS. CARRINGTON: And probably withdrawn is a better term for me to use. The next one is Baybrook Apartments, 04-079. And that is located in Webster. And that one has been withdrawn also.

The next one for the Board's consideration -- and I believe in looking at these that the next three actually all have the same issues.

MR. GOURIS: Yes, ma'am.

MS. CARRINGTON: And they're all related to the same developer. And that is the Copperwood Apartments, which is 04-098, Pleasant Hill, 04-101, and 04-107, which is Whitefield Place Apartments in San Antonio. So, Mr. Gouris, would you outline the issues related to all three of those transactions, please?

MR. GOURIS: Yes, ma'am. The issue with the three is the same, and it has to do with the fact that there's an identity of interest in the acquisition. The general partner, the current owner, is related to the general partner of the new owner. And the development team -- the developer and such are all related to the current ownership.

And the applicant has requested a developer fee for the acquisition portion of the transaction. We have long held that it would be very difficult, if not impossible, to substantiate to the IRS development work on behalf of an acquisition that they are materially owned and operated and have already -- already have all the risk for.

And so we did not include the developer fee for the acquisition portion in our analysis. In the appeal the applicant indicates that there is work that's being done -- pre-application work that's being done -- site inspections and third-party reports like appraisals and market studies and surveys, et cetera.

We agree that those -- that work is being done. However, the applicant's already included that work in the new construction portion. And to the extent that that was actually acquisition work, it should have been included as 4 percent to the extent that it is properly -- they've received a full developer fee on that work.

So we would contend that those acquisition -- those activities that are being identified as acquisition activities were really and truly activities that they've been paid a fee on -- or allowed to be paid a fee on.

MR. CONINE: Could you read the three names off

for me one more time?

MS. CARRINGTON: Yes, sir.

MR. CONINE: I mean, the project numbers.

MS. CARRINGTON: The three developments?

MR. CONINE: Yes.

MS. CARRINGTON: They are the next three in your book, 04-098, Copperwood, 04-101, Pleasant Hill, 04-107, Whitefield Place Apartments -- three different regions, Region 6, 7, and 9 -- same developer -- same issues.

MR. CONINE: What happened to the Los Milagros or --

MS. CARRINGTON: Los Milagros has been withdrawn.

MR. CONINE: Okay.

MS. CARRINGTON: Villa Del Sol has been withdrawn.

MR. CONINE: Thank you.

MS. CARRINGTON: Baybrook has been withdrawn.

MR. CONINE: Now I'm up to speed. Do we have any public comments on any of those three?

MR. GOURIS: Not on those three, but on --

MR. CONINE: Not on those? Huh?

MR. GOURIS: Not on those three, but on this

next --

MR. CONINE: This group of three?

MR. GOURIS: On these three -- on this group of three. Yes, sir.

MR. CONINE: Copperwood, Pleasant Hill --

MR. GOURIS: Yes, sir.

MR. CONINE: -- and Whitefield?

MR. GOURIS: Yes, sir.

MR. CONINE: All right. Who do we have?

MR. GOURIS: Mr. Patierno, I believe.

MR. PATIERNO: Good afternoon. My name is Paul Patierno. I'm with Apartment Investment Management Company, AIMCO. We are a publicly held REIT.

I'd like -- first of all, I'd like to express our company's appreciation for the three reservations on the at-risk properties that we received. We are very appreciative of that.

As Tom mentioned, the underwriting analysis recommends that the developer fee associated with the acquisition cost of the building be disallowed -- be fully disallowed from eligible basis. The disallowance results in a reduction of the annual credits calculated on this portion of the developer fee.

The underwriter's recommendation is based, as

Tom mentioned, on an identity of interest transaction. And it was stated in the analysis that it is difficult to substantiate any significant developer work associated with the acquisition portion of the transaction, and also that the pre-acquisition determination of feasibility of acquiring a property is much simplified when the buyer has control of the property in question.

Another statement in the analysis is that many of the activities involved in the acquisition from an affiliate are generally performed by the seller, and therefore, the seller would be paying themselves for such work with tax credit equity.

Please be advised that the property is currently owned by a partnership. Again, I'm not addressing these three properties as one. Please be advised that the property is currently owned by a partnership that includes AIMCO with a minority partnership interest and unaffiliated individuals with a majority limited partnership interest.

In the case of Pleasant Hill, for example, AIMCO has 5 percent and the unaffiliated partners have 95 percent. Copperwood, I believe, is about 25 percent AIMCO, 75 percent unaffiliated. And Whitefield is about 20 percent/80 percent.

As a publicly held company AIMCO is subject to many fiduciary and regulatory requirements imposed on the purchase of a property from a -- where an affiliation exists. The majority of the consent of the selling partners must be obtained, and the property must be acquired at its fair value.

The transactional activity associated with the sale/purchase will be performed by AIMCO. However, the net sale proceeds will be -- they're generally distributed among the partners based on their ownership -- their relative ownership percentage.

So, I mean, in the case of Pleasant Hill, for example, AIMCO will receive 5 percent of the net sale proceeds remaining after payment of the seller's partnership obligations, and the unaffiliated partners will receive 95 percent.

AIMCO -- what AIMCO has experienced with the properties' operating history, the company must still conduct a pre-acquisition determination feasibility under its new capital structure. Such new structure includes its fair value purchase price and planned rehabilitation work, which is between 20,000 to \$30,000 hard cost per property.

And I'll wrap it up really quickly here. And

could have the opportunity to seek the highest and best use of this affordable development -- this at-risk development.

As the nation's largest owner of affordable housing, AIMCO has chosen to preserve the property for long-term affordable use. The company's decision was based upon concern for its residents and on the financial incentives offered under the LIHTC program.

Such incentives includes the financial feasibility offered for the credit equity associated with the developer fee earned on both the developer's effort to acquire and preserve the asset and on performing the rehab work necessary to extend its useful life and enhance the lives of its residents.

We would respectfully request the Department to reconsider its recommendation of considering the acquisition-related development fee as fully ineligible.

MR. CONINE: Any questions?

(No response.)

MR. CONINE: Thank you very much. Any other public comments on these three that we may have witness affirmation forms for?

(No response.)

MR. CONINE: Okay. Any questions of Tom? Tom,

what do we normally do in third-party acquisition rehab deals as opposed to an identity of interest rehab deals on --

MR. GOURIS: Third party are allowed acquisition fee for -- developer fee for the acquisition.

MR. CONINE: They are.

MR. GOURIS: Yes, sir. In fact, we're going to talk about another one next.

MR. CONINE: Oh, we are?

MR. GOURIS: Which has an interesting twist to this -- to our discussion. But I might point out that -- to be clear, we're allowing and encouraging a developer fee on the new rehabilitation portion and all the activities for which a costs incurs that they've included in the new rehab portion of the costs.

So the survey, the third-party -- all the rehabilitation work, there is a 15 percent developer fee -- eligible developer fee allowed for that portion.

It's only the portion of the acquisition itself, and there were no other costs associated with the acquisition that were listed on the acquisition side of the cost breakdown. So all of their costs for acquisition, other than the acquisition itself, were shifted to the new cost portion of the transaction, which

receives a 9 percent credit versus a 4 percent credit for the building acquisition piece.

So they moved all of those costs to the 9 percent side and are getting a 15 percent developer fee on that. It's only on the acquisition itself of the buildings that they -- that we're limiting their developer fee.

MR. CONINE: Is this consistent with what you've done in the past on related -- on similar transactions?

MR. GOURIS: It is consistent with how we dealt with previous transactions.

MR. CONINE: Any other questions of Tom or anybody else?

(No response.)

MR. CONINE: Do I hear a motion?

MR. BOGANY: I move to deny the appeal.

MR. SALINAS: Second.

MR. CONINE: A motion to deny and a second.

Any other discussion?

(No response.)

MR. CONINE: Seeing none, all those in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: Opposed?

(No response.)

MR. CONINE: The motion carries.

MS. CARRINGTON: The next transaction for the Board's consideration is 04-147, Shiloh Village, Dallas, Region 9. And, Mr. Gouris, was this one that --

MR. GOURIS: This is one that had two pieces to it. They made an appeal to the executive director, and the executive director held in favor of them on part of it because part of the appeal had to do with the costs associated with the property condition assessment.

Initially, the information they provided was inconsistent with the property condition assessment. We asked for revised -- or clarifications on their property condition assessment, and they were able to provide those.

Though they were after the Board had determined, you know, the award, they still came before the appeal was presented.

And we felt like, because this isn't the first year for the PCA and because there is a lot of uncertainty with the PCA that we should go ahead and grant the appeal on that portion of it. So that piece is taken care of.

On the second piece -- the second piece had to do, again, with the developer fee. And in this case it is

a third-party acquisition. The new owner had, as far as we can tell, no interest in the property prior to acquiring it earlier this year.

However, they have indicated that, instead of including the developer fee for the acquisition as part of the acquisition basis, they would like us to account for it in as new -- under the new construction piece of the basis and account for it at 9 percent instead of 4 percent.

We believe that there's very strong guidance with regard to put personality historical. Historically, we've always put 4 percent costs with 4 percent costs and 9 percent costs with 9 percent costs. And therefore, we recommend the full developer fee, but applied for the acquisition piece under the 4 percent costs and for the new rehab under the new -- under the 9 percent costs.

MR. CONINE: No public comment on this one?

MS. ANDERSON: No, sir.

MR. CONINE: Any other discussion? Or do I hear a motion?

MR. BOGANY: Move that we deny the appeal.

MR. CONINE: Motion to deny. Is there a second?

MR. SALINAS: Second.

MR. CONINE: Any discussion?

(No response.)

MR. CONINE: Seeing none, all in favor signify by saying aye.

(A chorus of ayes.)

MR. CONINE: Opposed?

(No response.)

MR. CONINE: The motion carries. All right. Back over to you, Madame Chairman.

MS. ANDERSON: Thank you, Mr. Vice Chairman.

MS. CARRINGTON: The next appeal for your consideration is 04-149, Seton Home Center for Teen Moms in San Antonio, Region 9.

MR. GOURIS: And in this case they have made an appeal based on the -- our reduction of the HOME funds. We went ahead and looked at the new information they provided us -- how they were going to ensure that the HOME funds would remain -- would not have to be removed from basis, and grant -- and the executive director granted the appeal on that issue.

We left it in the book and then pulled it because there was a -- there's still a small discrepancy.

Though it wasn't discussed in the appeal itself there's a small discrepancy with regard to the amount of the credit

versus the amount of the requested credit. And that difference was -- is due to the applicant exceeding the 10 percent -- or, I'm sorry -- the 5 percent contingency guideline.

But they made no mention of that in the appeal. We left it on there in case they wanted to bring it up today. I don't know if there's anyone here --

MS. MCIVER: [indiscernible].

MR. GOURIS: Thank you.

MS. CARRINGTON: And for the record, that comment was that they are withdrawing the appeal. The next one for the Board's consideration, 04-160, the Village Hobbs Road, League City, Region 6. This one has been withdrawn.

The next one for consideration, 04-194, Lexington Court, Kilgore, which is Region 4. This one I believe has also been reconciled. Has it not, Mr. Gouris?

MR. GOURIS: Yes, it's been reconciled. Yes, ma'am.

MS. CARRINGTON: So this is being withdrawn also?

MR. GOURIS: Yes, ma'am.

MS. CARRINGTON: 04-228, Stone Hearst, Beaumont, Region 5.

MR. GOURIS: This transaction also had been granted partial relief by the executive director. In granting part of the relief based on a shift in cost by the applicant that was identified as part of their appeal, the Department went ahead and re-underwrote that, increased the credit recommendation from 622,615 to 633,496. However, this is still less than what the applicant requested, which was 685,739.

The applicant's requested additional credits based on their contention that the project was not appropriately underwritten and should have been underwritten at a higher Marshall and Swift cost of using the good quality cost versus the average quality cost.

It's very rare for us to use anything but average quality cost. The exceptional situation would occur when the amenities were such that -- and the quality of construction was such that, you know, we could clearly determine that it was a higher quality construction. We didn't find that to be the case in this instance.

In addition, the applicant provided some cost information based on a project in Abilene that they are now under construction. In fact, I think this morning you heard testimony about the transaction that's called Anson Park. And I think the testimony you heard was that they

actually haven't turned any dirt yet, but they're in the process of starting construction.

Based on the fact that that transaction that they provided substantiation for their costs on is on the other side of the state, it doesn't carry a whole lot of weight with us. And therefore, we don't recommend the appeal.

MR. BOGANY: Move to deny the appeal.

MR. SALINAS: Second.

MS. ANDERSON: Discussion.

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote. All in favor say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries.

MS. CARRINGTON: The next one for your consideration is 04-246, Wildwood Trails, located in Brownwood, Region 2. This one I believe is also resolved.

MR. GOURIS: I believe so. We left it on because it's similar to the last one where we resolved most of the issue. I don't know if anyone's here to speak on it.

MALE VOICE: (No audible response.)

MS. CARRINGTON: For the record, it has been resolved and no further action is being requested.

The last one for the Board's consideration in the appeals is 04-268, Lansborough Apartments located in Houston, Region 6.

MR. GOURIS: This appeal is based on the loss of credits due to the property's ability -- or underwriter's anticipation the property has the ability to service additional debt and based on the ability to charge and collect the maximum 30 percent, 40 percent, 50 percent, and 60 percent rents.

The applicant has provided in their appeal documentation to suggest that this maximum tax credit rents were not -- are not achievable. Our requirements are that we look at the market study and look at what the market-adjusted rent is based on the market study. And if the market-adjusted rent is higher than the maximum rents we use the maximum rents. And what we -- that's the way we follow -- what we followed this time. And therefore, we used the maximum rents.

The applicant's indicated that the maximum rents aren't achievable, and they gave us three comps that were included in the market study suggesting that maximum

rents aren't achievable.

When I looked a little further at those rents I found that at least -- in at least one case part of the reason that the rents that they were collecting at these other -- at this other property wasn't the same as the maximum rent because they had a different utility allowance makeup.

And, in fact, I looked at all three of them. And in all three cases the utility allowance that we had originally underwrote at was significantly higher than the utility allowance that were being used in this case.

I double-checked the utility allowance in this case and it looks like we're using the right ones now for this transaction. And so I think there's a difference in -- from what their basis is in the rent. The difference in rent is only 30 -- \$40 a unit, and that's in most cases -- in fact, in some cases it's less than that.

And so we think that that's why there's this difference.

We also believe that part of the reason why the existing transactions might not be achieving the maximum current 2004 rents right now is because there's a lag in the time when a transaction -- or, I'm sorry -- a unit turns over. And, you know, it takes time for it to turn over. And the owner of the property may not be able to

charge the maximum rent, you know, six months, nine months later after the rent has gone up.

So those are the rationales. I did also look at the comparables and looked to see that at least one of them that I could verify were charging what they thought were the maximum rents in the area for the 60 percent units.

The applicant has indicated, because there's a difference between the 60s and 50s, that there's also going to be a similar difference between the 40s and 30s.

It just hasn't been our practice to reduce those maximum rents if we think the market can bear it. And I believe --

MR. BINGHAM: Thank you. I did receive the Department's response yesterday. And as Mr. Gouris indicated, the Department's argument for denying the additional credits is that their rents differential. They told me the Lansborough and the tax credit comparables is due to the higher utility allowances, and that is correct.

But I also would like to observe that the underwriters reduced the utility allowance for Lansborough by \$15 per unit for each unit. And if we could --

MS. ANDERSON: Is that the conclusion of your testimony or do you have some more things you'd like to

say?

MS. BINGHAM: I would basically like to say that the -- agree with the staff that the difference between the Lansborough numbers and the numbers in the -- with the tax credit comparables is the utility allowance.

The comparables are allowed a higher utility allowance than the Lansborough. The Lansborough utility allowance was reduced by the staff by \$15 per unit, so we would question that we be allowed to use the comparable utility allowance.

MS. ANDERSON: Thank you, ma'am.

MS. BINGHAM: That concludes my --

MS. ANDERSON: Thank you very much. What's the Board's pleasure?

MR. BOGANY: Why did you reduce it down 15?

MR. GOURIS: We look at the current utility allowance instead of -- in this case City of Houston. We pulled that -- we pulled off exactly the utility allowances that the City of Houston is saying today are what they are.

There was an adjustment based on what the applicant had indicated. I don't believe that we were able to confirm why there was -- they had used a higher utility allowance number. That's why their transaction

had a different utility allowance than what they submitted.

I will point out that at least one of the comparables that has been indicated the utility allowance is higher because the tenant is paying water and sewer. And so that would increase the utility allowance for that transaction.

And -- thank you, Lisa. One other thing. When we were looking at it the -- we believe that the utility allowance that the applicant provided also included utility allowance for range and refrigerator. Those line items are historically not included in our utility allowance because those would indicate that the applicant -- I'm sorry -- the tenant is actually bringing in his own range and their own refrigerator. And that's not common. Those are usually used for single family rentals and such. So those usually not included in our utility allowance calculation. And that might also explain the difference.

MR. CONINE: Move to deny the appeal.

MR. SALINAS: Second.

MS. ANDERSON: I'm sorry. Mr. Mayor, did you second?

MR. SALINAS: Yes.

MS. ANDERSON: Okay. Discussion?

(No response.)

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Motion carries.

MS. CARRINGTON: I know of no other appeals that have been timely filed.

MS. ANDERSON: Thank you.

MR. CONINE: If someone could tell me right quick -- a lot of what I heard today -- a lot of it makes sense like, you know, turnover in senior apartments are not as much as normal turnover, and the IREM numbers are different and the Marshall and Swift numbers are different.

The way to fix that is in the rules and procedures of underwriting and so forth that's going to take place later on for circulation today. And I would encourage everyone to give the Department plenty of input there, because we can modify and do what you're asking us to do here in the future when the rules say that we can allow for such adjustments. And staff can do that without

having to come to the Board. So let's try to -- let's see if we can make happen for next year.

MS. ANDERSON: Thank you. I do have one witness affirmation form for Debra Guerrero. And it's for agenda item 5(a), which we just completed. And I don't think your development was on this --

MS. GUERRERO: It's 5(c).

MS. ANDERSON: Okay. Thank you. So, Ms. Carrington, Item 5(b).

MS. CARRINGTON: Thank you, Madame Chair. Items 5(b) is an informational item for the Board. Staff has completed an analysis of the 2004 Housing Tax Credit applications that would likely have been recommended for an award of tax credits under two specific circumstances. And we are calling these applications the impacted applications.

The first scenario -- the first discussion is those applications that would have most likely been recommended to the Board for an allocation of credits had the Department not implemented the scoring under the emergency Qualified Allocation Plan.

The second list is a list of those applicants -- applications -- and actually, there's only one on that list -- that would have been recommended had

the successful quantifiable community participation appeals not been granted by the Board.

We have two scenarios that we are presenting to the Board this afternoon. Scenario one are those four transactions that were impacted by the implementation of the emergency Qualified Allocation Plan. And that is Region 2, Gardens of Tye, Region 2, Gardens of Burkburnett, Region 3, Providence at UT Southwestern, and Region 10, San Diego Creek.

We've also behind the staff write-up provided you the chart that you are familiar with looking at, which is sorted by region allocation status, that shows those particular impacted transactions.

Scenario number two is the scenario where we looked at the scoring in quantifiable community participation and determined those applications that were affected by successful appeals on QCP. There were actually five applications that received an additional 12 points, but there was actually only one Housing Tax Credit application that was likely impacted by the successful QCP appeals. And that is in Region 11, and that is La Vallita Apartments in Brownsville.

We then did a scenario three, which was combining one and two -- combining the scoring on the A.G.

opinion and then combining the scoring on QCP to see if any other transactions would pop up that were impacted. And what we found was that it was that same five -- those same five applications.

So that is an overview of the item. And I'd like to ask Brooke Boston, our director of multi-family, to come to the podium and answer any specific questions that the Board might have on our methodology, how we went about doing this, and how these particular developments were identified.

MS. BOSTON: I'm waiting for specific questions. Right?

MS. CARRINGTON: You might -- why don't you go through the methodology.

MR. CONINE: You're supposed to tell us how you did all this.

MS. BOSTON: Okay. In terms of the first scenario with the -- which was the one that was basically looking at this from the perspective -- we basically just went through our database and kind of pretended that the A.G. opinion had never occurred. So, basically, every scoring adjustment that we had made in preparation -- in response to that emergency QAP as it was proposed -- we basically removed that -- went back to the total number of

points that each application would have been awarded.

Keep in mind that if someone lost points in June or even July for some reason that wasn't related to the emergency QAP that adjustment would still be in here.

So this is fully reflective of every scoring adjustment that would have been made.

I think -- I just know from hearing people chat, it seems that some people feel like they were impacted and are not on our list. And the reality is that they may have had other scoring adjustments for other reasons that made them actually not be impacted under one of these scenarios.

And then, as it relates to the quantifiable community participation, when we ran that scenario we actually kind of undid scenario one and said, you know, keep in everything else as it is and just pretend that, for instance, each of the appeals that the Board had reinstated, and then staff went back and scored the QCP letters, had not taken place.

As well, when we went back and adjusted based on all the QCP letters that had been restated there was a group of our 85 applicants who get what we call the average, which means they got the greater of zero or the average. And in this case that average had originally

been one point and it was bumped up to two points. So we made that adjustment as well and again, looked to see what the impact was. So that's where we came up with these five applications.

MR. SALINAS: So what you saying about the five applications that --

MS. BOSTON: Basically, staff believes that, had the A.G. opinion not taken place, or had the QCP appeals not been restated, these five applications would have gotten an award.

I'd also like to make one other comment. One of the applications out of these five has a two million violation. So you all still wouldn't -- if you were considering any kind of action as a forward commitment it's not eligible.

MS. SALINAS: Which one?

MS. BOSTON: It's 04-192, Providence at UT Southwestern.

MS. CARRINGTON: Would you explain the two million violation, Brooke?

MS. BOSTON: Yes. I'm sorry. There's a legislative requirement that's then also codified in the QAP that limits no more than two million in credits can go to any one applicant. And this applicant -- I don't know

exactly the number, but if you were to get this one it would put him over. And the applicant's aware of this; we've talked to him about it.

MR. SALINAS: So what you're --

MS. ANDERSON: This is an information item on the agenda. Right?

MS. BOSTON: Correct.

MS. ANDERSON: Not an action item.

MR. SALINAS: But what you're saying is that the other four should have been -- get -- should have been approved for --

MS. BOSTON: Well, not necessarily. I mean if -- obviously we have an emergency QAP in place, and that governs. And you all voted and took action on certain QCP appeals. And so, based on the picture as it stands now, they wouldn't have gotten an award.

But, at the request of some of the Board members, we did want to go back and at least reconstruct a scenario like this to see what might have happened otherwise. So, I mean, I feel like the action that you all took on July 28 was appropriate based on the scores on July 28.

MR. SALINAS: What you're saying the four should be -- should have been approved. But now you're

telling us why. We knew that last meeting. So what you're saying here today is they should get forward commitments.

MS. BOSTON: No.

MR. SALINAS: And so when get them on the agenda for? They already went through some agony last time. It's like San Diego Creek, you know. I could see that guy getting a -- he was approved till noon, then by an hour later he was kicked off. And I can understand the people of San Diego.

I mean, Alice, which are very upset -- and I just don't know how -- Refugio -- who was it -- Robstown?

MS. BOSTON: Robstown is one.

MR. SALINAS: Yes. And last minute they bring a letter from the congressman and somehow they got it worked out where they kicked these guys out. And what I would like to do today, if it's okay with the Board, that these people be allowed to get some forward commitments -- at least these four of them -- at least San Diego Creek Apartments in Alice and La Vallita out of Brownsville.

MS. BOSTON: And I think the next item that we're going to cover is the forwards.

MR. SALINAS: You didn't tell me that.

MS. BOSTON: Sorry.

MS. ANDERSON: We have some public comment.

MS. BOSTON: The very next item.

MR. SALINAS: Okay. Well --

MS. ANDERSON: This is just an information item. The next item's an action.

MR. SALINAS: Well, but, you know, I like to get warmed up and be able to tell you where I'm at. Because I've been waiting for --

MS. ANDERSON: It wouldn't be a Board meeting without that going on, Mr. Mayor.

MR. SALINAS: Well, I want to get warmed up and see what's going to happen here.

MS. ANDERSON: We do have four people that would like to speak to this agenda -- or I actually think it's three people. I've got four forms for three people -- unless you all have some questions of Ms. Boston right now.

Mark Feaster? Then we'll have Danette Dunlap and then Vada Childers, please.

MR. FEASTER: Could I have --

MS. ANDERSON: I know. But let's bring everybody down. We need to -- you know, it's ten after 2:00, so let's -- that's why I'm calling on everybody kind of at the same time.

MS. DUNLAP: Good afternoon, ladies and gentlemen. Danette Dunlap. I'm the secretary for the City of Tye. On behalf of Mayor Childers and the citizens of Tye I would like to thank the Board for hearing these comments today on our project.

We feel like our project was negatively impacted from the Attorney General's decision. And it's our hope for Tye that your Board will reconsider a funding -- a forward commitment for 2005 for our project.

Our community of 1,158 do not have a seniors housing project at all. We're in desperate need of some affordable housing. We currently have 26 families on a waiting list, and they were very excited about this project when we brought it up.

And currently the City of Tye has no type of housing whatsoever. We have no low income, we have no moderate income, and we have no senior housing. This would be the first. And so we'd just appreciate your consideration.

MS. ANDERSON: Thank you.

MS. CHILDERS: I am Vada Childers. I'm on the Tye City Council, and I'm speaking on behalf of the Gardens of Tye Senior Housing, Region 2.

The senior housing has been on the top list of

city planning and five-year goals. This is one thing we have been looking forward for years. I served on the Tye Industrial Board at the time we purchased the required acreage for the senior housing. We were excited because this was our first step.

We presented this to the PMC [phonetic] Board.

We also presented it to the city council, and it was passed unanimous by both. The city council even called a special meeting -- information meeting for the senior housing. We had 60 people to attend this meeting. And I know 60 people to a lot of people is not very much. For the City of Tye to have 60 people to attend a city meeting, this was well received. And we had 20 people to sign up at that time to be on the reservation list.

Needless to say, the city development -- senior development was a strong citizen -- so it has that support. The DNC and the IDC [phonetic], the -- has contributed over \$49,000 towards the development for the land and the funds.

And also, we're next door to the Dyess Air Force Base. We have several Dyess Air Force people living in our community. And we would like to keep these people and have them to move into our senior housing if possible.

We appreciate your consideration for this

development for 2005 forward commitment for housing credits.

MR. FEASTER: Thank you. Good afternoon. I'm Mark Feaster with Continental Realty and the Gardens of Texas. And my comments are addressed both to Burkburnett and Tye in this situation.

We agree with staff's assessment that our two developments have been impacted by the emergency QAP. But, more importantly, two of our communities were impacted.

We are prepared, along with our financial partners, to begin construction in Burkburnett and Tye within 60 days of being allocated tax credits, with anticipation that it would be completed and occupied in the third quarter of '05.

We strive to provide quality affordable senior housing for our communities and would like to urge you to strongly consider a 2005 forward commitment for both the Gardens of Burkburnett and the Gardens of Tye. Thank you.

MS. ANDERSON: Thank you, sir. Do I need to go to Item 5(c)?

MS. CARRINGTON: Okay. Item 5(c) -- consideration and possible approval of issuance of 2005 tax credits as forward commitments to 2004 Housing Tax

Credit applications.

And as the Board begins consideration on this item, I would like to review with you some language that is in the 2004 Qualified Allocation Plan specifically related to Board discretion and forward commitments.

And the language in the 2004 QAP states that the Board is authorized to use its discretion in determining the reasons for making forward commitments considering score and discretionary factors.

When you are awarding these tax credits the Board is required to document the reasons for each application selection, including any discretionary factors used in making its determination. And if you will remember the 2004 QAP, there were a list -- or there is a very long list of items that the Board can use as discretionary factors in determining forward commitments.

I will not read through those for you.

But I would like to remind the Board that we will need for the record on each action that the Board takes the reason that you will be recommending the forward commitment so that we can have that in the record.

And, of course, staff does not -- as is our practice, staff does not have a list of recommendations for forward commitments.

MS. ANDERSON: We have a lot of public comment on this. Do we want to hear that before we put a motion on the floor?

(No response.)

MS. ANDERSON: Okay. I'd ask -- I'm going to read several names at a time, and I'd ask that you come and be staged up here so we don't have a lot of down time between the speakers. And that will just make it go more quickly.

Kenneth Friesenhahn with Representative Mercer's office, Marion Brown with Senator Fraser's office -- either one of those people here? Oh, okay, sir.

MR. BROWN: Marion is a he.

MS. ANDERSON: Oh, okay, sir. The other person isn't here, so if you'd approach the podium and speak to us, please. And the witnesses for Cedar Oak will be next.

MR. BROWN: Madame Chairwoman, Commissioners, Director Carrington. I'm Jay Brown from Senator Fraser's office. I'm here to speak on behalf of project 4017, Country Lane for Seniors in Temple, and a forward commitment of credits.

It would seem that today there's been a reoccurring theme. I've heard rescoring, relooks. This is one of them that's been caught up in it -- on the list,

off the list, on the list.

I think anybody's thought is to be in this situation. But it would seem that if there can be a major disagreement over the meaning of this certainly there can be disagreement over the interpretation of laws and policy.

At the same time, the effect that it has is kind of like Michael Jordan in a T.V. commercial where they got the basketball goal in the NBA moving back and forth and trying to hit a moving target. And that's what the fallout is.

This project I think is a poster child for tax credit program. Number one, it's got need. Bell County is still one of the fastest growing areas in the country.

It's got incredible medical facilities with Scott & White, a nationally acclaimed hospital. It also has a major V.A. medical facility with a growing customer base.

The net effect of this is it's a magnet for senior citizens.

The location for the project is an underdeveloped area of the city. It's got community support. The city has seen fit to commit 100,000 plus to infrastructure and to help facilitate the project.

In terms of its effect on a tax base, it will

contribute to the school property tax base, at the same time without withdrawing on it because there won't be children in the project.

It has a much higher score -- I think close to 30 points -- from the next project in the system. Timeliness -- the need is now.

Spent some time talking with the developer. He assured me that if you all would bless this forward commitment of credits today that he could probably break ground this coming Monday and we could have the first move-in the following Monday. That's moving forward.

MS. ANDERSON: Sounds like a developer to me.

MR. BROWN: So, with that, I'd like to, if I may, quote the esteemed and infinitely quotable Mr. Shadrick Bogany from this morning. Let's get it on. Thank you.

MS. ANDERSON: Thank you, sir. Ms. Bast?

MR. GORDON: Madame Chair?

MS. ANDERSON: Yes.

MR. GORDON: This matter involves a matter in which I recused myself last month. And so, with your permission, I'm going to recuse myself.

MR. SALINAS: What's the name of the last project?

MS. ANDERSON: Thank you, Pat. We will --

MR. CONINE: We're trying to get the name of the last project.

MS. ANDERSON: -- do our best in your absence. Appreciate it. I'm sorry?

MR. CONINE: We're trying to get the name of that last speaker.

MS. ANDERSON: The name of the last development was --

MS. CARRINGTON: Country Lane.

MS. ANDERSON: Country Lane.

MR. CONINE: Oh, Country Lane.

(All talking at once.)

MS. ANDERSON: Go ahead, Mr. Monty.

MR. MONTY: Okay. I'm sorry. Excuse me. Good afternoon, Madame Chair, Director Carrington, Board members, and staff. My name is Ike Monty, president of Investment Builders. I'm here today to request a forward commitment of tax credits for Cedar Oak Townhomes in El Paso, application number 04-070, Region 13.

A forward commitment for this project is important in my hometown because the tax credit awards made in July have left Region 13 underfunded by approximately 600,000, which is the highest underfunding

in the state.

You heard about Cedar Oak Townhomes at the July Board meeting. And just to refresh your memory, this is a townhome development with tenant amenities that have been very well received in similar developments in El Paso.

The development is to be located in a prime infill area near retail centers and employers. Unfortunately, the Cedar Oak project was initially determined by your underwriting department to be financially infeasible. This situation commenced with an unfortunate misunderstanding between your staff and our company.

In responding to a deficiency notice we were advised to change the numbers in our application as required because of the 130 boost. We did so, but two months later received contradictory information saying that we should not change the requested credit amounts. The lag in this revelation was critical.

One the underwriting determination was published in the middle in July we worked to address the underwriting division's concerns. We were successful in addressing a number of concerns, but some remained outstanding at the Board meeting in July. Quite simply, we all ran out of time on the process.

Respectfully, we believe that Cedar Oak Townhomes is a project that's financially feasible. And we believe that we have provided the underwriting staff with sufficient evidence of its financial feasibility.

Our request is that you offer Cedar Oaks Townhomes a forward commitment subject to the condition that all underwriting issues be resolved satisfactorily. This is no different a condition that you would place on any other forward commitment where the application had not completed the underwriting process.

A forward commitment for Cedar Oaks creates a win-win situation. It does not have a negative impact on any other project in Region 13 or any other applicant.

It allows the Board to remedy the significant underfunding for Region 13. And if the underwriting issues cannot be resolved the credits will be returned and available for the 2005 pool. If the underwriting issues can be resolved El Paso will have a desirable new affordable housing community.

On a final note, I've worked with this agency many years and -- to bring quality affordable housing to my hometown in El Paso. My reputation with you is very important to me, and I simply would not ask you to award credits to a development that won't work. I would not

risk my credibility or put my company in a financially untenable situation just to win.

Please give favorable consideration to a forward commitment for Cedar Oak Townhomes. It's critical to me and to my company. Thank you very much.

MS. ANDERSON: Thank you. Ms. Bast and then -- is Ms. Vonberg here? You'll be next. Thanks.

MS. BAST: Good afternoon. I am Cynthia Bast of Locke, Liddell, & Sapp. And we represent Investment Builders with respect to the Cedar Oak Townhomes application.

We recognize that you are hearing many compelling arguments for forward commitments today and that you do have a tremendous decision to make. So to assist you with considering the Cedar Oak Townhomes project I wanted to briefly point out how this project fits within those discretionary criteria that were highlighted by Ms. Carrington as you commented this agenda item.

One fact is the location of the project. As Mr. Monty noted, this project is an opportunity to develop on an infill tract that is near commercial activity. Another factor is the project size and configuration. This project is a townhome configuration that has been

very popular in other sites in El Paso, and the tenant amenities present an attractive feature.

The market study is another factor you may consider. And we do want to reiterate that we believe Investment Builders responded to the concerns about the market study presented by the underwriting department. In addition, Investment Builders has presented a demand study to support the need for the project in the submarket.

The Board can consider the applicant's efforts to engage the neighborhood. This applicant went beyond the notice requirements of the QAP. It held two open houses in nearby properties and sent out approximately 5,000 invitations to the neighbors and elected officials.

In addition, representatives of the applicant literally walked the neighborhood door to door trying to bring information about this project to the neighbors.

Overall housing needs are another consideration, and El Paso continues to have an important housing need. The Board can also consider the allocation of credits among a variety of applicants, which would be a factor here.

And then, finally, there's my favorite factor -- good cause shown. We lawyers love phrases like that. Why? Because it says that you Board members can

consider all of the information that you have heard in the July meeting and today. And you can say to yourselves this is the right thing to do. This is the right thing to do for a region that has been underfunded. This is the right thing to do for a community that needs affordable housing.

We appreciate your consideration of these discretionary factors as they relate to Cedar Oak Townhomes. And thank you for your time.

MS. ANDERSON: Thank you. Ms. Vonberg. And then Mr. Peschka will be next and then Mr. Puhlman.

MS. VONBERG: Good afternoon. I'm delighted to be here. Corinne Vonberg. I would appreciate a recommendation by the Board for a forward commitment. And I have this additional material that I'd like to leave with you.

MR. PESCHKA: Madame Chair and members of the Board. I am here in support of the Cedar Oak Townhomes application. And I'll cede my time to any questions you may have for Mr. Monty.

MS. ANDERSON: State your name.

MR. PESCHKA: Paul Peschka with the Investment Builders. Thank you.

MR. PUHLMAN: Hi. My name is Keith Puhlman

with Investment Builders. And I'm here in support of the forward commitment for Cedar Oak Townhomes.

We have submitted what we believe to be all the information needed to verify the financial feasibility and addressing any other concerns that underwriting has had on -- we'd just like the time to make sure that all those issues are looked at.

And then we would -- I'd be happy to answer any questions that you might have concerning that.

MS. ANDERSON: Any questions?

(No response.)

MS. ANDERSON: No? Thank you very much. Are we going to leave Mr. Gordon wherever he is while we cover the entire agenda item?

MR. WITTMAYER: He can come back unless you're going to take action on that item.

MS. ANDERSON: I think we're going to hear all the comments. We don't even have a motion on the floor.

MR. WITTMAYER: You can have him come back then.

MS. ANDERSON: Maybe we should do that so he can -- just so he doesn't miss anything.

Debra Guerrero? And then next will be Jack Dill and Bert McGill.

MS. GUERRERO: Thank you very much. My name is Debra Guerrero, and I'm with NRP Group. And I am respectfully requesting a forward commitment for the Villas at Costa Almadena in Region 9.

And I just want to first of all thank you and thank this agency -- and I get to do this because in my capacity to working with NRP I actually was a city councilwoman in San Antonio. And you all funded one of the most successful projects that is in this general area about five years ago -- Villas at Costa Delrada [phonetic], where we are at 100 percent capacity. It's a true success story for the agency.

But I want to talk about why the Villas at Costa Almadena is a unique and compelling project and why we are asking for the forward commitment.

First and foremost, this project received a near perfect score, one of the, if not the highest score for this year. It has tremendous community and neighborhood support. It is within a state enterprise zone. And it truly is a project that proposes the maximum use of public and private funds to develop multi-family housing.

It was knocked out by the one-mile rule. And others have already spoken about the one-mile rule. And

what I would like to do and give you and present you with a letter that talks about the intent of the Legislature, as you've heard before. And I'd like to just give you the legal reasons for why the one-mile rule should not apply in this case.

I also think it's important to talk about the community and citywide support for this project. The city showed -- demonstrated its support with the use and designation of HOME funds for this project. It's in a great part of San Antonio -- the southern sector of San Antonio.

And I don't know if you're familiar with this area, but it tended to be -- it tends to be the underdeveloped side until just recently when Toyota decided to locate there, as well as the redevelopment of Brooks Air Force Base. And so all of these economic generators in the southern sector of San Antonio demonstrates our need for more affordable housing.

So I ask you to join with the city in maximizing the use of your incentives and funds to provide quality housing and increased development in this southern sector of the city of San Antonio.

Again, I respectfully request the forward commitment for the Villas at Costa Almadena. And I thank

you very much for your service.

MS. ANDERSON: Questions?

(No response.)

MS. ANDERSON: Thank you very much.

MR. DILL: Thank you, Madame Chair, Board. I just wanted to take just a moment to address the Board with regards to application 04-141, Spring Creek Station Apartments in Saginaw, and update them on what we, as the applicant, 1897 Community Development Corp., have done since our last -- since we voiced our appeal back on July 8.

We have had several conversations and meetings with staff trying to kind of have a debriefing on our application and what concerns they have had. And we've -- I just kind of wanted to update you on that.

But, to give you a little background, the sponsors of the application were notified and asked to clarify several issues during both the staff and underwriting review phase of the application in early May.

Under both instances we were confident that we effectively responded to all questions and concerns of the termination wherever mentioned.

And in June TDHCA terminated the application setting reasons that were not mentioned in the May

deficiency letters. As a result of the appeal we sent both to the Department and the Board. Both were denied.

The Board concurrence with staff's recommendation was based on the concern that the development was not ready to proceed. The restriction of the ex parte communication has hindered the ability of the sponsors to communicate with the staff and Board prior to the final appeal, which was heard on July 8.

Since that date we have had an opportunity to communicate with staff. And it is our belief that they will now concur that the development is ready to proceed and is capable of meeting the typical challenges of a new development.

Additionally, staff should concur that no obstacles are apparent that would prohibit the development from moving forward. If the applicant were initially able to communicate with staff prior to the termination it is our opinion that all the issues would have been addressed, avoiding the likelihood of the initial termination of the application.

If the termination had been avoided application 04-141 would have scored at a level sufficient to be considered a high-scoring application in Region 3, placing it on the staff recommendation list for the housing tax

credits in 2004 allocation.

As a result of this application being one with the high score in Region 3, and that staff concurs the development is now ready to proceed, we are now asking the Board to grant us a forward commitment of 2005 tax credits.

As additional justification, the area of the development is to be located in part of a master plan subdivision. The prospects for resubmission next year are most unlikely. The single family development being produced by a third-party seller is ready to proceed and is anxious for the land to be sold immediately and developed.

The site is likely to be the only developable multi-family zoned site in the city. And failure to secure the tax credits in a timely manner would restrict the city of Saginaw from providing affordable housing to the residents.

So I wish that the Board would consider us for a forward commitment. Thank you.

MS. ANDERSON: Mr. McGill?

MR. MCGILL: (No audible response.)

MS. ANDERSON: Okay. Thank you, sir. Then the next people we have are Bennie Bock II; then -- and Les

Kilday, Dick Kilday.

MR. KILDAY: Madame Chair, Board members, Ms. Carrington, my name is Les Kilday with Kilday Realty Corp.

I can appreciate Representative Menendez' enthusiasm earlier about Region 9 and other regions that he felt were under -- have been underallocated over the last number of years. And with that same enthusiasm I would like to present Green Oaks Apartments to you. And Green Oaks is in New Braunfels, which is in Region 9. It is TDHCA number 04-261.

We are asking for -- requesting a forward commitment of 2005 credits for this development. We have strong support in the community for this development. We have strong support with the city council, the zoning commission, the Chamber of Commerce, who also has strong support from our elected officials, Representative Carter Casteel and Senator Jeff Wentworth.

There is a strong need for affordable elderly units in New Braunfels. The cost of living is rising in that area, and there is a huge need for elderly developments that are affordable. This area -- this development is also located in a growth corridor of the New Braunfels green area, which is growing rapidly right now.

As of June 14 our application was the highest scoring application in Region 9. It was also the second highest application -- nonprofit application in the state.

Due to circumstances that were beyond our control we lost a net total of 19 points for the development. And the circumstances behind it were the -- in preparing the subsidy funding letter -- as part of our 30 percent units that we put in our development we had to have a subsidy funding letter. The deadline for that commitment was June 14.

The chairman of the board of the nonprofit that was providing the subsidy for us had a tragic death in his family a little over a week before this deadline, June 14.

That took him out of his office the whole week. And the day he got back into the office he finalized this commitment and sent it to the Department. That was sent to the Department on June 15, the day after the commitment deadline.

We have -- throughout this application we have walked the walk, so to speak, with this development. We have provided mixed income units. We have provided low income units at all 30, 40, and 50 percent levels. And we have provided a secondary subsidy funding. And we have also maximized amenities.

Along with the information I sent you on the memo in your packet that I just sent around there's also the support letters to go with it that were in our application originally. We are asking the Board today to understand the unique circumstances in our situation and to grant us a forward commitment of 2005 funds for Green Oaks Apartments in New Braunfels, TDHCA number 04-261. Thank you for your consideration.

MS. ANDERSON: Thank you.

MR. BOCK: Madame Chair, Commission members, Ms. Carrington. My name is Bennie Bock. I'm a former state representative from New Braunfels. I'm here to echo the sentiments of the community, as well as provide you two reasons that you have to have in order to go forward with this.

One, we worked countless hours on this application within the community. I normally do not take clients anymore. I practice law for myself and my family.

This was a particular thing of interest for me. And I think it's proven by the fact that we had almost unanimous consent -- assent to do this project within the city.

We spent countless hours before the planning and zoning commission, before the city council, and especially at the Chamber of Commerce. The Chamber of

Commerce endorsement of this project is significant. And, in addition to that, this particular kind of project is within the master plan of the city. So it falls into a lot of categories that's there.

Secondly, the senior population in New Braunfels is growing. I'm in the noon Lions Club. I've lived in New Braunfels 60 years. I'm one of the younger members there. People are on fixed income. And I might add, every time they look for a volunteer they come to me because they think I've got more energy than some of them. But I -- that's the number one reason. The community support is there, and there is a need.

The second reason is that, through no fault of their own, the applicants who were scheduled to receive funding had something that happened to them that happens to us a lot. It was an act of God, and as far as I'm concerned in every contract that I've seen, performance is generally excused if an act of God occurs.

So I think you can point out that they were not dilatory, they were not negligent, and they have the support and the application would have been funded had the gentleman's mother not died in an untimely manner. Thank you.

MS. ANDERSON: Thank you, sir.

MR. KILDAY: In the interest of time I yield my time.

MS. ANDERSON: Thank you, sir. The next two speakers are Mayor Jones and Mark Watson, Temple.

MAYOR JONES: Madame Chair, Board members, Director Carrington. Thank you very much for moving us up a little bit. We have a council meeting here shortly, and appreciate your indulgence.

Thank you for the time to come before you today on behalf of the Country Lane Seniors Temple, Project 04-017 in Region 8.

This project, again, was previously approved by TDHCA on the June 28 meeting. And with the rescoring that was done, the Country Lane Seniors Temple project came off the list, but still retains a very high score.

This is a project that we in the city of Temple feel is extremely important for us. We have committed a \$110,000 from the city to assist with bringing this project to the community to pay utilities cost in this development.

As Mr. Brown from Senator Fraser's office indicated a short while ago, this is in a great location in a community that has a growing senior population. About 30 percent of the community of Temple today is --

they are seniors.

We are four miles away from Scott & White Hospital and Clinic, one of the top 100 hospitals in the nation today. And we are also three miles from the Veterans Administration Clinic, which is the second largest V.A. facility in the Dallas District -- two extremely fine health care facilities that, again, are attracting our senior citizens to this area, making this project one in which our community would benefit greatly, as would the people that would live in this facility.

Let me make a couple of comments relative to the due diligence that our community spent in looking at the developer of this project and other projects. We just don't want a project in our community for the sake of having a project. We certainly would like affordable housing, but we have a strategic objective in the city of Temple to have the best quality of life.

And along with that, we want to look at those facilities and make sure that, even though they're affordable, that the quality of life is very high. We looked at his other facility in McKinney. It meets those objectives.

And I appreciate the time that you've spent today and your service to the state of Texas. Thank you

very much for your time, and we appreciate your consideration and approval of Country Lane Seniors in Temple.

MS. ANDERSON: You want to go ahead, Mr. Watson? Thank you.

MR. WATSON: Madame Chairman and members of the Commission. It's good to be back here a month later. I think that you've heard a lot of good information about this particular project.

And the due diligence that we went through -- we're a very interesting community as far as a target for tax credit projects. And I think that one of our lacking areas has been the area of senior citizens' housing. So if we were to look at a top project in the region I believe that our senior housing program was of great interest to us. Otherwise, we would wait around for another around of tax credit projects.

So we think this is vitally important for us. And we'd ask a favorable consideration for a forward commitments in 2005 funds for this project. We think it will -- as Mr. Brown had said, a very model project for the region.

So we thank you for your time and consideration, and thank you for -- I'm going to be the

driver of the -- we're going to call for the police escort on the way home. Thank you.

MS. ANDERSON: Get him back on time.

MR. WATSON: You bet.

MS. ANDERSON: All right. Thank you, sir.
Okay. Next is San Diego Creek -- so David Vela, Yolanda Moran, William Brown.

MR. VELA: Good afternoon everyone. My name is David Vela. I'm the assistant city manager with the City of Alice. Do appreciate being here. I'm going to go ahead and read a letter from our Honorable Mayor Pro Tem Michael Esparza into the record.

Dear Committee Members, please consider this support letter as a final request for consideration for the forward commitment for San Diego Apartments in Alice, Texas, application number 04-050.

The development team, elected official from the City of Alice, elected county and state officials, community organization, and city staff has spent a substantial amount of time working on bringing this much needed project to the citizens of this community.

This community has supported this project, which is evidenced by the number of support letter, as well as speakers that appeared in the San Antonio and

Corpus Christi public hearings, and the July 28 TDHCA Board meeting.

As noted by TDHCA staff, this project was impacted by the Attorney General ruling. It would most likely have been recommended to the Board had the emergency Qualified Allocation Plan not been implemented.

We feel that the Board and staff would be hard pressed to find a community in rural areas that has given more support for a project than the community of Alice has given for San Diego Creek.

Again, we encourage you to consider this worthwhile project for a forward commitment. Thank you in advance for your consideration and recommendation.
Sincerely, Michael Esparza, Mayor Pro Tem, City of Alice.

And I don't have anything really different to add than that, other than I have a -- I manage the city softball team, and we've got the final game and are looking for our first win. So I've got to get back on the road.

But we do appreciate your consideration for this project. Thank you.

MS. ANDERSON: Thank you. Ms. Moran?

MS. MORAN: Good afternoon, Madame Chairperson and members of the Board. My name is Yolanda Moran. I'm

the director of community development and planning for the City of Alice. And you have to forgive me, but I'm trying to overcome a cold.

If you recall, we were here on July 28. We headed out at 4:00 a.m. in the morning to make it here in time. And we were here at that time to thank you for recommending us for a project. And whether we were still asleep or -- I don't know what happened. We found out that we were pulled off the list. And so here we are again today asking now to be considered for a forward commitment.

The San Diego Creek Apartments -- I promised one particular target population that this project will meet the housing needs of -- and that's a support group that I took with me to a local public hearing in Corpus Christi -- and that was the Mayor's Committee on Disability, specifically the Blind Leaders Association.

You know, you can imagine. I've never driven a passenger van, and I had these senior citizens -- and some of them were blind. I don't know who was more nervous, me driving the van or them not being able to see where we were going.

But, anyhow, it was important to them to appear during that public hearing. And I think you would be hard

pressed to find that the City of Alice, throughout all the public hearings -- we appeared at every single one of them. And we would have been tied with the City of Robstown had the emergency Qualified Plan not taken place.

This project -- for those of you who are familiar with the city of Alice, we're west of Corpus Christi -- 50 miles west. We're on 281. The area that the proposed project is being recommended to be built on is an area that, because of our relief bypass, has suffered a lot of bleak and blight.

However, we have started pumping economic dollars into that area. We have built the new elementary school. The proposed project will be about five or six blocks from the new school.

We have had tremendous community support, and we've been coming to every public hearing. We are here again today. And I agree with Mayor Salinas that we should be considered for a forward commitment. And I promise you, if you take action on staff's recommendation, we won't come back next month. Thank you very much.

MS. ANDERSON: Thank you. Mr. Brown?

MR. BROWN: Good afternoon. My name is Bill Brown. I'm here to speak on behalf of San Diego Creek Apartments, 04-050, Region 10.

I don't have a lot to add. I think that -- I believe they've said it all. I met -- started almost a year ago meeting with the community. And all I can say is they have done everything to bring this project to the community.

There hasn't been a project in that community for four years. I think 2000 was the last one. There's a dire need, as there is in a lot of areas.

So I'm here to hope that you all will consider this project. It was one of the list of the four that was impacted. And so we're asking for your consideration for a forward. I appreciate it. Thank you.

MS. ANDERSON: Thank you, sir. Ken Mitchell. Then Bill Ruddock, Brad Forslund, Granger MacDonald.

MR. MITCHELL: My name is Ken Mitchell. Good afternoon. I'm here to speak on behalf of Country Lane Seniors Temple Community. I have a handout.

We were recommended -- I'm sorry -- at the June 28 meeting. And we replaced a friend of mine, Leslie Donaldson. I have this form here for you and -- I'm sorry, Leslie Holleman. And, anyway, she went off and we went on unexpectedly.

And I saw Leslie. I said, Gosh, I'm glad I'm on but I'm sure sorry that you're off. And I'd like to

work you get -- work with you to get your deal approved because her project was in Belton. And Belton -- I mean, it's just a great town. I mean, it's never had a tax credit project in the history of the program. And so I really thought Belton should be number one on the list. But it got replaced. And so I was not happy about that for Leslie.

And so little did I know a week later Leslie would call me and say, Gosh, Ken, I'm sorry, I just replaced you on the list. And you're off and I'm on. And so she said she would help me. And we decided not to fight each other but somewhat work together.

But, as you can see, on June 28 I was approved by the Board. It was given 144 score and a second approved project. If you'll look at this sheet -- I want to somewhat go over what happened -- why I did lose points. I'm looking at this sheet right here if you have that in your handout.

I selected in my scoring the category 14 leveraging. And some of the other applications scored selected 13, which is like on targeting. The way the rules were written you couldn't select both of them. You had to, you know, take your choice.

And I lost out when we had the -- on July 8

when we had the new 10-point category for rents. And I was ineligible -- of the 10 points allocated I was ineligible for 6 of those points.

I think this is really a technical glitch in trying to bring the QAP -- in the Attorney General's opinion is bound to be a few holes somewhere and a few glitches somewhere. And -- but it adversely affected projects that selected leveraging when they added this new 10-point category, because, like I said, I was ineligible for 6 points.

I think that if I have city funds I should be able to serve families in the 30 percent AMI -- is that the bell?

MS. ANDERSON: Uh-huh.

MR. BROWN: Can I introduce two things real quick? I'm sorry. This sheet here is leveraging in the 30 percent and my target -- there were three projects affected by this glitch. Gardens of Tye has been approved. Family Square is shown as impacted. And Country Lane would be the third project.

As far as the scores, our score is high or higher than all the impacted projects. We have a score of 147. And thank you for your consideration.

MS. ANDERSON: Thank you, sir. Bill Ruddock?

MR. RUDDOCK: Good afternoon. My name is Bill Ruddock. I'm chairman of the board of the Victoria Housing Authority and also president of the Victoria Affordable Housing Corporation Number 2. And I came here today to address you about the 2004 application for an allocation of low income housing tax credits for the Thomas Ninke Senior Village, an 80-unit project for very low and low income elderly residents in Victoria, which is Region 10.

As you know, our application scored the highest record in urban and exurban category with 154 points after rescoring. However, because of the LULAC Village Project in Corpus Christi, which scored only 102 points, was allocated almost 900,000 in tax credits at the July 28 board meeting because it is an at-risk project. There was insufficient tax credits remaining in Region 10 for an allocation to the Thomas Ninke Senior Village project.

We request a forward commitment of 2004 or 2005 tax credits for the Thomas Ninke Senior Village project to help us meet the need of the very low or low senior citizens of Victoria for new housing that is affordable to them.

And this project is strongly supported by the city of Victoria. State Representative Geanie Morrison --

I think you heard Mark Zaferro this morning, who represented her -- and the community. And I think the Board has a letter in their possession from State Senator Ken Armbrister and also from the Victoria City Council.

We would appreciate your support for the Thomas Ninke Senior Village project with a forward commitment of tax credits. And on behalf of the Board of Commissioners and the board of directors in the community of Victoria, I thank you for your consideration.

MS. ANDERSON: Thank you, sir.

MR. FORSLUND: Good afternoon. My name is Brad Forslund. I'm representing Churchill Residential -- the developer for a project called Churchill at Commerce, TDHCA number 04-118. I'm here today to request a carryforward -- or a forward commitment for 2005 tax credits.

The reasons why we feel that this is warranted are the following. Number one, it's located in Region 3.

This year the rule set aside for Region 3 only had 6-1/2 percent of the total allocation allocated to it. That, coupled with a USDA application, basically used enough of the funds, thereby eliminating any other applications in that set-aside. Therefore, there are no -- there will be no new construction in any of the rural markets in Region

3.

The second reason why we feel this is warranted is we have very strong political support. We've got support from State Senator Robert Deuell, State Representative Dan Flynn, the mayor and the entire city council, the county judge Joe Bobbitt, and the Chamber of Commerce.

This transaction also has a grant commitment from the Federal Home Loan Bank of \$150,000 that will expire at the end of the year if we do not close.

Number four, the city of Commerce has not had a new tax credit development in seven years, though our study shows a very strong need for affordable housing with a capture rate of 17.7 percent.

The fifth item is our application, compared to the urban/exurban -- our score is higher than five of those particular applications.

So, with that -- with those reasons in mind, I request that the Board grant a forward commitment for tax credits for Churchill at Commerce, number 04-018. And with that in mind also I would like to assure the Board that we will build this community, I will get it done, and it will be a community that we will be proud of, as well as the agency. Thank you.

MS. ANDERSON: Thank you.

MR. MACDONALD: I'll be brief. I'm Granger MacDonald. Two months ago, about ten or 12 meetings I guess -- it seems that way anyhow -- I came to you about Region 9 rural being shorted on its allocation. It was, in fact, shorted on its final allocation, and, in fact, \$125,000 were exported out of Region 9 rural that were allocated to the rural so -- that went unfunded in the region.

I'd ask that that funds be put back into the region and that you fund for a forward commitment in Fredericksburg, Texas, Friendship Place, 04-008. We have tremendous community support. We had no one opposing us.

The project is well located, and there is a tremendous need for workforce housing in Fredericksburg.

Fredericksburg is a resort-type community. It's driven up the price of housing for everybody around there so that working people are in a real bad way. We've had a couple of seniors deal -- small seniors deal this year was allocated for Fredericksburg, and I have to say it's well needed also. But we've got to take care of our workforce.

One of the ladies that showed up at our public hearing -- we had a Ms. Ramirez -- she is a mother of

three. Her husband's a car mechanic. They're having to live with her in-laws because they can't find a place to live in Fredericksburg. And she calls our office about once a month wanting to know how soon we're going to be under construction. And after today I'd like to be able to give her a date and tell her that she and her family can have a safe place to live that's affordable in about a year. Thank you for your time.

MS. ANDERSON: Thank you. Okay. Next we have Barry Palmer, then Jim Shearer, then Mike Dunn, then -- are you going to talk about Rudy C. Perez also?

MR. BROWN: If you'll let me.

MS. ANDERSON: I just --

MR. BROWN: (No audible response.)

MS. ANDERSON: Well, anyway, then -- there are several people who here to speak to that.

MR. PALMER: Hello. My name is Barry Palmer. I'm with the law firm of Coats Rose. And I'm here today to speak in favor of Tyler Senior Communities, number 04-121.

Tyler Senior Communities was the highest scoring application in Region 4. It outscored every other application by at least eleven points. It was on the list that was recommended to the Board on June 28.

But it has not received a commitment. And the reason for that is because of the way that the at-risk set-aside is being determined this year. Every year in the past the at-risk set-aside has been determined on a statewide basis.

This year, with the change in legislation, the Department was required to fund the at-risk set-aside on a regional basis. And that has caused some problems, particularly in the regions that don't receive much in the way of funding, like Region 4, wherein the urban category it only received 750,000.

So what happened was there's one at-risk deal in the region that took all the money for the urban category for Region 4, even though the Tyler Senior Communities outscored it by about 30 points. So there will be no new construction in the Region 4 in the urban set-aside because the at-risk deal has taken all the funding.

So we would request that the Department consider this anomaly where the highest-scoring application in the region did not get funded and award a forward commitment. Thank you.

MS. ANDERSON: Thank you, sir.

MR. SHEARER: Madame Chairman, members of the

Board, Ms. Carrington. Thank you for the opportunity to speak to you today. My name is Jim Shearer, and I'm a principal with Capital Consultants. Capital Consultants is a 25-year-old consulting company here in Austin.

For the last eight years our company has been directly involved with this agency in regards to affordable housing. We've represented developers -- for-profit and nonprofit developers -- local housing authorities, local governments, and financial communities.

My purpose today is to propose a bold solution to the current problems with this allocation round. It's fair to say that everyone associated with this allocation round has experienced highs and lows that have resulted in frustration, anxiety, and financial burdens. This includes the agency, Board and staff, local communities, financial communities, and elected officials at all levels.

Probably my best example of this frustration is occurring in Katy, Texas, where I learned firsthand the energy and effort required to secure community support. The issue in Katy is qualified community participation.

The legislative intent driving community participation was to engage the community in the process and make them a partner. To do this the applicant, Chris

Richardson, pulled down a multi-family application and reapplied as an elderly development. This was done at the request of the community. This is what the community wanted and needed.

Having done all this, the applicant was originally denied points for support, his denial was reversed by the Board, and yet, Katy today will still not get this elderly housing.

My proposal -- this proposal is a political solution that aggressively uses forward commitment to satisfy all harm and creates a positive environment leading into the next regular session of the Legislature in January. Most are aware of the Legislature's focus on this agency, and we should expect them to directly address this difficult allocation round in the upcoming session.

My suggestion is that we want our legislators to look at this Department's response to this allocation round and say the agency took bold measures to address the stakeholders' frustrations and concerns. It's really that simple. I believe we can have a positive legislative sessions if this approach is supported by the Board.

I've handed you two funding scenarios. I sincerely believe that both would provide the following. Qualified applicants, regardless of their different

scoring guidelines, will receive allocations. Regions 9 and 11, San Antonio and the Valley, will receive aggressive allocations to deal with the continued belief that they are traditionally underfunded. Local communities that are harmed and frustrated will see their communities awarded affordable housing.

(Sound of bell.)

Time -- because of the 2005 -- perfect timing.

Because the 2005 allocations will be limited time will be available to work with the Legislature to fix the problems we've experienced in this round. My vision is that the agency, in a role as a resource, will be working at the State Capitol, along with all shareholders, on a common front of positive change.

Rural Texas, nonprofits, and preservation will receive their normal allocations. And I believe that financial communities that are observing this program will see a sense of stability.

In summary, the 2004 QAP allows the Board to use discretion in determining forward commitments. The discretionary factors, Item Q and R, allow the Board to consider any relevant matters and other good cause as determined in approving forward commitments.

I urge you to evaluate and support this bold

forward allocation, and by doing so, you'll create a supportive Legislature and housing community. Thank you very much.

MS. ANDERSON: Thank you. Mr. Dunn?

MR. DUNN: Madame Chair, members. I was only prepared to explain the construction and methodology behind the scenarios that Mr. Shearer has presented to you.

Basically, took the lists that were presented by the agency, either on their website or handed out here at the hearings. On the June 25 list, which also included the changes from the June 21 list, the July 20 list, the July 29, and the August 10.

If -- and the basic rationale for scenario one -- if you got bumped from an A.G. then you're on the list. If you got bumped for QCP decisions you're on the list. If you have a appeal in the mix, either being appealed now or through alternative dispute resolution, there should be a little bit of time allowed to work through this. If appeals can be resolved completely by December 1 anything favorable that would happen towards an applicant then they would be on the list. If the -- and basically went across the board.

Scenario one has all of those rationale. And

because it's the big fix -- would be, if you're a qualified applicant, which means you're on the August 10 list, then you'd be recommended. Scenario two only takes all the people who satisfy that first set of rationale. It doesn't include the people from the August 10 list. And that's it in three minutes and 15 seconds.

MS. ANDERSON: Thank you. Mr. Brown? And then we have Manuel Diaz Garza. If I can ask everybody to come down, please. I guess that's the only other person. Mr. Brown, is that right?

MR. BROWN: Yes.

MS. ANDERSON: Okay. Then next would be Brian Cogburn and next would be Chris Richardson, and then, finally, David Marquez.

MR. GARZA: Good afternoon, Madame Chair and members of the Board and Ms. Carrington. My name is Manuel Diaz Garza, and I'm here representing the Edgewood Neighborhood Association and speaking on behalf of Vistas del Sol Rudy C. Perez Apartments, TDHCA number 04-258.

Basically we're asking for a forward commitment on this project. Our -- this particular application was in the first listing of recommendations. And then, of course, we got bumped as -- due to the A.G.'s opinion.

And we feel that, you know, if we had been

awarded the points for community participation we would have been ranked a whole lot higher and been one of the recommended applications.

And, of course, there's a great need in the community for affordable housing. And so, on those factors, you know, we ask for the forward commitment. I am available to answer any other questions that you might have.

I, of course, support Representative Menendez' initiative to work proactively. I'm going to also gather the various neighborhood associations and other service organizations that supported the application to work with staff, to work with the Board, to work with the Legislature and make sure that in the next legislative session we can address some of the issues on the statute and as how they would be interpreted by staff as a QAP.

So I'm offering, you know, not only the -- a little bit better working relationship to work with you, but, you know, we're also asking that -- you know, that this application be awarded the tax credits. And again, if you have any questions I'm here to answer any of them.

Thank you very much.

MS. ANDERSON: Thank you, sir.

MR. BROWN: Once again, my name is Bill Brown.

I'm here to represent Vista Del Sol Rudy C. Perez Apartment project, 04-250, Region 9.

This project originally was, as we said, on the original staff's recommendation early -- at the very beginning. It was bumped. It was one of the top nonprofit set-asides going in the state. And obviously, if we'd have had a community participation letter we'd been maybe the top. But, anyway, it would have been high enough that we wouldn't be up here asking for a forward today.

And all I can really say is we started extremely early, and we had -- we met with faith-based organizations, community organizations. We've got state support, we've got elected officials. The last meeting we had a city councilman who spoke for the project. We've had numbers of people to speak for the project.

And if there ever was a project that deserved a forward this project is -- it's located near schooling. It's -- as Mr. Menendez spoke earlier today, it's got a major park right across the street. It is -- what can I say. Well, I think we've done everything that we can do to bring the project to the area. And it is -- it's deserving of a forward.

My partner is American Opportunity for Housing,

which is Mr. David Star. He couldn't be here today. He had something that -- he was planning on being here today and speaking on behalf of the project and had an emergency to take him out of it, or he would have been speaking on behalf of the project as well today.

Thank you for your time and I appreciate it. I hope you will consider this project for a forward.

MS. ANDERSON: Thank you. Brian?

MR. COGBURN: Good afternoon. My purpose this afternoon is to request a forward commitment for the Essex Garden Apartments, application number 04-270, in Sealy, Texas. Like other applications today, it was on the June 28 list.

Sealy is a growing area that has got strong economic and population growth. It's not serving its housing needs, either affordable or nonaffordable. The last new apartment complex was built in 1985.

It was really eloquently put in our market study that it said currently the multi-family housing market in the Sealy area may be characterized as extremely underserved as there are no comparable multi-family developments.

In addition to the need that we talked about, Sealy has major employers that aren't able to accommodate

their employees housing needs and have identified on the air that Stewart and Stevenson plant has 760 people, the Sealy Independent School District has 312 employees.

And right now there's a Wal-Mart distribution facility under construction that will bring 600 new jobs into Sealy at the end of the year. And those people are looking for housing right now and they don't have the ability to get housing. They're projecting that this particular distribution facility will have 1,000 people employed within a few years.

Attached to the handout I gave you are eleven support letters of the city council, state rep, state senator, plus a city resolution. I went in good faith to get as much community support as I could in accordance with the QAP to earn community support points. And I just wanted to attach all those letters so you could see, you know, what has been done.

So I would like to respectfully request that you all consider granting the Essex Gardens a forward commitment for 2005. Thank you.

MS. ANDERSON: Thank you.

MR. RICHARDSON: Good afternoon, Madame Chair, Board, and Ms. Carrington. Appreciate you being here today.

I'm here to talk about Providence Place, TDHCA 04-060, which was hurt this year due to the fact that our support for neighborhood participation was initially not awarded. We were awarded, however, the 12 points on appeal.

But when the Attorney General's opinion came out, for some reason there were an additional ten points that were awarded for projects that elected deep targeting. We did not have the opportunity to select these ten points in our initial application as they weren't available.

The chain of events during the 2004 round has been unfair to a number of applications, Providence Place in Katy being one that has been negatively affected.

The development community has tremendous amount of money at risk in applications for tax credits, and it is simply not right to change the scoring during a round.

The amount we spend has already increased significantly over that which it has been in the past.

Providence Place can be a unique, high quality development for seniors in Katy, Texas. We ask that you consider placing it on the forward commitment list. Thank you.

MS. ANDERSON: David Marquez.

MR. MARQUEZ: Good afternoon. My name is David Marquez. I'm here representing Urban Progress Corporation, Las Palmas Garden Apartments, and the 100 families that presently live there.

Eighty-five of them which have participated in -- are in the application. We, too, went out and got support from the elected officials. I think the congressman's office had been here several times -- at least three times. We've brought residents to this process.

And now we are here because last time we didn't have an appealable appeal. We're now appealing to the Board that this project is worth doing, mainly because we have residents that live there, many of them that have been there over 20 years. And this is a project that we take on -- that my wife and I have taken on. All we do is work, work out, and eat breakfast tacos.

And I can tell you that this project has been worthy doing. We've had many meetings with the residents themselves -- and I know that that doesn't qualify under the community support, but it is something that this Board should look at, hopefully in the year to come.

But, presently, what happens, unlike other developments that don't get funded, I don't want to have

to go back and tell 100 families that we didn't get funded, and so now it could be two years before they have A/C and heat, they have appliances, and they have carpet.

So I hope that you guys see through that, and I would respectfully request a forward commitment, particularly because the at-risk, according to the QAP in Region 9, didn't get funded and the other at-risk has funds coming back from it. So I would hope that we would be considered. Thank you very much.

MS. ANDERSON: Thank you. At this time we're going to take a 15-minute break and be back in 15 minutes. That's the end of the public comment on that item. Thank you.

(Whereupon, a short recess was taken.)

MS. ANDERSON: We are still on item 5(c), which is consideration and possible approval of issuance of 2005 Housing Tax Credits as forward commitments to 2004 Housing Tax Credit applications. And we have heard all the public comment there is. Does the Board have questions?

MR. CONINE: Sure.

MS. ANDERSON: Well, I spoke too soon.

MR. SALINAS: I do have some questions, Beth.

MS. ANDERSON: Okay. Would you like Ms. --

MR. SALINAS: No, just --

MS. ANDERSON: -- Boston or --

MR. SALINAS: Just in general to the Board. On some of these tax credits -- the forward commitments that we would like to see happen, does the staff have any recommendations at all?

MS. ANDERSON: No. They typically -- I think Brooke -- I think what Brooke said earlier is that the staff doesn't typically make specific recommendations about forwards. They gave us that list of --

MR. CONINE: They did in their --

MS. ANDERSON: Oh, they did? That was the information piece. They didn't --

MR. SALINAS: That's fine.

MS. ANDERSON: They said they weren't recommending those.

MR. SALINAS: Well, my concerns are very, very -- just to our region in South Texas, which is the one in the Weslaco area, which is Los Milagros, and, of course, the one of San Diego, Creeks in Alice and La Vallita out of Brownsville, which was kind of knocked off. And so was Los Milagros in Alice.

I can feel for the people in Temple, Country Lane, which I think is a good project and the Rudy Perez project. But I don't know. There's so many of them that

came forward that are good projects that I would think the staff would help us here. But those would be my recommendations on what I would like to see happen in Region 11.

I don't know about Region 13. I think there's only one -- Cedar Oaks. And I don't know what would happen there with underwriting. But I don't know who else might be concerned about forward commitments.

I do have a very much concern about San Diego Creeks and, of course, Los Milagros and La Vallita out of Brownsville, which we got calls, not only from elected officials in our cities, but Senator Lucio in that district. As a matter of fact, he was a little bit concerned on the one in Weslaco.

MS. ANDERSON: Ms. Boston, if I could ask you a question about some of the --

MR. CONINE: Where are you, Brooke?

MS. BOSTON: I'm coming.

MR. CONINE: She's hiding.

MS. ANDERSON: We've heard from -- we've heard a lot of compelling public comment today, and we've heard from numerous applicants indicate -- who use words like, you know, "bumped due to the Attorney General opinion." I mean, we heard that from a number of applicants that are

not on this list of five projects that you gave us.

And so maybe if you would just refresh my memory on how -- you know, what the criteria you used to put together that list of five.

MS. BOSTON: Right. The list is basically only the people who, if the A.G. opinion hadn't occurred at all, or who, if the QCP appeals hadn't been successfully reinstated, would have basically been on the July 28 recommendation list by staff.

I think a lot of the ones that we're hearing about are people who were on a list at one point, and so felt like, because they obviously had a score at one point that was competitive enough to have them be on there, that, you know, gives them some standing.

And, you know, I can definitely sympathize with that. You know, they weren't technically impacted by the A.G. opinion. I mean, it may be that, you know, because of other score changes -- I know the subsidy letters came in obviously late in June, so people's scores changed because of that.

And there are definitely some things that happened later in the game that impacted people's scores that weren't the two that we put in our scenario. And therefore, we don't consider them impacted.

MS. ANDERSON: Okay.

MR. BOGANY: There was a comment that we lose the credits out of one of the regions -- 9 -- that was at -- I guess it was at risk. They were -- I guess it was Region 9, if I remember -- something to do with Fredericksburg or where we moved credits out.

MR. SALINAS: Fredericksburg, yes -- from the rural.

MR. BOGANY: And I was just wondering what happened there -- why we moved credits out when we may have had projects that could have used the credits.

MS. BOSTON: Right. There were a couple of things in Region 9. First of all, Region 9 overall -- we were supposed to target 3.1 million, and we did 3.2. So we actually went over by about 60,000, which is 2 percent.

And then in rural Region 9, the way we handled it is, if, to compensate in an urban or exurban area -- for instance, in this case, Region 9 -- as you all may recall, we had a forward commitment that was just about a million. We had two very high-scoring nonprofits that, based on being high scoring in a nonprofit statewide, needed an award. And then we had an at-risk.

Well, when you do all those you go over the amount that we originally were going to allocate for urban

exurban. And so, because we still wanted it to stay in the region it kind of unfortunately shorts the rural side a little bit.

In looking at it, we were supposed to allocate 885,000 in rural Region 9, and that had us under by 17 percent. If you were to take the next development, which had had public comment -- Friendship Place in Fredericksburg -- that would get you up to about 1.2 in rural, which is 36 percent over. And obviously, with forwards you're not over technically. But, you know, if that had been an award at the time that would have been the reason why we did not do it.

You want me to comment on the at-risk issue as well?

MR. BOGANY: Yes.

MS. BOSTON: Additionally, in Region 9 -- this is the only region that this took place. But we had one application that had applied for at-risk -- excuse me. We -- because of the ones that I had mentioned -- we did the forward, we had the two high scoring nonprofits, and then we did one at-risk deal for 430,000. We were supposed to hit 473,000, so that had us under by a tiny bit. It ends up being about 9 percent. And that is the only region that that occurred in.

MR. BOGANY: I have one other question. Let's just say that we allocated -- and I read that we needed to give a reason why we're giving a forward commitment. And I'm concerned that if we give a forward commitment to a project -- that we just know they need it and we know it's a good thing to do, but then we have one up in Region 3 or 4 or whatever that we know is a good project and we know it's a good thing to do, but they don't get one.

I'm concerned that we give up all our forward commitments and then we'll be like we did in Austin a year ago where we had nothing for Austin because they were all -- all had been given up. And then we had the Sixth Street project that comes along the line that we know is a good project and probably where we want to be, but we can't do anything.

And so it just looks like we're robbing Peter to pay Paul. And I'm concerned of us giving up all these commitments. And I would wonder how it would be if the state budget would spend all the money this year because it's a good thing to do because Texas needs this money. But next year we don't have any money.

And so it just seems like it's a snowball a little bit, and it's going and going. And what if we just didn't give any forward commitments at all and move

forward with the list that we've got?

I'm just concerned as a Board member that it just seems as though -- you know, it's putting us in a very precarious position and we're asked to clean up someone's mess who made this mess -- and we didn't make it, you know. We're just Board members here.

So I'm really concerned about the forward commitments. I really am. And I think all the projects are so compelling, as Beth said earlier. But I'm also concerned about the future. And I'm wondering if we're mortgaging the future today.

MS. BOSTON: And I --

MR. SALINAS: Well, I disagree. Let me tell you why. Because when I talk to you about forward commitments for the city of Weslaco and the city of Brownsville -- and that area is growing tremendously -- one of the highest area growth in the nation.

And when we have poor people that want to stop the colonia growth, that want to be able to stop the initiative of colonias and try to bring -- we don't even have enough HOME program monies going into the Valley and in the Border areas. We have problems with that.

And I'm going to talk about Region 11 because I don't want to step on the other boundaries. Because I

care about South Texas, and I don't think San Antonio's south Texas, to be honest with you. I think South Texas is South Texas. San Antonio is San Antonio, period. And let's not confuse -- you know, I hate -- I didn't want to tell that to Mr. Menendez, but San Antonio is not south Texas.

But let me tell you how I feel. You know, I feel Alice is South Texas and Alice should get a forward commitment. I think it's only fair that they were bumped off. I think the city of Weslaco project, Los Milagros, was bumped off because of the letters that we got from Pharr -- three certified letters from the county clerk and whatever else happened there. And Los Milagros is a good project in Weslaco. I hate not to do that because it is a project that is very well needed in the Weslaco area.

La Vallita in Brownsville, you know. We got one for Edinburg -- the high rise, which is going to be a beautiful project. And, of course, the city of Pharr.

I'd rather see these other projects funded and get forward commitment than to come and get some new applications for next year. These applications are very well, and I think you all can see that when you look at it.

But I would hate to see somebody like Temple

not get any, you know. Temple -- the people that just left. And I think they should deserve some forward commitments. But I don't want to get out of Region 11.

I think Rudy Perez -- you know, everybody that's an elected official wrote a letter of support except probably President Bush, you know. But everybody wrote a letter of support for Rudy Perez' project.

I don't know how you all feel about that. This is why I thought that it would be good for you people to give us some kind of lead on the Rudy Perez project. They were there on the recommended list, and then they were bumped off. So is it a good idea to give them a forward commitment in San Antonio?

MS. BOSTON: Well, I can't comment on --

MR. SALINAS: Why not? I mean --

MS. BOSTON: -- whether it's a good idea or not.

MR. SALINAS: -- you worked with these people.

MS. BOSTON: I can just comment -- I can tell you a little bit about it. They scored a 147, and even under the impacted scenario they still had a 147. And there's a deal that had a 148 that's not being recommended. So I would think, if anything, before you would do the Rudy Perez you would do the Alhambra, which

is before it.

MR. SALINAS: Where is it at?

MS. BOSTON: It's also in San Antonio.

MR. SALINAS: Okay. Well, this is what I mean.

I -- then I'll stick to the other two that I just talked to you about, you know. I mean, there's some other Board members. I'm just trying to see those two projects -- and maybe three projects because Kingdom of -- Edinburg -- you know, the other project that you say should have gotten funded in Edinburg should get forward commitments, which is the -- not that one, no.

But Garden of Tye should get forward commitments. I don't know why we can just get the recommendations from you people and say let's go ahead and give them a forward commitment. But I'll do the recommendation on those two.

MS. BOSTON: And just to clarify, that's San Diego Creek, which is the one in Alice. Is that right?

MR. SALINAS: Alice and --

MS. BOSTON: And then La Vallita, which is the one in --

MR. SALINAS: -- Brownsville and Los Milagros and Weslaco.

MS. BOSTON: -- Brownsville.

MR. SALINAS: And if you want -- I would make a motion that we go ahead and give those three projects forward commitments. I don't know who else might want to get involved in giving the other forward commitments.

MR. CONINE: He made a motion.

MS. ANDERSON: Hearing no second --

MR. GORDON: I have a question. What's the basis for the -- is it La Vallita?

MR. SALINAS: La Vallita -- the -- I think that Senator Lucio and the elected officials and the need of the Brownsville area, which is the -- in the very much needed -- I think that's a good reason to give them a forward commitment.

MS. BOSTON: And actually, La Vallita is one of the five --

MR. SALINAS: And it's a distressed area.

MS. BOSTON: -- that we thought was impacted as well.

MR. SALINAS: Huh?

MR. GORDON: I's on the --

MS. BOSTON: La Vallita is also one of the five from the informational item that we believed was impacted.

MR. SALINAS: La Vallita is one of the people -- the five that were impacted.

MS. BOSTON: And I don't know if this is the perfect time to bring this up, but I did just want to make sure that we got into the record that any forward commitments that you all make are obviously still contingent on final underwriting. The credit amounts and the conditions would be the conditions and credit amount after underwriting and material noncompliance review. So if they fail that then we still would not recommend them.

MS. ANDERSON: I'm waiting -- I have not heard a second on the Mayor's motion. So the motion dies for lack of a second.

MR. CONINE: Madame Chairman, you know, this reminds me of one time when a controversial issue came up and the Legislature couldn't decide what to do. He said, You know, some of my friends are for it, some of my friends are against it -- I'm going to vote with my friends.

Nobody likes to build apartments any more than I do, I don't believe. And I think it's one of the things that I really enjoy doing. But in the situation that we have presented here to us today I don't think we can add -- or grant a forward commitment to anybody without making a wrong decision to somebody else.

And normally, I would dive into this thing and

go through and scurry about and find out who had what project and what area and what region was shorted and do the due diligence and try to grant something that would make some sense going forward.

But in the -- again, with the Attorney General's opinion coming down the way it did, with so many people affected by what actually happened, maybe we send a better message to the Legislature by not granting any forwards and saying, Look, help us get some relief to the issues that were dealt to us in this last hand and help us continue to try to be consistent, fair, and subjective and not -- I mean, objective and not subjective in just picking projects out of the air and going forward.

We've heard testimony here today, you know, on 20 or 30 projects that I think are worth funding. They're all great deals. But I think we do more harm than good if we grant any forward commitment in this particular year. So I am going to make a motion to grant no forward commitment.

MR. GONZALEZ: Second.

MR. SALINAS: Well, I'm going to say a little thing about that, you know. We should have done -- and I agree with you, Mr. Conine, that that -- we should do that. And I'm going to vote with your motion.

But I want to tell you one thing -- that it's not fair for the developers that were here today. That they work so hard to come before us and ask us and plead with us that they needed a forward commitment. We should have told them this two weeks ago or a month ago, and we should have turned them down a month ago and not make them go through all this circus today -- and for them to come in here and give us an explanation of why they should get a forward commitment.

I heard some good projects here today, and this is fine. And I agree. I will vote for the motion. But I think we should have done it a month ago -- that we were not going to allow anybody any forward commitments.

MR. CONINE: Well, I -- you know, just for your clarification, I was swayed and moved by the testimony here today. I didn't come here this morning --

MR. SALINAS: Yes.

MR. CONINE: -- with my mind made up for no forward commitments. I promise you. I'm a forward commitment kind of guy. But under the circumstances, and as I listened to each case, it just -- it puts this Board member in more jeopardy by granting one, two, four, five, six -- however many you want to grant, and then listening to the tidal wave of protests coming from those who didn't

get it.

And I think this Department's better served by just not -- by following staff recommendations and doing none and go to the waiting list. If some, you know, fall off -- and for all the effort that everyone's gone through, you know, we're sorry. I'm sorry. It's not something that's -- that I like to do. You know, I'm a -- like I said, I'm a forward commitment guy.

MR. SALINAS: But the staff is not saying that we should not give any forward commitments.

MS. BOSTON: Our recommendation in the Board book was --

MR. SALINAS: But when did you do that?

MS. BOSTON: It was in the Board book. We did not recommend any.

MR. SALINAS: Yes, I know that. But did you do it last month? We should have gotten a notice that we were not going to get any recommendations at all for forward commitments. Instead, it was on the list that we would hear the -- I mean, we would hear the developers and we would go from there.

MS. BOSTON: And just for clarification, our approach is consistent with how we've done it over the past several years. We tend not to recommend specific

deals. We tend to just give you all the whole list and --

MR. SALINAS: Exactly.

MS. BOSTON: -- let you --

MR. SALINAS: Let you decide, yes.

MS. BOSTON: -- play with it. Right.

MR. SALINAS: I ask for the requesting of the motion.

MS. ANDERSON: Yes. Shad.

MR. BOGANY: I went through the list and I was looking before I got here to try to see, you know, where the forward commitments should go. I looked at the ones that had been bumped -- whatever you want to say -- off the list. And I came in with a very open mind.

And then when I heard the testimony, as Mr. Conine did, I kept thinking, we're not going to win this either way we go because they -- you know, it's just not a win-win situation here. And there's no compromising in this.

And I agree with Mr. Conine. I would go with the motion to not do any forward commitments this year. And those projects can surely apply in 2005, and hopefully they will get them. But I would echo the sentiments of Mr. Conine.

And I truly spent a lot of time trying to

figure out which ones that we could do before I got here and wasted a lot of time trying to do that. And I think Mr. Conine is right in his decision and his thought process.

MS. ANDERSON: Other discussions?

(No response.)

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: The motion carries. We're now ready for Item 5(d), which is extension requests. And I'm going to suggest that we take these as a group.

MS. CARRINGTON: We can do that, Madame Chair.

MS. ANDERSON: If you all are leaving, goodbye. Thank you very much for being here and -- thank you.

MS. CARRINGTON: Staff is recommending all five of these extensions. These are extensions for the closing of construction loans. All fees have been paid. Several of these loans have actually already been closed. And staff is recommending the approval of the extension on each one of them.

MR. CONINE: So move.

MR. BOGANY: Second.

MS. ANDERSON: Discussion.

(No response.)

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Motions carries. Item 5(e).

MS. CARRINGTON: The next item for your consideration is two tax-exempt bond transactions and the allocation of 4 percent tax credits with other issuers other than TDHCA.

Even though Aventine Parkway is the one that's listed first on your agenda, actually the first one in your book is Uvalde Ranch Limited. And this is the issuer. It's the Victory Street Public Facilities Corporation in Houston, which is a subsidiary of the Houston Housing Authority. And staff is recommending an allocation of \$604,806 in credits for this transaction. And there were basically no issues relating to the underwriting on the transaction.

MR. CONINE: Move to approve.

MR. BOGANY: Second.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion?

(No response.)

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Motion carries.

MS. CARRINGTON: The second transactions for the Board's consideration is Aventine Tarrant Parkway Apartments. This one's located in Fort Worth, with Tarrant County Housing Finance Corporation as the issuer.

You'll notice on the recommended credit amount on this transaction it is zero. The reason for that is the same situation that you had last month when you looked at the Willow Springs transaction in San Marcos. And that is you will remember that information came to the agency after the 60-day period had passed for receiving information.

So if the Board does choose to move forward with this transaction -- and once we receive the supplemental information then staff is in a position to recommend the transaction. But it really would be a two-

step process for you. And that first would be to waive the 60-day rule for receiving any information. And then the credit recommendation from staff would be \$713,590.

MS. ANDERSON: You want to hear the public comment or you want to make a motion?

MR. CONINE: I move that we waive the 60-day requirement and approve the tax credits in the amount of 713,590.

MR. BOGANY: Second.

MS. ANDERSON: Mr. Ford, this would now be the time for public comment.

MR. FORD: I can't get any votes.

(All talking at once.)

MS. ANDERSON: Well, it's really up to you and Jerry Wright. Okay. So everybody's waiving their public commitment. So we have a motion on the floor. Is there any discussion?

(No response.)

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Motion carries.

MR. FORD: By the way, I'd like to make one comment. You'll see that I have for the first time in my life a support letter from a very large neighborhood association. I've never had one, and Fort Worth's never had --

MS. ANDERSON: And may never have one again.

MR. FORD: I may never have one again, so --

MS. CARRINGTON: I hope that got on the record, Mr. Ford.

MS. ANDERSON: Item number 6 is presentation and discussion of a report from the Program Committee.

MR. CONINE: Did you come to me? Is that what you just did?

MS. ANDERSON: Yes, I did. The Program Committee report.

MR. CONINE: Okay. We dealt with two issues this morning at the Program Committee. One, a continued discussion on the Section 8 program and the subplot, if you will, of letting Brazoria County have the Section 8 vouchers we currently administer.

We asked staff to put that on next month's agenda for you to take a look at and for your consideration with a recommendation that we do move those

Section 8 vouchers onto Brazoria County.

We also dealt with the discussion of the entire Section 8 program and the validity of, you know, keeping it, letting it go to some of the local PHAs. That will also be on the agenda for next month's Board discussion.

We have a few other questions I think to get answered at the Program Committee level at next month's meeting prior to the Board meeting. And hopefully, we can come forward with a recommendation at that point for your consideration.

We then discussed the 30-, 90-day rule on the Weatherization Assistance Program where we're now using 90 days' worth of income instead of 30 days' worth of income.

We've asked staff -- and actually, staff has already put together a focus group discussion scheduled for September 15 -- and try to come up with a creative solution to the problem that's currently manifesting itself out there. And hope to have that for you back at the October Board meeting for your discussion and consideration. That concludes my report, Madame Chairperson.

MS. ANDERSON: Thank you, Mr. Conine. Next we move to item 7 on the agenda, which also has your name by it.

MR. CONINE: It does. How about Ms. Carrington

doing this on the Housing -- this is the Housing Trust Fund Capacity Building Award.

MS. CARRINGTON: Thank you, Mr. Chairman. This was an item that was on the agenda last month. You all asked that it be deferred, so we are considering it this month.

And this is a request to fund 14 Housing Trust Fund Capacity Building Awards. We are recommending \$410,650. The NOFA amount was actually \$400,000, but we do have some additional funds from loan repayments -- or what we call local funds -- so we are able to recommend 410,650.

We have included for you a list of the 14 entities that we are recommending. And we actually had a total of 16 applications. Two of them are not eligible, and we are recommending 14 of those applications.

MR. CONINE: Move for approval.

MR. GONZALEZ: Second.

MS. ANDERSON: Discussion.

(No response.)

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Motion carries.

MR. CONINE: Ms. Carrington, you want to do the HOME fund award now?

MS. CARRINGTON: Yes, I do. I'd be happy to do the HOME fund awards. This is for approval of 103 2004 single family home investment partnership program awards. We are awarding a total today -- the Board will be awarding a total of \$31,095,503.

At the bottom of the page you can see the breakdown of the applications that we received. We had requests -- we actually had 266 applications for a total of over \$100 million. We programmed these funds into HBA, which is homebuyer assistance. That's down payment assistance, OCC, it's owner occupied -- that's the program you heard about this morning with the mayor of DeLeon where you're go in and do rehabilitation or reconstruct on a single family home.

TBRA is tenant-based rental assistance. And that is like Section 8 rental assistance. And PWD is persons with disabilities. And 5 percent of our recommendations do go for persons with disabilities.

The HOME funds are allocated on a regional basis. And we have provided for you by region the

applications that we are recommending and what activity they are in and whether they are in the rural part of the region or whether they are in the urban/exurban part of the region.

As a part of the awards that the Board will be making today -- as a part of the 31 million -- and actually, this is an additional amount -- we are also recommending 4 percent in administrative funds that would go to each of these 103 entities that's receiving an award. And that 4 percent amounts to \$1,243,820. That is actually over and above the 31 million. That comes out of what the state gets to administer the program.

And I think with that I want to congratulate our single family staff -- single family finance production that worked long and hard on processing these applications. I believe that this is the most applications we have received for our HOME program. No? You think not, Eric?

MR. PIKE: (No audible response.)

MS. CARRINGTON: Well, but we had a double cycle last year also. So for probably a one-cycle funding --

MR. PIKE: Right. Eric Pike, director of single family. I'm not real familiar with past history of

HOME, but I would suggest it's probably one of the larger number of applications we've received. Last year, if my memory serves me correctly, we received 377 applications, but that was for a double funding cycle.

MS. CARRINGTON: Right. I might note, as you look at the funds awarded, the maximum amount per entity per activity was \$500,000. Not everyone requested the full amount, but that was the maximum amount that could be awarded to any one entity for any one activity. We've also indicated for you how many units will be produced as a result of these HOME awards.

MR. PIKE: I'd also like to point out that 67 percent of the funds that we are awarding are for the special needs communities -- or special needs projects. And also, of the 103 awards that we're making 53 of the awards are going to new administrators. So --

MS. ANDERSON: What percentage?

MR. PIKE: Sixty-seven percent of the funds are being provided for persons with special needs. And there are 53 new organizations being awarded funds. We made an attempt to try to spread the money around. And so we're pleased that some new folks have come into the program or that we've been able to award people who have continued to try to apply and receive funds.

MS. CARRINGTON: And we do have HOME implementation workshops I believe scheduled for the end of this month. Is that correct?

MR. PIKE: Yes. The tenant-based rental assistance workshop will be conducted next week. In the letters that we sent out where we told applicants they were being recommended for funding we indicated to them the locations and times of that workshop. And then those -- that -- the homebuyer assistance implementation workshops and the owner-occupied ones will be conducted soon as well.

MR. CONINE: Move for approval.

MR. BOGANY: Second. I had a question. The results of the -- results down in the colonias I guess on the page -- in the south -- the Valley, it seems as though where there's such a big need for more money, is that the only money they requested -- community of colonia organizations?

MR. SALINAS: Region 11.

MR. PIKE: What page are you on? Do you have a page number there?

MR. BOGANY: Well, I'm not on a page. I'm just looking at the --

MR. PIKE: Okay.

MS. CARRINGTON: It would be Region 11, Mr. Pike.

MR. PIKE: Right. I can tell you this. The Region 3, which is the Dallas/Fort Worth area, receives a little over \$5 million of our funds. These are based on calculations that are performed by our housing resource center. They look at statistical data and other information to determine the percent of money that goes to a region.

So, once again, Region 3 receives the largest majority of our money -- once again, \$5 million approximately. Region 4, which is the Texarkana/Tyler area, receives \$3.6 million. And then following very closely to them is Region 11 with almost \$3.3 million.

The last funding cycle we were able to fund every single applicant that applied in Region 11, so we were very pleased. Obviously, this time around we don't have enough money to do that. But I do recall last year that we were able to fund everyone in that region.

MR. CONINE: What about this year?

MR. PIKE: Not this year. We weren't able --

MR. CONINE: Had to turn some down?

MR. PIKE: Oh, we turned down quite a few down.

MR. CONINE: In Region 11.

MR. PIKE: Yes. We unfortunately had to turn down a lot of people across the state of Texas this year.

MR. SALINAS: Well, if we could just transfer 2 million out of Dallas and put it on Region 11 --

MS. ANDERSON: Wait just a minute.

MR. SALINAS: -- and we will be in good shape.

MS. CARRINGTON: I'm afraid our regional allocation formula will not allow us to do that, Mayor.

MS. ANDERSON: Any other questions or discussion?

(No response.)

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Motion carries.

MR. PIKE: Thank you.

MS. ANDERSON: So now we move on to presentation, discussion, and possible approval of rules.

We have several sets of rules we're reviewing today. The first is the QAP.

MS. CARRINGTON: And Madame Chairman, may I ask -- or may I respond to you that we have taken a

look -- we have five sets of rules -- very substantive rules for the Department.

And, as you have requested, we have taken a look at the calendar. And I'd like to ask Sarah Anderson, who has the calendar in front of her and has been counting days, to see, indeed, if we could postpone the approval of these draft rules to the September 9 Board meeting and then still meet all of our various statutory requirements to get them approved.

MS. S. ANDERSON: Okay. Sarah Anderson, director of the housing center. I have gone through and -- the short answer is, yes, we can postpone. However, there is one risk, and General Counsel has asked me to pass that along.

In statute it says that we have to have -- you know, there are certain requirements of having things posted and available before the public hearings which have been set. And there's one in particular that talks about that.

We have to have filed with the Texas Register the notice of -- or we have to have all the information that will be at the public hearings filed with the Texas Register. We can meet that, but what happens is, while it would be filed two weeks before the first hearing, it

wouldn't be published until the Friday before the first hearing.

So, while we would be meeting the letter of the law, General Counsel has asked me to let you know that there is that risk. Other than that, we can have everything up on the website and available and everything met.

MS. ANDERSON: In your experience, most people go to the Texas Register to get it or they go to our website to get it.

MS. S. ANDERSON: To our website.

MS. ANDERSON: Yes. Okay. Well, I'll entertain the Board's pleasure on this topic.

MR. CONINE: I'm a little confused. If we were to pass a motion for circulation and publication and have the public comment and so forth why couldn't we at next month's meeting then come back and have a public -- these Board meetings are public meetings -- have an open discussion about some of the items.

We wouldn't take any action because we would want all the other public comment to get received and the time to -- the 60 days or whatever time to come through. So we make the changes at the October meeting. But we could at least have the discussion of all the items rather

than burning up some time here and nobody in the audience, so to speak. Is that a possibility, Counselor?

MR. WITTMAYER: Good afternoon. I'm Chris Wittmayer, the Department's General Counsel. There is a case in Texas law that says when the rules go out for public comment -- of course, some changes can be made based on that public comment.

But that if the change to the rule is a significant change, such that it affects different people or does things in different ways than were originally proposed, then the rule should have to go back out for additional public comment because it's basically a changed or a new rule. And you have to have that minimum 30 days' public comment.

So I would just be concerned that the Board would be significantly constrained in the changes that it could make once it proposes the rules.

MS. ANDERSON: My opinion, having heard that, would be that, while -- you know, while it's fine to do this I think I also hear you say that after public comment's over and we come back to approve the final rule same kind of situation applies.

If we made a dramatic -- or if we made a substantive change at that point, certainly not based on

public comment, that it would have to go out for re-publication. And if we made a substantive based on public comment would it have to go out for re-publication?

MR. WITTMAYER: If it was a change that affected different people or in different way. So you're always limited in the size of the changes that you can make after it goes out for public comment.

MS. ANDERSON: Yes. So I think that argues for trying to have these things -- you know, whether we put them first on the agenda on the 9th or something and really come prepared to, you know, exercise some policy prerogatives before they go out for comment.

MR. CONINE: Or, you know, maybe if we do have the time, you know, where we could postpone this till the next meeting, each independent Board member could, you know, come down and -- rather than getting it, you know, seven days in advance and not really not having the time to review it, we could at least have a chance to visit with staff about any concerns we may have before the next Board book goes out.

MS. CARRINGTON: Mr. Conine, you may remember for the last two years we have had a work session with the Board on the Qualification Allocation Plan. But because we've had so many meetings this summer we were just not

able to accomplish a meeting on the draft QAP.

We certainly could work to accomplish that between now and the September 9 Board meeting. Or we can meet with any and every Board member that wants to meet with us. Either we will come to see you or you all can come to Austin and see us. And we will visit with you on any rules.

Mr. Bogany, I believe that Ms. Boston already has a meeting with you. Is that right?

MR. BOGANY: Right.

MS. CARRINGTON: Yes. Okay.

MR. BOGANY: I do have a question. You know, it seems kind of --

MS. ANDERSON: But, again -- and back -- I'm sorry. Go ahead. I'm sorry. I didn't mean to interrupt.

MR. BOGANY: It seems -- you know, we're going to have public comment on the QAP. It looks like what we would do is circulate the QAP and then get public comment and then take that in and then vote on it versus sending it out, voting on it to send it out, and then have public comment, and then have to make some changes in and come back.

Looks like we would have a public comment first on what we developed and then massage it a little bit,

then come back in and vote on it once it's massaged. Because we could vote on it today and then change it the next Board meeting based on what public comments that we got. It just seems like we're doing it a little bit out.

MR. CONINE: So what you're saying, Counselor, is if public comment requires a substantive change, then there's another 30-day period in there that's not being accounted for.

MR. WITTMAYER: I wouldn't really call it a substantive change. But the bigger the change the greater the risk that it should have another 30-day public comment period. And under our QAP schedule we simply don't have time to do that. So my best advice would be when we do the rules -- when we put them out for public comment they should be largely the way we want them to be.

MS. ANDERSON: And the individual meetings are helpful, but we still have to come in together as a group and vote about the -- you know, vote any changes.

MR. CONINE: I don't know. If we could twist staff's arm to make a change before it goes in the Board book, you know, we'd at least have a better shot at it.

MS. CARRINGTON: And you all have succeeded in doing that in times past.

MR. BOGANY: I have some issues in the QAP --

MR. CONINE: I do, too.

MS. ANDERSON: I do, too.

MR. BOGANY: So if I want to twist --

MS. ANDERSON: Well, that's what we're trying to decide.

MR. CONINE: You want to take another hour to do that or not?

MS. ANDERSON: I mean, I think doing it -- we always end up in this situation where it's the end of the day and it's -- you know, it's -- or it's the end of the day. Last year we drove Bert crazy because it was the end of the day when we were having a workshop and we were acting like idiots and, you know -- so if we want -- do we want to take between now and the 9th and have the individual meetings that we can have and then put this up on the top of the agenda on the 9th? And we'll publish it immediately thereafter.

MR. CONINE: I think that's probably correct.

MS. ANDERSON: Is that what we're going to do?

MR. BOGANY: Brooke, I see you shaking your head. Is that not going --

MS. BOSTON: Well, I'm actually out for the next two weeks so I don't -- it just concerns me a little bit to not be participating in that. But --

MS. ANDERSON: Well, it concerns me, too.

MS. CARRINGTON: However, there are those of us in the agency who do -- who can meet if, indeed, Board members want that -- who know how this document is put together.

MS. ANDERSON: Okay. So that's what we'll do. That will be put at the top of the agenda on the 9th.

MS. CARRINGTON: And that will be all of the rules. That will be all of the rules.

MR. CONINE: Move to table all the rules until the next meeting.

MR. BOGANY: Can I --

MR. SALINAS: Second.

MS. ANDERSON: Sir?

MR. BOGANY: I guess I'm concerned that I'm not going to be able to be here at the next meeting. And I don't know if anybody's going to wave my flag the way I can wave it. So I'm -- because I had some concerns with it. And I've read through it and made my little notes on some things I thought I had some concerns about or just needed to feel better about.

And I'm just concerned that we vote on it on the 9th and I don't get a chance to really voice my concerns. And if I talk about it today I guess it doesn't

really matter because everybody will forget by September 9.

MS. CARRINGTON: We have a record of this, Mr. Bogany, so we will not forget.

MR. BOGANY: Well, one of the -- can I, Ms. Chair?

MR. CONINE: Discussion on tabling the motion. There is no discussion.

MS. ANDERSON: You're not supposed to debate a motion to table.

MR. CONINE: Personal prerogative of Mr. Bogany?

MS. ANDERSON: Yes. He has -- yes.

MR. BOGANY: A couple of concerns I had in the QAP was the elimination of the HUD -- the HUD rules or HUD points. And one of the things that bothers me more than anything else is not so much the elimination of it, but not any solutions of how we can better make it work.

And I would like in the public comment time that hopefully somebody will give us some solutions that may help it or make it work. I'm looking at the numbers from last year, and it's definitely improving. It's almost getting to the point where we may not need any HUD rules at all. But you can see the improvement and the

progress.

But, looking at the Committee, they made a recommendation. Somebody tried to say, as I read through the reports, said, Hey, let's not eliminate it until we get a solution. But it failed for a second of a motion, so it never got anywhere.

And it really bothers me that we're eliminating things without even coming up with a solution to make it better. And it may not be a cure-all for the Department, but at least I'd like to get some solution of how we can make it better.

And I talked to counsel and they came up with discretionary, and I have a problem with us being able to discretionarily pick a project because it may be somebody who's a minority who we think really should get a project.

I don't want to get into that type of deal. I don't think that's my position to do that.

But I would like to see us keep the HUD points, or at least come up with a solution -- something a little bit better. And if we throw it out to public comment in this situation maybe somebody from the public will give us something that that committee could not do.

MS. ANDERSON: I was very frustrated by that section -- by the implication that there were abuses in

that system. And instead of trying to figure out how to have a fair system that dealt with the abuses -- the perceived abuses -- I'm not saying there are abuses, but there's clearly some undercurrent -- we just decide we're going to do something with a CHDO or something.

And to me, that was not apples for apples. I mean, I share your concern about that section. And I -- you know, my tendency is, when we try to change something and we haven't made it better, you know, let's just sit with the existing language for another year instead of trying to churn something up and make a bigger mess.

MR. CONINE: I'm going to withdraw my motion to table right quick.

MS. BOSTON: I just want to mention, internally, before we have discussed removing those points, my staff and I actually had suggested some revisions that we thought would clean it up a little better -- minimize the abuses.

One was actually a suggestion Mr. Conine had made sometime in the past year that I had stuck in a folder of comments, which was that they should have been in creation for at least five years, which would -- keeps people from just going out and creating them for this.

And then the other one was potentially that we

could do it where they have to have at least 51 percent ownership interest, whereas it's just right now they have to have an ownership interest and materially participate, which has always been a nebulous term. And so those were two suggestions that staff had been thinking about as well.

MR. BOGANY: Well, see, I would like to see that in the QAP instead --

MS. ANDERSON: Yes.

MR. BOGANY: -- of just eliminating it, you know. Because that's the point. I don't want somebody with 5 percent ownership that just got somebody -- to get somebody. I'd like the 51 percent or whatever. But I like that recommendation.

MS. CARRINGTON: And I think the length of time in existence would be particularly effective also.

MR. BOGANY: And the other point has nothing to do with the HUD. But I -- is it in the QAP -- or do we have the ability to try to create more rehab money available or points for rehabbing? You know, we've got a lot of new construction coming on, but we've got a lot of dirt out there that we could clean up if the developers had rehab money available. When I was reading through it --

MS. CARRINGTON: It looks like -- you've been spending too much time with this.

MS. ANDERSON: This is exactly what --

MALE VOICE: I haven't said a word --

MS. ANDERSON: This is exactly what Kent was saying this morning.

MR. BOGANY: And maybe having some rehab.

MS. BOSTON: Actually, there is definitely something we could do. Under Section 42 -- I won't tell you a specific clause because I can't lay my finger on it right now -- we are supposed to get points or preference under our selection criteria for preservation that involves revitalization.

And we historically just through time -- it was definitely in there before I came along and it's just never been changed much, and it had remained in there this way. Interestingly, it had been interpreted years ago that it be revitalization -- I'm trying to find the exact one -- it had been interpreted basically as revitalization.

But it had to be one that was never affordable before. But that was our own addition. That's not part of Section 42. So perhaps the Board might want to adjust to that scoring item that we had put in here. Let's see.

I think if you're looking at it it is number 19.

And it was, Developments include the use of existing housing as part of a community revitalization plan, which would be very much the wording of Section 42.

And so that could be interpreted. Instead of us saying that it never had any rent limitations or when it was never set aside for affordable housing, you could just take that out and say, if it was existing housing and contributes to revitalization, which we probably want to somehow quantify how they could prove that. So, yes, we could do that.

MR. BOGANY: That was the thought that I had. And the last one was that I know the Legislature says the one-mile rule that we've got. It seems a very bad situation when we've got a good project that we have and we can't because it's right next door to another one and can't get money to do that.

And I don't know if we can address it in the QAP. If we can't [phonetic] and have to do the Legislature, I sure hope Michael Lyttle will be all on top of that.

MS. CARRINGTON: We have identified that as something we would like to see addressed in the next legislative session so that there's an exemption if you

have a rehabilitation development and a new construction that would together violate the one-mile, one-year rule.

So we won't be able to fix it for '05 in the QAP because it's legislated, but we are hoping that that will be addressed.

MR. CONINE: We could -- does the Board have the discretion to waive that in certain situations?

MS. CARRINGTON: No.

MR. CONINE: No?

MS. CARRINGTON: No?

MR. CONINE: You sure?

MS. CARRINGTON: Yes, we're very sure. And may I point out as the Board begins their consideration of the our Qualified Allocation Plan, as you look at the back of the memo we have a scoring breakdown.

This -- the scoring in this Qualified Allocation Plan -- at least the proposed scoring in this QAP -- the only items that staff is recommending to receive scores or either items that are in 2306, which, of course, is our statute, or in Section 42. We have taken out everything else that related to scoring that was not federally mandated or statutorily required.

So as you look at the nine items on your matrix --

MR. BOGANY: What page is that?

MS. CARRINGTON: It's actually page 17 of 20. And it's at the back of the staff memo. So the staff memo I think it about 16 -- well, it's actually 20 pages. So you have the staff memo that goes through why we incorporated what we did.

And then on page 17 -- the 25 items that you see listed on this page -- if you'll note over on the far right we give you the legislative citation compared to the QAP. So you can look in the QAP and find out where we've addressed these.

Those first nine items are those famous nine items from Senate Bill 264 that said you will score and rank in descending order these items and that these items will be your highest scoring items. Did not say we could not put other things below that, but that nothing could be higher scoring than these nine.

And then as you look when you go from 10 actually down to 24 -- and I'll explain 25 in just a minute -- you will see that those are lesser points, but that they are required. They're either required in 2306 or they're required in Section 42 of the Internal Revenue Code.

The last item, penalties -- it's required in

our statute that we assess penalties for developers who have filed late, not paid fees. And so since those are negative numbers we did not put those numbers in there because we felt like it would confuse the scoring.

So what we have worked to do -- and if you look at the item -- nine items and you look at 2306 you will see that it tracks the statute word for word.

MR. CONINE: Can I ask a question? We didn't have 24 this year, did we?

MS. BOSTON: No.

MS. CARRINGTON: We actually have a comparison --

MR. CONINE: So when you use the word "required" -- there's a couple of them here that are new-found requirements.

MS. CARRINGTON: Well, some of them we had combined and now we've broken them out.

MS. BOSTON: Like a good example of that would be the leveraging.

MS. CARRINGTON: Yes.

MS. BOSTON: And there's actually three different places in 2306 that refer to leveraging, and they're all worded a little bit differently. And so technically you kind of can't meet all three in one, but

we had felt like that's what we were going to try and do.

And so this year, in an attempt to be more clear, we actually stated three different leveraging items to track more accurately.

MS. CARRINGTON: So that we can go to each point of our statute.

MS. ANDERSON: Well, I have, you know, for the second time today forgotten that I had these witness affirmation forms in front of me. And I think one of the things that might be helpful to the Board over the next couple of weeks as we think this through before we come back on September 9 is to hear from these people who have come to give public comment on the QAP. If I may -- if we may give them their three minutes of fame since they've been here all day. Betsy?

MR. CONINE: You were sitting back there just giggling at us.

MS. JULIAN: No, I was just glad I'm going to be able to say my peace because I'm not going to be here on the 9th either. And I was kind of sweating that, so I appreciate it.

Well, I'm without having -- without you having gotten through it all I'm going to be maybe talking about some things that are not as obvious, because the item I'm

going to speak to is a new one.

For the record, my name is Betsy Julian. I'm currently a lawyer and a Fair Housing consultant in private practice in Dallas. I work primarily on issues of what I call the inner section of Fair Housing and Affordable Housing.

I served on the Department's community input working group last year, having input into that provision of the 2004 QAP. And I was pleased to be invited to participate as a member of the 2005 QAP working group.

I speak today in support of the staff's recommendation for inclusion of an affirmatively furthering Fair Housing scoring criteria in the proposed draft of the 2005 QAP. I commend Executive Director Carrington and her general counsel for their recognition of both the duty and the opportunity presented by the requirements of the Fair Housing Act.

The Department, as required by law and regulations, certifies it will affirmatively further Fair Housing in the administration of its housing and community development programs. However, to date, while the Board has reserved the right to take the laws related to Fair Housing into account in its discretionary administration of the Housing Tax Credit Program, it has not made any

specific provision for doing so or otherwise indicated to the public or the development community under what circumstances it will do so.

Today the Board has before it a specific scoring criteria awarding four points out of a possible 200 for applications which demonstrate that they will affirmatively further the goals in the Fair Housing Act.

The three items for which applicants can receive points under the staff's recommendation speak to expanding the housing opportunities for families with children into areas which offer those families benefits associated with living in successful and thriving communities, particularly in the all important area of education.

They address the need for affordable accessible units by persons with mobility impairments and they encourage expansion of housing opportunities outside of low income areas by encouraging development of affordable units in high opportunity, low poverty areas where they have not always been as available to low income families.

The provision recognizes that housing is more than shelter. It's opportunity. The high quality housing that the tax credit provides to low income families, when located in areas of opportunity, provide benefits far more

than a roof over those families heads. It gives children a chance, it gives them the opportunity to live in communities where jobs and education are more accessible than it furthers for housing.

The provision would also give balance to the way the tax credit program is administered, recognizing that the goals of meeting the housing and revitalization needs of distressed areas through the development of affordable housing and the expansion of housing opportunity for low income families into already vital areas of opportunity are both goals worthy of your support.

I commend the executive director, the general counsel, and the TDHCA staff for this recommendation. And I urge the Board to endorse this important step toward giving families served by the tax credit program all of the opportunities that truly fair and open housing policies provide. Thank you.

MR. CONINE: Ms. Julian, could you give me an example where a project probably wouldn't get these points?

MR. JULIAN: These points are incentive points. So the education-related provision speaks to an area -- it's served by an elementary school that is exemplary

recognized. There are certainly developments -- in fact, so much of the tax credit criteria really steers, I think, housing into lower income communities for revitalization purposes and need meeting purposes.

But, as we've seen, oftentimes it is the areas that have highly recommended schools -- schools that qualify under the -- both the No Left Child Behind Act and the RTA rating system -- they're really high quality schools. But so oftentimes we see some of the most resistance to the proposal of affordable housing.

So the example of somebody who wouldn't get these points, though they will get other points that these areas wouldn't get -- so, as you know through your whole QAP process, there's a yin and a yang. Sometimes you get points for going into a distressed area or you can get points for going into another area. And you provide different kinds of opportunities.

The issue of the disability points speaks to incentivizing a developer to do more -- to provide more accessible units if they want these points. They don't have to get these points. These are just incentives to say -- the affirmative furthering duty is not -- it's not a nondiscrimination duty. It's more than that.

Both the history of Fair Housing Act and the

law -- laws that have -- I mean, cases that have interpreted that say it's an affirmative duty to do more to provide for fair and open -- and integrated housing in our community.

So I understand your question, but I -- and I have to say I appreciate the staff's recommendations. This can be done any number of ways. The provisions here are designed to be objective and specific, to address the concern of the developers, that there not be undue discretionary or unclear direction.

HUD approaches this more -- they have scoring criteria for affirmatively furthering Fair Housing that is more subjective. When I was at HUD there was a lot of evaluation. But, ultimately, HUD would make decisions based on what I would say would be more subjective criteria.

One of the things that was clear in the QAP working group process is that the developers are scared to death of anything that smacks of discretion. They -- and they want to know that if they do this -- if they pick the right place they get the points. And they don't have to argue about the nuances of it being -- you know, it being a discretionary call.

So that's one of the reasons for these specific

provisions. So I would like to underscore that there are two important principles here I think. The most important one is the Department's inclusion of an affirmative furthering scoring criteria.

MR. CONINE: I guess the nature of my question was directed toward -- the scoring system is designed to differentiate your project from somebody else's. And if we get certain categories that everybody gets the points for automatically because they're doing whatever that category might be then it's almost --

MS. JULIAN: Then what's the point.

MR. CONINE: -- it's meaningless to have the points. And I'm trying to understand the situation of a developer who would come in and say, I would not affirmatively further Fair Housing. I don't know of anyone who would do that today.

MS. JULIAN: No one will say they are more furthering Fair Housing, but what they will not be able to say if they're building -- want to develop a family project in a census tract -- or, excuse me -- in an attendant zone that has a school that is low performing, they will not be able to get affirmatively furthering points for that. They may get other points for other things, but that will not be considered an affirmatively

furthering act.

Someone who goes into a school district and picks out a location that has a school -- elementary school that has a recognized criteria will get those points. That's the differentiation. The --

MR. CONINE: Is there some written documentation that has all that written down somewhere? Because we don't have that here in our book.

MS. JULIAN: Okay.

MR. CONINE: And I would -- because you obviously have an understanding that surpasses mine, and I'd just like to download some of it if I could.

MS. JULIAN: Your general counsel obviously will speak to the issues of the Department obligations.

MS. ANDERSON: It's omission from staff memo was -- you know, it was an unfortunate oversight. And I would ask that the Board be given those documents immediately.

MR. CONINE: Thank you.

MS. ANDERSON: It's not in the material that we got at -- the first section says, Here's what the QAP said and here's what we say. The next section says, Here's all the things the staff say we ought to add that the working group didn't say. And that -- you know, as I said to Ms.

Carrington in New Hampshire, it was silent on it then and it's still silent on it in this Board book. And that is an unfortunate oversight on the part of the staff.

Because Mr. Conine's right. He needs more -- he needs the background information, as the rest of the Board does.

MS. JULIAN: I was referring to what I took off the web that was in your Board book. And I was just referring to those three criteria and applying them to your question.

MS. ANDERSON: Yes. They have documents with your -- with those three things in them. And the Board needs them. Any other questions?

(No response.)

MS. ANDERSON: Thank you.

MS. JULIAN: Thank you very much for letting me talk --

MR. JOHNSON: We're into my golf game. As quickly as I can. I would like to point out one thing -- I think it would be fairly substantial.

As you know, I served as the facilitator of the definitions group. And I couldn't believe how many hours we all spent talking about urban, exurban, and rural. And the farther I've gotten into this -- and the greatest

disappointment I saw in the draft, we totally ignored all of that and we didn't define urban, exurban, and we left the whole definition of rural in there, which I understand is legislatively mandated, so we now have some more work.

Even though it -- I know some technical things because it contains some language in it that is no longer used -- like a primary metropolitan statistical area is a terminology not even used any more.

I passed out there to you some of our report that I offer to you. Many of our things got adopted, and I think all the staff and the people that participated in that exercise is a real learning eye-opener for everyone.

The patience involved in trying to develop regulations may cede complications.

My whole purpose here is to try, if we don't eliminate, to at least reduce the confusion and controversy that has transpired in 2004 with the QAP as it relates -- because that's the advent of the urban/exurban.

The fact that that's not defined -- and I think it should be. Whether you like our definitions or not there ought to be a definition in there because scoring, allocations -- every other staff person should have to go back and say this is our definition or what we're looking for.

I know you have a memo that says it's any area other than that designated as rule -- kind of backhanded does it. But that's not in the QAP. If that's going to be your definition I think you ought to have one because I think there needs to be.

Personally, I think most of our group certainly felt that it would be good to disjoin. I know the Department has taken the position urban/exurban can't be.

So we've got that -- all that funds right together in urban/exurban and you can use them anywhere you want to I think in any proportion. I think you've got all that flexibility.

But I would hope that it wouldn't involve the Legislature to ever correct this down the line. But this is something most people didn't I think realize the significance of until you get in. This is your policy formulation method, which you've got to have a goal and you've got to have a definition before you start applying it down the line. So I urge you to do that.

One other point that the Committee -- that I would hope -- I'm going to quit real quick, Dolores. But in this I would call your attention to one other thing that was a part of our negotiating compromise. I didn't necessarily support all these things, but this is what the

group did.

We came up -- we raised the rural allocation from 76 to 96 units. Now, that is covered elsewhere in the QAP. And that was one of the things -- several of these other items here -- but we also felt that we should be going from using some urban/exurban money -- actually we preferred to call it exurban -- that money in rural areas, particularly in the Valley where you have a 15,000 population town adjacent to a 12,000 population town. And they can justify more than the 96 units.

And you will see on this one page here of that part, that was one of the things -- I would suggest if that can't be incorporated in the definition that that also be addressed somewhere in the QAP similar to the way we did of increasing 76 to 96 units.

So that's another recommendation, another quick clarification. The 538 Program that Farmers Homes had for several years -- this is the first year we see applications. It's a guaranteed multi-family housing program. There are applications taking place now in Texas.

And we had stricken a line into -- avoiding confusion. We did not mean to say you couldn't do 538. There was a prohibition that was put in several years

ago -- I believe Florita [phonetic] was the author of it -- but she didn't want to doing some new construction.

And we -- a provision was put in there that the rural funds could not be used for the 538 Program. So that's the facts as I recall and understand it. So I'll say that.

If I can take 15 seconds I'd like to compliment the staff on some compliance things. I think what you're doing with Fair Housing -- I attended the session this week. Outstanding. I would suggest in the QAP they reduce that from eight to six hours' minimum. I think they can all be covered in six hours, and it wouldn't may be a 15-hour trip from Temple down here and back.

But I think you could add -- we'd be covered. And I think most of the other people. And you've got it in your QAP that it's eight hours, and I think you ought to drop that to six.

Fair Housing inspections you're doing is a real good thing. Obviously that's causing a need for this. I think that's outstanding. There is one weakness I see. And this isn't just a -- this is just an operational thing. But I've gotten in the middle of several of these.

When they've gone out and done the inspection the inspector does it -- he gives good detailed stuff.

That comes back to the staff, the staff as I understand it simple takes those non-compliance things that they're cited for, writes it up on the 8833, and --

MS. ANDERSON: 8823.

MR. JOHNSON: -- ships it to IRS. And some of those things are so -- there's no degree of whether it's a serious or not a serious thing. I think there needs to be a communication permitted between the owner/developer and the inspector, even if they're going to have to pay for the time to talk on the phone, once they get a report to be able to discuss those things and see if they can't resolve them.

Because I've gotten in the middle of several issues that -- I could put on a portable front on a handicapped unit accessible that you're supposed to have open, and it had a removable front on it. Well, it got written up because it had that front there. Well, it could be taken off if the people want to. But some of them in the handicapped didn't want that. They didn't want that all open under there. They wanted that front and didn't needed it.

So I think there's a -- some way you need to get a communication on it. I've used more than my time, but I appreciate that and glad I had the opportunity

finally this late in the day to get it on the record.

MS. ANDERSON: Thank you, Sox.

MR. BOGANY: And I truly like his recommendation of adding up the definition of urban.

MS. CARRINGTON: We can add a definition of urban/exurban. It will probably -- since we have a definition of rural in our definitions it will read anything that is not rural is urban/exurban.

MS. ANDERSON: But, now, do we have some way to -- I'm very vague on this, but there was something about the word "unincorporated city" or something that got us fouled up on exurban. I remember somebody talked about it at the March urban affairs meeting.

MS. BOSTON: It was technically part of defining exurban. It was those exurban points that -- and so we had said if you wanted the points it had to be an incorporated city.

MS. ANDERSON: An incorporated city. So that was not --

MS. BOSTON: But that was never formally adopted.

MS. ANDERSON: And now that we're not recommending --

MS. CARRINGTON: And we're not recommending

exurban points.

MS. ANDERSON: You're not recommending points.

It's a moot --

MS. CARRINGTON: Yes. Assuming that that stays in.

MS. ANDERSON: Okay.

MS. CARRINGTON: Or stays out.

MS. ANDERSON: Yes.

MR. BOGANY: One more question for you. I think this is my last one. In regards to the problem with the letters -- like if you're a rural area in the county and you get the Lion's Club, which, in some of these small areas, the Lion's Club is the community for everybody there versus in Houston may be a little bit different -- in an urban area. Is that part of the QAP or would that be something we have to address legislatively?

MS. BOSTON: It's in the QAP. And in last year's QAP it was silent, and that was dealt with as staff did our review. And actually, in the proposed QAP that was in your book we actually tried to take that a step further and give people more detail so they don't spend a lot of time getting letters from groups that we ultimately won't think are eligible. And I want to say Lion's Club and similar civic organizations were identified

specifically as not being eligible.

MR. BOGANY: Okay. But one of the things that when you get into a rural community, like a rural county, like -- I can't see how you can use the same definition in a rural county as you could in Harris County. And it seems as though it ought to be some difference that, Yes, I'm a Lion's Club, but my county -- I'm the only community organization in the -- that's there.

It just seems there should be some definition there, because what I've seen so far this year is that we were discounting letters. But if you -- and just because your name was Lion's Club we automatically said, No, we don't want Lion's Club --

But in a rural community it may be the community association for that area. And I'm just looking for -- and I think maybe a population of so much definition here -- and if you have less than this population the definition there.

It seemed to have been some issues with that this year, especially in the rural areas where they didn't get points because they had the Lion's Club. And I don't know -- and if I'm in West Texas the Lion's Club is not the whole club of everything.

MR. SALINAS: The whole county.

MR. CONINE: I agree with you.

MS. ANDERSON: But that doesn't make them a neighborhood. I mean, a neighborhood -- they're still a civic --

MR. SALINAS: A neighborhood association is a neighborhood association.

MS. ANDERSON: I mean, it's tough I know. And I don't know what you all -- I don't think this provides language addressing it except to make it clearer that we wanted neighborhood organizations and not civic community organizations.

But I think we've heard Diana and others speak about it from time to time. She's sitting back up there in the dark. You know, and I don't know what the answer is. But -- because I don't think it is the Lion's Club. But I don't know what it is in Texas City.

MR. BOGANY: Well, but it looks like if we compare the neighborhood organizations in Houston to the ones in Mission, Texas, they may be a little bit different and they may have a broader band. And let's just get away from the Lion's Club and Rotary Club altogether.

But what I'm saying is it looks as though we're taking the same neighborhood geographic boundaries that we may have in a large city and putting them in a county,

where it may be the whole county is this neighborhood organization.

I just think it's a difference there between rural and exurban and urban. And it looks like we ought to have some definition of that. I just don't know what it is.

MR. SALINAS: County Commissioner's Court.

MS. ANDERSON: We still need --

MR. CONINE: I move to table item 8 to the next meeting.

MR. BOGANY: I'm sorry.

MS. ANDERSON: No, no.

MR. BOGANY: But those are some of the questions I had. I'm not going to be here, so now I've put it on the table. I'd like to see something done. I saw enough people lose points this year. Thank you. I second your motion.

MS. ANDERSON: Discussion.

(No response.)

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

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Motion carries. Can we defer to the next item? Sorry, David. We're going to -- with the Board's pleasure we will defer the report from the Audit Committee until --

MR. BOGANY: Oh, no, we're not going to do that.

MS. CARRINGTON: Because he won't be here.

MR. BOGANY: It will be brief.

MS. ANDERSON: Okay.

MR. CONINE: David Gaines has been here all day.

MS. ANDERSON: But you're going to do it. Right?

MR. BOGANY: Right.

MS. ANDERSON: If it's going to brief we'll have him just summarize.

MR. BOGANY: One of the things -- we had our Audit Committee today. And everything is moving in the right direction with the Audit Committee.

One of the things that when I got on this Board, we had 18, 20 items that were issues. And now we're down to four or six. And I believe we're in the process right now -- we've had HUD write us a letter on some items and we're waiting on some response from HUD --

from the audit side on some programs that we have.

We do feel the staff -- we feel David and the whole group is doing an excellent job to narrow it down. I am beginning to see some daylight at the end of the tunnel.

At this time I'd like to recommend that our internal auditor gets a raise of 3.4 percent. And I'd to make a motion to that.

MR. GONZALEZ: Second.

MS. ANDERSON: Any discussion.

(No response.)

MS. ANDERSON: You want to hear from David?

(No response.)

MS. ANDERSON: Hearing none, I assume we're ready to vote. All in favor of that please say aye.

(A chorus of ayes.)

MS. ANDERSON: Opposed, no.

(No response.)

MS. ANDERSON: Congratulations, David.

MR. BOGANY: And that concludes my report.

MS. ANDERSON: And there is a lot of good in the Board book on the audit stuff.

So if you got bogged down reading the real estate rules and didn't get all the way back to the audit

stuff it's a good read.

We do not need an executive session. Ms. Carrington, your report?

MS. CARRINGTON: We don't need that either. There's some good stuff going on at the agency. Maybe next month we'll have a little more time.

MS. ANDERSON: Okay. Great. Thank you.

Any other business to come before the Board?

MR. CONINE: Move to adjourn.

MR. BOGANY: Second.

MS. ANDERSON: We stand adjourned.

(Whereupon, at 5:00 p.m., the meeting was concluded.)

C E R T I F I C A T E

MEETING OF: TDHCA Board
LOCATION: Austin, Texas
DATE: August 19, 2004

I do hereby certify that the foregoing pages, numbers 1 through 223, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Penny Bynum before the Texas Department of Housing and Community Affairs.

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